

CHAPTER 358

SEALS, OATHS, ACKNOWLEDGMENTS

<p>358.01 Private seals abolished.</p> <p>358.02 Great seal; description, where deposited.</p> <p>358.02B Legislators, official seals.</p> <p>358.03 Form of official seals.</p> <p>358.04 Temporary seal, when used.</p> <p>358.05 Oath of office.</p> <p>358.06 Trustees, referees.</p> <p>358.07 Forms of oath in various cases.</p> <p>358.08 Affirmation in lieu of oath.</p> <p>358.09 By whom and how administered.</p> <p>358.10 Officials may administer, when.</p> <p>358.11 Oaths, where filed.</p> <p>358.14 Married persons.</p> <p>358.15 By whom taken in this state.</p>	<p>358.25 Power given for taking acknowledgments for protesting bills of exchange.</p> <p>358.32 Uniform recognition of acknowledgments act.</p> <p>358.33 Authentication of authority of officer.</p> <p>358.34 Certificate of person taking acknowledgment.</p> <p>358.35 Recognition of certificate of acknowledgment.</p> <p>358.36 Certificate of acknowledgment.</p> <p>358.37 Short forms of acknowledgment.</p> <p>358.38 Acknowledgments not affected by sections 358.32 to 358.40.</p> <p>358.39 Uniformity of application and construction.</p> <p>358.40 Citation.</p>
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358.01 PRIVATE SEALS ABOLISHED.

Private seals are abolished, and all written instruments formerly required by law to be sealed shall be equally effective for all purposes without a seal; but nothing herein shall apply to the use of corporate seals.

History: *RL s 2652 (6933)*

358.02 GREAT SEAL; DESCRIPTION, WHERE DEPOSITED.

The seal heretofore used as the seal of the state is declared to be the seal thereof; and a description of the same in writing shall be recorded with the secretary of state, and remain a public record in his office.

History: *RL s 2653 (6934)*

358.02B LEGISLATORS, OFFICIAL SEALS.

Every member of the legislature, so long as he remains in office and continues to reside in the district from which he was elected, may furnish himself with an official seal, in the form provided in section 358.03, with which he may authenticate his official acts provided for in section 358.15.

History: *1955 c 72 s 1*

358.03 FORM OF OFFICIAL SEALS.

Upon every seal of a court or officer authorized or required to have a seal there shall be engraved the same device that is engraved on the seal of the state, and the name of the court or office in which it is to be used.

History: *RL s 2654; 1947 c 199 s 1 (6935)*

358.04 TEMPORARY SEAL, WHEN USED.

When any court of record is unprovided with a seal, the judge thereof may authorize the use of any temporary seal, or of any device by way of seal, until one is provided.

History: *RL s 2655 (6936)*

358.05 OATH OF OFFICE.

The oath of office to be taken by members and officers of either branch of the legislature shall be that prescribed by the Constitution of the State of Minnesota, Article 4, Section 8. Every person elected or appointed to any other public office,

including every official commissioner, or member of any public board or body, before transacting any of the business or exercising any privilege of such office, shall take and subscribe the oath defined in the Constitution of the State of Minnesota, Article 5, Section 6.

History: *RL s 2677; 1976 c 2 s 172 (6963)*

358.06 TRUSTEES, REFEREES.

Unless otherwise provided by law, every executor, administrator, guardian, trustee, referee, arbitrator, viewer, assessor, appraiser, and other person appointed by or made responsible to the court in any action or proceeding, before entering upon his duties as such, shall take and subscribe the following oath:

"I, A.B., do swear that I will faithfully and justly perform all the duties of the office and trust which I now assume as (insert brief description of office), to the best of my ability. So help me God."

History: *RL s 2678 (6964)*

358.07 FORMS OF OATH IN VARIOUS CASES.

An oath substantially in the following forms shall be administered to the respective officers and persons hereinafter named:

(1) To grand jurors:

"You each do swear that you will diligently inquire, and true presentment make, of all public offenses committed within this county of which you have legal proof; the counsel of the state and of yourself and fellows you will keep secret; you will present no person through malice or ill-will, nor leave any unrepresented through fear or favor, or the receipt or hope of reward, but will present things truly to the best of your understanding and according to law. So help you God."

(2) To petit jurors in civil actions:

"You each do swear that you will impartially try the issues in this case, and a true verdict give, according to law and the evidence given you in court; your own counsel and that of your fellows you will duly keep; you will say nothing to any person concerning the case, nor suffer any one to speak to you about it, and will keep your verdict secret until you deliver it in court. So help you God."

