

CHAPTER 4.**NOTARIES PUBLIC****ARRANGEMENT OF SECTIONS**

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An Act to provide for the appointment and regulation of Notaries Public and defining their duties and powers, and matters connected therewith. [Section numbering style modified to conform to new Code format (Rev.2003)]

Source: TTC 1966
 31 TTC 1970
 COM P.L. 4C-27 (1972)
 31 TTC 1980

PART I - GENERAL PROVISIONS**§401. Short Title**

This Chapter may be cited as the “Notaries Public Act”. [Note: Section 1 has been added to conform this Chapter to the format of this Revised Code].

§402. Appointment; term; removal; reporting of change of status.

(1) The Cabinet may in its discretion appoint and commission such numbers of notaries public for the Republic as it shall deem necessary for the public good and convenience.

(2) The term of office of a notary public shall be two (2) years from the date of his commission, unless sooner removed by the Cabinet on recommendation of the Attorney-General made on findings of cause after due hearing; provided, that after due hearing the commission of a notary public may be revoked by the Cabinet in any case where any change shall occur in such notary’s office, occupation or employment which in the judgment of the Cabinet renders the holding of such commission no longer necessary for the public good and convenience.

(3) Each notary shall, upon any change in his office, occupation or employment, forthwith report the same to the Attorney-General. [TTC 1966, §1075; 31 TTC 1970 §201; 31 TTC 1980, §201, modified.]

§403. Rules and regulations.

(1) The Attorney-General, with the approval of the Cabinet, shall have power to prescribe such rules and regulations having the force and effect of law as he may deem advisable concerning the appointment and duties of notaries public and the administration of this Chapter .

(2) The Attorney-General shall file a copy of such rules and regulations with the Clerk of Courts. [TTC 1966, §1082; 31 TTC 1970, §202; 31 TTC 1980, §202, modified.]

§404. Application; qualifications; oath.

(1) Except as otherwise provided in this Chapter , application for a commission as notary public for the Republic shall be submitted to the Attorney-General and must be accompanied by two (2) letters of recommendation. Every person appointed a notary public must be, at the time of his appointment, of good character, at least twenty-five (25) years of age, and a permanent resident of the Republic, who has resided in the Republic for at least three (3) years, or a United States citizen, resident in the Republic and employed by the United States Government or by a contractor engaged in work for the United States Government in the Republic.

(2) Every person appointed a notary public shall, before acting in that capacity, take and subscribe an oath for the faithful discharge of his duties, which oath may be taken before the Chief Secretary, a judge, the Clerk of Courts, or other official authorized to administer oaths. This oath shall be executed in duplicate. The original shall be filed in the office of the Attorney-General and a duplicate original filed in the office of the Clerk of Courts. [TTC 1966, §1076; 31 TTC 1970, §203; 31 TTC 1980, §203, modified.]

§405. Filing and certification of commission, seal and signature.

(1) It shall be the duty of each person appointed and commissioned a notary public under the provisions of this Chapter to forthwith file a literal or photostatic copy of his commission, an impression of his seal and a specimen of his official signature with the Clerk of Courts. Thereafter, such Clerk, when so requested, shall certify to the official character and acts of any such notary public whose commission, impression of seal and specimen of official signature is filed in his office.

(2) The Clerk of Courts shall charge and receive a fee of \$1 for filing a copy of a commission and a fee of twenty-five cents for filing each certificate of authentication. [TTC 1966, §1078, 1083; 31 TTC 1970, §204; 31 TTC 1980, §204, modified.]

§406. Official bond; appointment of agent for service of process.

(1) Each notary public forthwith and before entering upon the duties of his office may, at the discretion of the Cabinet, be required to execute at his own expense, an official surety bond in a sum not exceeding \$1,000.

(2) The obligee of each bond shall be the Republic and the condition contained therein shall be that the notary public will well, truly and faithfully perform all the duties of his office which are then and may thereafter be required, prescribed or defined by law or by any rule or regulation made under the express or implied authority of any law of the Republic, and all duties and acts are undertaken, assumed or performed by the notary public by virtue or color of his office. The surety

on any such bond shall be a surety company approved by the Cabinet. The notary public by accepting his commission, and the surety company by issuing the bond, thereby agree and appoint the Chief Secretary as his agent to accept service of process on his behalf for any purpose. After approval, the bond shall be deposited and kept in the office of the Attorney-General, who will certify to the Clerk of Courts that the bond has been accepted and filed in proper form. [TTC 1966, §1079; 31 TTC 1970 §205; 31 TTC 1980, §205, modified.]

§407. Liabilities of notary and surety on bond.

