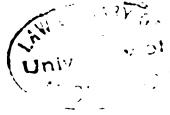


THE



# COMPILED STATUTES

OF THE

STATE OF NEBRASKA,

—1881—

(FOURTH EDITION),

WITH AMENDMENTS 1882 TO 1889,

COMPRISING

ALL LAWS OF A GENERAL NATURE IN FORCE  
NOVEMBER 1, 1889.

PUBLISHED UNDER AUTHORITY OF THE LEGISLATURE,

BY

GUY A. BROWN AND HILAND H. WHEELER.

LINCOLN:

LINCOLN PAPER HOUSE.  
1889.

## CHAPTER 61.—NOTARIES PUBLIC.

**SECTION 1. [Appointment.]**—The governor is hereby authorized to appoint and commission such number of persons to the office of notary public, in each of the respective counties of this state, as he shall deem necessary; but no person shall be appointed a notary public except upon the petition of at least twenty-five legal voters of the county in which he resides. Each person appointed notary public shall hold his office for the term of six years from the date of his commission, unless sooner removed, and shall reside in the county for which he was appointed and commissioned; *Provided*, That whenever the word county is used in this chapter it shall be construed to comprehend and include any unorganized territory or unorganized county attached to any organized county for judicial purposes; and any such unorganized territory or unorganized county attached to any organized county for judicial purposes shall be considered attached to, in, and part of such county for all the purposes and requirements of this act. [Amended 1883, chap. LVIII.]

**SEC. 2. [Commission.]**—When any person shall be appointed to the office of notary public, the governor shall sign the commission of such person, and deliver the same to the secretary of state. Upon the receipt of such commission by the secretary, he shall affix thereto, the great seal of state, and attest the same, and transmit by mail or messenger, the commission and a blank bond, to be executed by the person so appointed and commissioned, to the county clerk of the county for which such appointment was made, who shall within five days after the receipt by him of such commission, notify the person so appointed that he holds the commission and blank bond, and if the person appointed to such office does not, within thirty days after the date of such notice, execute the bond hereinafter mentioned, deliver the same to the clerk of the county, qualify, and receive his commission. the clerk shall return such commission to the secretary of state to be cancelled.

**SEC. 3. [Bond—Record by county clerk.]**—Each person so appointed to the office of notary public shall, within the time limited in section two of this act, appear before the clerk of the county for which he was appointed, and demand the blank bond so transmitted by the secretary of state, and execute and deliver to such clerk a bond for the state of Nebraska, in the penal sum of two thousand dollars, with two securities, residents of such county, who shall severally justify, as hereinafter prescribed, conditioned for the faithful performance of the duties of such office; and such person so appointed to the office of notary public shall make oath or affirmation, to be endorsed on such bond, and subscribed by the person appointed before some officer authorized by law to administer oaths, and by him certified thereon, that he will support the constitution of the United States, the constitution of the state of Nebraska, and will faithfully and impartially discharge and perform the duties of the office of notary public. The county clerk shall file and preserve the bond in his office, and record the commission, bond, justification of the sureties, and oath of office in a book to be kept by him for that purpose, and shall transmit to the secretary of state, written or printed notice that the requirements of this act have been complied with by the person so appointed and commissioned, which notice shall be filed and preserved in the office of the secretary of state.

**SEC. 4. [Sureties on bond—Penalty.]**—The justification of sureties on the bond shall be an oath or affirmation endorsed on such bond to the effect that each of said sureties is a resident and freeholder of the county for which such notary public was appointed and is worth at least the sum of two thousand dollars, over and above all

CHAP. 61. "An act to provide for the appointment of notaries public, and to define their duties." Passed and took effect February 8, 1869. Laws 1869, 20.

debts and liabilities by him owing, and all property exempt by law from levy or sale on execution, which oath or affirmation shall be subscribed by the sureties, and taken before and certified to by some officer authorized by law to administer oaths, and any person swearing or affirming falsely in this regard, shall be liable to and suffer all the pains and penalties of the statutes of this state, to punish persons for the crime of perjury.