(3) To petit juries in criminal cases:

"You each do swear that, without respect of persons or favor of any man, you will well and truly try, and true deliverance make, between the state of Minnesota and the defendant, according to law and the evidence given you in court. So help you God."

(4) To officers attending grand juries:

"You do swear that, as officer of the grand jury, you will keep their counsel and that of the state, and not disclose anything relative to their proceedings. So help you God."

(5) To same in charge of petit juries:

"You do swear that you will keep this jury together, and, so far as may be, secluded, so long as they shall remain in your charge; will suffer no one to communicate with or overhear them while deliberating upon their verdict; and will not by word or sign disclose, except to the court alone, anything that may come to your knowledge concerning their action in this case until they are duly discharged."

(6) Same, in charge during recess:

"You do swear that you will keep together this jury until they return into court, and that in the meantime you will suffer no one to speak to them, nor speak to them yourself, concerning the cause on trial, or any matter relating thereto."

(7) To witnesses: "You do swear that the evidence you shall give relative to the cause now under consideration shall be the whole truth, and nothing but the truth. So help you God."

(8) To interpreters:

"You do swear that you will truly and impartially interpret to this witness the oath about to be administered to him, and the testimony he shall give relative to the cause now under consideration. So help you God."

(9) To attorneys:

"You do swear that you will support the constitution of the United States and that of the state of Minnesota, and will conduct yourself as an attorney and counselor at law in an upright and courteous manner, to the best of your learning and ability, with all good fidelity as well to the court as to the client, and that you will use no falsehood or deceit, nor delay any person's cause for lucre or malice. So help you God."

(10) To affiants:

"You do swear that the statements of this affidavit, by you subscribed, are true. So help you God."

History: *RL s 2679 (6965)*

358.08 AFFIRMATION IN LIEU OF OATH.

If any person of whom an oath is required shall declare that he has religious scruples against taking the same, the word "swear" and the words "so help you God" may be omitted from the foregoing forms, and the word "affirm" and the words "and this you do under the penalties of perjury" shall be substituted therefor, respectively, and such person shall be considered, for all purposes, as having been duly sworn.

History: *RL s 2680 (6966)*

358.09 BY WHOM AND HOW ADMINISTERED.

Any officer authorized by this chapter to take and certify acknowledgments may administer an oath, and, if the same be in writing, may certify the same under his official signature, and the seal of his office, if there be one, in the following form: "Subscribed and sworn to before me this day of, 19..... ." The mode of administering an oath commonly practiced in the place where it is taken shall be followed, including, in this state, the ceremony of uplifting the hand.

History: *RL s 2681 (6967)*

358.10 OFFICIALS MAY ADMINISTER, WHEN.

All persons holding office under any law of this state, or under the charter or ordinances of any municipal corporation thereof, including judges and clerks of election, and all committeemen, commissioners, trustees, referees, appraisers, assessors, and all others authorized or required by law to act or report upon any matter of fact, shall have power to administer such oaths as they may deem necessary to the proper discharge of their respective duties.

History: *RL s 2682 (6968)*

358.11 OATHS, WHERE FILED.

Except as otherwise provided by law, the oath required to be taken and subscribed by any person shall be filed as follows:

(1) If that of an officer of the state, whether elective or appointive, with the secretary of state;

MINNESOTA STATUTES 1982

6875

SEALS, OATHS, ACKNOWLEDGMENTS 358.25

(2) If of a county officer, or an officer chosen within or for any county, with the county auditor;

(3) If of a city officer, with the clerk or recorder of the municipality;

(4) If of a town officer, with the town clerk;

(5) If of a school district officer, with the clerk of the district;

(6) If of a person appointed by, or made responsible to, a court in any action or proceeding therein, with the clerk of such court;

(7) If that of a person appointed by any state, county, or other officer for a special service in connection with his official duties, with such officer.

If the person taking such oath be also required to give bond, the oath shall be attached to or endorsed upon such bond and filed therewith, in lieu of other filing.

History: *RL s 2683; 1973 c 123 art 5 s 7 (6969)*

358.12 [Repealed, 1973 c 116 s 10]

358.13 [Repealed, 1973 c 116 s 10]

358.14 MARRIED PERSONS.

No separate examination of a married woman shall be required, but if husband and wife join in and acknowledge the execution of any instrument, they shall be described in the certificate of acknowledgment as husband and wife; and, if they acknowledge it before different officers, or before the same officer at different times, each shall be described in the certificate as the spouse of the other.