For the official misconduct of a notary public or breach of duty of any of the conditions of his official bond, he and the surety on his official bond shall be liable to the party injured thereby for all damages sustained. Such party shall have a right of action in his own name upon such bond and may prosecute the same to final judgment and execution. [TTC 1966, §1080; 31 TTC 1970, §206; 31 TTC 1980, §206, modified.]

§408. Compliance with Chapter required; penalties.

(1) No person shall be qualified to act as a notary public or shall enter upon any of the duties of such office, or offer or assume to perform any such duties until he shall have fully complied with the requirements of this Chapter .

(2) Any person willfully violating any of the provisions of this Chapter shall be guilty of a misdemeanor and shall upon conviction be liable to a fine not exceeding \$500 or to a term of imprisonment not exceeding one year, or both. Nothing in this Section shall be construed to restrict or to do away with any liability for civil damages. [TTC 1966, §1081; 31 TTC 1970 §207; 31 TTC 1980, §207, modified.]

PART II- POWERS AND DUTIES

§409. Generally.

A notary public has the power and is authorized to administer oaths and affirmations, receive proof and acknowledgment of writings, and present and protest commercial paper. A notary public may act officially anywhere in the Republic but shall, before so acting, comply with the provisions of Section 405 of this Chapter . [TTC 1966, §1084; 31 TTC 1970, §251; COM P.L. 4C-27, §2 (1972); 31 TTC 1980, §251, modified.]

§410. Seal.

(1) Every notary public shall constantly keep a seal of office, which may be a rubber stamp or impression seal, whereon shall be engraved his name, and the words “Notary Public” and “Republic of the Marshall Islands”. He shall authenticate all of his official acts, attestations, certificates and instruments therewith.

(2) Upon resignation, death, expiration of term of office without reappointment, removal from or abandonment of office, or change in residence from the Republic, he shall immediately deliver his seal to the Attorney-General, who shall deface or destroy the same. By failing for sixty (60) days to comply with the above requirement, the notary public, his executor or administrator, shall forfeit to the Republic not more than \$200, in the discretion of the court, to be recovered in an action to be brought by the Attorney-General on behalf of the Republic. [TTC 1966, §1077; 31 TTC 1970, §252; 31 TTC 1980, §252, modified.]

§411. Records; form and effect of granted copies or certificates.

Every notary public shall record at length in a book of records all acts, protests, depositions, and other things noted by him or done in his official capacity. All copies or certificates granted by him shall be under his hand and notarial seal, and shall be received as evidence of such transactions. [TTC 1966, §1085; 31 TTC 1970, §253; 31 TTC 1980, §253, modified.]

§412. Disposition of records.

(1) The records of each notary public shall each year on the thirtieth of June and upon the resignation, death, expiration of term of office, removal from or abandonment of office, or change of residence from the Republic be deposited with the Clerk of Courts.

(2) By a failure for sixty (60) days to comply with the requirement of this Section, the notary public, his executor or administrator shall forfeit to the Republic not less than \$10 nor more than \$100, in the discretion of the court, in an action brought therefor by the Attorney-General on behalf of the Republic. [TTC 1966, §1086; 31 TTC 1970, §254; 31 TTC 1980, §254, modified.]

§413. Fees; schedule.

Every notary public, except as provided in Section 414 of this Chapter, shall be entitled to demand and receive the following fees:

- (a) noting the protest of mercantile paper, \$1;
- (b) each notice and certified copy of protest of mercantile paper, \$1;
- (c) noting any protest other than of mercantile paper, \$2;
- (d) each notice and certified copy of protest other than of mercantile paper, \$2;
- (e) each deposition, or official certificate, \$2;
- (f) administration of oath, including the certificate of such oath, twenty-five cents;
- (g) affixing the certificate of such oath to each duplicate original instrument beyond four (4), fifteen cents;
- (h) taking any acknowledgment: fifty cents for each party signing; and
- (i) affixing to each duplicate original, beyond one of any instrument acknowledged before him, his certificate of acknowledgment, twenty-five cents for each person making such acknowledgment. [TTC 1966, §1087; 31 TTC 1970, §255; 31 TTC 1980, §255, modified.]

§414. Same; notaries not entitled to fees.

A notary public who is a paid employee of the Government of the Marshall Islands, and is permitted to perform services as a notary public during the working hours for which he is paid by the Government, shall not be entitled to demand or receive any fees for services performed as notary public during such hours or for such services performed at any other time which are in connection with or in aid of his regular employment. [TTC 1966, §1088; 31 TTC 1970, §256; 31 TTC 1980, §256, modified.]