**SEC. 5. [Seal—Record of official acts.]**—Each notary public, before performing any duties of his office, shall provide himself with an official seal, on which shall be engraved the words "Notarial seal," the name of the county for which he was appointed and commissioned, and the word "Nebraska," and in addition, at his option, his name, or the initial letters of his name, with which seal, by impression, all his official acts as notary public shall be authenticated. Each person so appointed and commissioned shall, also, before entering upon the duties of the office, provide himself with an official record, in which shall be recorded all his official acts, together with a copy of the instrument, certificate of protest, and notices and other matter by him acted upon—except the taking of acknowledgments and proofs of deeds, and other instruments required by law to be recorded, either in this or other states, affidavits and depositions, and other acts not relating to protests. And the record and seal of such notary public shall be exempt from levy or sale on execution, attachment, or warrant of distraint.

**SEC. 6. [Powers—Duties—Certificate.]**—Every person, during the term of his office, so appointed, commissioned, and qualified to the office of notary public, is hereby authorized and empowered, within the county for which he was appointed to such office, to administer oaths and affirmations, in all cases; to take depositions, acknowledgments, and proofs of the execution of deeds, mortgages, powers of attorneys, and other instruments in writing, to be used or recorded in this state, to demand acceptance, or payment of any foreign, inland, or domestic bill of exchange, promissory note, or other obligation, in writing, and to protest the same for non-acceptance or non-payment, as the case may be, and give notice to endorers, makers, drawers, or acceptors, of such demand or non-acceptance, or non-payment; and to exercise and perform such other powers and duties, as by the law of nations, and according to commercial usage, or by the laws of the United States, or of any other state or territory of the United States, or of any other government, or country, may be exercised and performed by notaries public, and over his signature and official seal certify the performance of such duties, so exercised and performed under the provisions of this act, which certificate shall be received in all courts of this state, as presumptive evidence of the facts therein certified to; and on due proof of the loss of such original certificate, the record thereof, so kept by such notary public as is by this act prescribed, shall be received by all courts in this state as presumptive evidence of the facts therein recorded; *Provided*, That any person interested in the subject matter of such certificate or record of such certificate, may, by other evidence, contradict the matters and things set forth in such certificates, or in the record thereof.

**SEC. 7. [Depositions—Contempts.]**—Every notary public, when notice by a party to any civil suit pending in any court of this state, upon any adverse party for the taking of any testimony of witnesses by deposition, or any commission to take testimony of witnesses to be preserved for use in any suit thereafter to be commenced has been deposited with him, or when a special commission issued out of any court of any state or country without this state, together with notice for the taking of testimony by depositions or commissions, has been deposited with him, is empowered to issue summonses and command the presence before him of witnesses, and to punish witnesses for neglect or refusal to obey such summonses, or for refusal to testify when present, by commitment to the jail of the county for contempt; and all sheriffs and constables in his

SEC. 5. Seal containing the words "Notarial Seal," the name of the county for which notary was appointed, and the word "Nebraska" is sufficient. 21 Neb. 264.

SEC. 7. Notary public has power to commit for contempt witness who refuses to give his deposition. 21 Neb. 278.

state are hereby required to serve and return all process issued by notaries public, in the taking of testimony of witnesses by commission or deposition.

SEC. 8. [**Neglect of duty.**].—If any person shall be damaged or injured by the unlawful act, negligence, or misconduct of any notary public, in his official capacity, the person damaged or injured may maintain a civil action on the official bond of such notary public against such notary public and his sureties, and a recovery in such action shall not be a bar to any future action for other causes, to the full amount of the bond.

SEC. 9. [**Duties at termination of office—Penalty.**].—Each person who holds, or hereafter shall be appointed and commissioned to the office of notary public shall, within thirty days after the expiration of the term of his office, either by limitation, removal from office, or removal from the county for which he was appointed, enter in his official record a certificate over his hand and notarial seal, setting forth that such record is his official record as such notary public, from the day of the commencement of the term of his office, or other time of the commencement of his records, to the time of the expiration of his office, and deposit such record and certificate aforesaid, in the office of the clerk of the county for which he was appointed notary public, and in the event of his death or removal from this state, such certificate shall be received in all the courts of this state as presumptive evidence that the record in which or to which such certificate shall be entered or attached was the official record of such notary public; and any person who shall neglect or fail to comply with the provisions of this section shall forfeit and be liable to pay to the county for which he was appointed and commissioned a notary public, for the use of the school fund, the sum of two hundred dollars, to be recovered in any court of the county having jurisdiction, in the name of the county, upon the relation of the district attorney of the district in which such county shall be situated.