History: *RL s 2686 (6972)*

358.15 BY WHOM TAKEN IN THIS STATE.

The following named officers shall have power to take and certify acknowledgments within the state:

(1) Every member of the legislature, so long as he shall remain such and continue to reside in the district from which he was elected; but he shall receive no fee or compensation for so doing. The form of his official signature in such cases shall be: "A.B., Representative (or Senator), District, Minnesota. My term expires January 1, 19.....;"

(2) The judges and clerks and deputy clerks of all courts of record, residing within the state, including those of the circuit and district courts of the United States, and resident United States commissioners;

(3) Notaries public, justices of the peace, and the clerks or recorders of towns, and cities; and

(4) Court commissioners, county recorders, and county auditors, and their several deputies, and county commissioners, all within their respective counties.

History: *RL s 2687; 1973 c 123 art 5 s 7; 1976 c 181 s 2 (6973)*

358.16-358.21 [Obsolete]

358.22 [Repealed, 1973 c 116 s 10]

358.23 [Repealed, 1973 c 116 s 10]

358.24 [Repealed, 1973 c 116 s 10]

358.25 POWER GIVEN FOR TAKING ACKNOWLEDGMENTS FOR PROTESTING BILLS OF EXCHANGE.

Any person authorized to take acknowledgments or administer oaths, who is at the same time an officer, director or stockholder of a corporation, is hereby authorized to take acknowledgments of instruments wherein such corporation is

interested, and to administer oaths to any officer, director, or stockholder of such corporation as such, and to protest for non-acceptance or non-payment bills of exchange, drafts, checks, notes and other negotiable or non-negotiable instruments which may be owned or held for collection by such corporation, as fully and effectually as if he were not an officer, director, or stockholder of such corporation.

History: 1907 c 406 s 1; 1915 c 20 s 1 (6980)

358.26 [Repealed, 1973 c 116 s 10]

358.27 [Repealed, 1973 c 116 s 10]

358.271 [Obsolete]

358.28-358.31 [Obsolete]

358.32 UNIFORM RECOGNITION OF ACKNOWLEDGMENTS ACT.

For the purposes of sections 358.32 to 358.40, "notarial acts" means acts which the laws and regulations of this state authorize notaries public of this state to perform, including the administering of oaths and affirmations, taking proof of execution and acknowledgments of instruments, and attesting documents. Notarial acts may be performed outside this state for use in this state with the same effect as if performed by a notary public of this state by the following persons authorized pursuant to the laws and regulations of other governments in addition to any other person authorized by the laws and regulations of this state:

(1) a notary public authorized to perform notarial acts in the place in which the act is performed;

(2) a judge, clerk, or deputy clerk of any court of record in the place in which the notarial act is performed;

(3) an officer of the foreign service of the United States, a consular agent, or any other person authorized by regulation of the United States Department of State to perform notarial acts in the place in which the act is performed;

(4) a commissioned officer with a regular or reserve component of the armed forces of the United States, whether or not on active duty, and any other person authorized by regulation of the armed forces to perform notarial acts if the notarial act is performed for one of the following or his dependents; a merchant seaman of the United States, a member of the armed forces of the United States, any other person serving with or accompanying the armed forces of the United States, or a person enlisting in or a member of the Minnesota national guard; or

(5) any other person authorized to perform notarial acts in the place in which the act is performed.

History: 1973 c 116 s 1; 1982 c 481 s 2

358.33 AUTHENTICATION OF AUTHORITY OF OFFICER.

Subdivision 1. If the notarial act is performed by any of the persons described in section 358.32, clauses 1 to 4, other than a person authorized to perform notarial acts by the laws or regulations of a foreign country, the signature, rank, or title and serial number, if any, of the person are sufficient proof of the authority of a holder of that rank or title to perform the act. Further proof of his authority is not required.

Subd. 2. If the notarial act is performed by a person authorized by the laws or regulations of a foreign country to perform the act, there is sufficient proof of the authority of that person to act if:

(a) either a foreign service officer of the United States resident in the country in which the act is performed or a diplomatic or consular officer of the foreign

country resident in the United States certifies that a person holding that office is authorized to perform the act;

(b) the official seal of the person performing the notarial act is affixed to the document; or

(c) the title and indication of authority to perform notarial acts of the person appears either in a digest of foreign law or in a list customarily used as a source of such information.

Subd. 3. If the notarial act is performed by a person other than one described in subdivisions 1 and 2, there is sufficient proof of the authority of that person to act if the clerk of a court of record in the place in which the notarial act is performed certifies to the official character of that person and to his authority to perform the notarial act.

Subd. 4. The signature and title of the person performing the act are prima facie evidence that he is a person with the designated title and that the signature is genuine.

History: 1973 c 116 s 2

358.34 CERTIFICATE OF PERSON TAKING ACKNOWLEDGMENT.

The person taking an acknowledgment shall certify that:

(1) the person acknowledging appeared before him and acknowledged he executed the instrument; and

(2) the person acknowledging was known to the person taking the acknowledgment or that the person taking the acknowledgment had satisfactory evidence that the person acknowledging was the person described in and who executed the instrument.

History: 1973 c 116 s 3

358.35 RECOGNITION OF CERTIFICATE OF ACKNOWLEDGMENT.

The form of a certificate of acknowledgment used by a person whose authority is recognized under section 358.32 shall be accepted in this state if:

(1) the certificate is in a form prescribed by the laws or regulations of this state;

(2) the certificate is in a form prescribed by the laws or regulations applicable in the place in which the acknowledgment is taken; or

(3) the certificate contains the words "acknowledged before me," or their substantial equivalent.

History: 1973 c 116 s 4

358.36 CERTIFICATE OF ACKNOWLEDGMENT.

The words "acknowledged before me" mean

(1) that the person acknowledging appeared before the person taking the acknowledgment,

(2) that he acknowledged he executed the instrument,

(3) that, in the case of:

(a) a natural person, he executed the instrument for the purposes therein stated;

(b) a corporation, the officer or agent acknowledged he held the position or title set forth in the instrument and certificate, he signed the instrument on behalf of the corporation by proper authority, and the instrument was the act of the corporation for the purpose therein stated;

MINNESOTA STATUTES 1982

(c) a partnership, the partner or agent acknowledged he signed the instrument on behalf of the partnership by proper authority and he executed the instrument as the act of the partnership for the purposes therein stated;

(d) a person acknowledging as principal by an attorney in fact, he executed the instrument by proper authority as the act of principal for the purposes therein stated;

(e) a person acknowledging as a public officer, trustee, administrator, guardian, or other representative, he signed the instrument by proper authority and he executed the instrument in the capacity and for the purposes therein stated; and

(4) that the person taking the acknowledgment either knew or had satisfactory evidence that the person acknowledging was the person named in the instrument or certificate.

History: 1973 c 116 s 5

358.37 SHORT FORMS OF ACKNOWLEDGMENT.

The forms of acknowledgment set forth in this section may be used and are sufficient for their respective purposes under any law of this state. The forms shall be known as "Statutory Short Forms of Acknowledgment" and may be referred to by that name. The authorization of the forms in this section does not preclude the use of other forms.

(1) For an individual acting in his own right:

State of

County of

The foregoing instrument was acknowledged before me this...(date)...by...(name of person acknowledged).

(Signature of person taking acknowledgment)

(Title or rank)

(Serial number, if any)

(2) For a corporation:

State of

County of

The foregoing instrument was acknowledged before me this...(date)...by...(name of officer or agent, title of officer or agent)...of...(name of corporation acknowledging)...a (state or place of incorporation)...corporation, on behalf of the corporation.

(Signature of person taking acknowledgment)

(Title or rank)

(Serial number, if any)

(3) For a partnership:

State of

County of

The foregoing instrument was acknowledged before me this...(date)...by...(name of acknowledging partner or agent), partner (or agent) on behalf of ...(name of partnership), a partnership.

(Signature of person taking acknowledgment)

(Title or rank)

(Serial number, if any)

(4) For an individual acting as principal by an attorney in fact:

MINNESOTA STATUTES 1982

6879

SEALS, OATHS, ACKNOWLEDGMENTS 358.40

State of

County of

The foregoing instrument was acknowledged before me this...(date)...by...(name of attorney in fact)...as attorney in fact on behalf of...(name of principal).

(Signature of person taking acknowledgment)

(Title or rank)

(Serial number, if any)

(5) By any public officer, trustee, or personal representative:

State of

County of

The foregoing instrument was acknowledged before me this...(date)..by...(name and title of position).

(Signature of person taking acknowledgment)

(Title or rank)

(Serial number, if any)

History: 1973 c 116 s 6

358.38 ACKNOWLEDGMENTS NOT AFFECTED BY SECTIONS 358.32 TO 358.40.

A notarial act performed prior to July 1, 1973 is not affected hereby. Sections 358.32 to 358.40 provide an additional method of proving notarial acts. Nothing herein diminishes or invalidates the recognition accorded to notarial acts by other laws or regulations of this state.

History: 1973 c 116 s 7

358.39 UNIFORMITY OF APPLICATION AND CONSTRUCTION.

Sections 358.32 to 358.40 shall be so applied and construed as to effectuate its general purpose to make uniform the law with respect to the subject of sections 358.32 to 358.40 among those states which enact it.

History: 1973 c 116 s 8

358.40 CITATION.

Sections 358.32 to 358.40 may be cited as the uniform recognition of acknowledgments act.

History: 1973 c 116 s 9