SEC. 10. [**Neglect of county clerk—Penalty.**].—If any county clerk of any county in this state shall neglect or wilfully refuse to perform the duties imposed on him by this act, or shall wilfully refuse to deliver the commission so issued by the governor to any notary public, after he shall have duly filed the bond required by this act, and qualified, such county clerk shall forfeit and be liable to pay to the county for which such notary public was appointed, for the use of the school fund, the sum of two hundred dollars, to be recovered as provided in section nine of this act.

SEC. 11. [**Abbreviations on seal.**].—No deed, mortgage, power of attorney, or other instrument, in writing, heretofore executed and acknowledged, or proven before a notary public shall be held invalid or defective because the official seal of the notary public subscribing the certificate of acknowledgment, proof, or other official act of such notary public annexed thereto had engraved thereon the initial or abbreviation of any words, or other word or words different from those required to be contained or engraved on the seal of a notary public, by this act.

SEC. 12. [**Vacancy—Duty of county clerk.**].—Whenever a vacancy in the office of notary public shall occur in any county, it shall be the duty of the county clerk to notify the secretary of state of the fact, who shall keep a record in his office of the name of the person appointed, date of his commission and time of its expiration, and the time such office becomes vacant, either by removal from office, removal from the county, or limitation of term of appointment, and when a vacancy shall occur in the office of notary public in any county, it shall be the duty of the secretary of state to notify the governor. [Amended 1883, chap. LVIII.]

SEC. 13. [**Fees of secretary and county clerk.**].—The secretary of state shall be entitled, for receiving, affixing the great seal to, and forwarding the commission of a notary public, to the sum of one dollar; and the county clerk of the county, to whom the same shall be forwarded, the sum of two dollars on each commission as fee for services under this act, to be paid by the person appointed and commissioned, before the delivery to him of the commission, which fees of the secretary of state shall be transmitted to him by the county clerk immediately after their receipt by him.

SEC. 14. [Removal for cause—Proceedings—Penalty.]—That whenever charges of malfeasance in office shall be preferred to the governor against any notary public in this state, or whenever the governor shall have reasonable cause to believe any notary public in this state is guilty of acts of malfeasance in office, the governor may appoint any disinterested person, not related by consanguinity to either the notary public or person preferring the charges, and authorized by law to take testimony of witnesses by deposition, to notify such notary public to appear before him on a day and at an hour certain, after at least ten days from the day of service of such notice, and summon witnesses in the manner provided by this act, for the taking of testimony of witnesses by deposition, to appear before him, at the time in said notice specified, and take the testimony of such witnesses in writing, in the same manner as is by law provided for taking depositions, and certify the same to the governor, at which time the notary public under charges may appear, cross-examine the witnesses, and produce witnesses in his behalf, which cross-examination and testimony shall be likewise certified to the governor. Upon the receipt of such examination, duly certified in the manner prescribed for taking depositions to be used in suits in the district courts of this state, the governor shall examine the same, and if therefrom he shall be satisfied the charges are substantially proven, the governor may remove the person charged from the office of notary public; and thereupon, within thirty days from such removal and notice thereof, such notary public shall deposit with the county clerk of the county for which he was appointed his commission as notary public, with his official record and certificate thereof, as prescribed by section nine of this act; and on his failure to do so, shall be liable to the penalty and payment of two hundred dollars, to be recovered in the manner provided in said section nine, which commission, on its receipt by the county clerk, shall be forwarded by him to the secretary of state, to be canceled; and thereafter such person so removed from office shall be forever disqualified from holding the office of notary public; and the fees for taking such testimony shall be paid by the county, at the same rate as fees for taking depositions by notaries public.

SEC. 15. [Obsolete.]

SEC. 16. [Repealed chap. 38, R. S. 270.]

## CHAPTER 62.—OATHS AND AFFIRMATIONS.

SECTION 1. [**Administration.**—Oaths and affirmations may be administered in all cases whatsoever by judges of the supreme court, judges of the district courts, clerk of the supreme court, clerks of the district courts within their respective districts, and by probate judges, justices of the peace, and notaries public, within their respective counties. [R. S. 274. G. S. 499.]

---

CHAP. 62. Chap. XXXIX, R. S. 274. Chap. 50, G. S. 499.