

7 FAM 800 NOTARIAL AND AUTHENTICATION SERVICES

7 FAM 810 INTRODUCTION

*(CT:CON-407; 06-29-2012)
(Office of Origin: CA/OCS/L)*

7 FAM 811 SUMMARY

(CT:CON-110; 09-13-2005)

- a. 7 FAM 820 lists the legal authorities for the performance of notarial and authentication services abroad. 7 FAM 820 also describes the laws of the states of the United States related to the recognition of notarial services and authentications provided abroad.
- b. 7 FAM 830, 7 FAM 840 and 7 FAM 850 cover the performance of notarial acts at posts abroad. U.S. consular officers, diplomatic officers and other designated Department employees perform notarial services abroad similar to those performed by a notary public in the United States.
- c. 7 FAM 860 discusses certification of true copies by notarizing officers.
- d. 7 FAM 870 addresses the authentication of documents by consular officers. In countries party to The Hague Convention Abolishing the Requirement on Legalization of Foreign Public Documents, consular authentication of documents is limited to criminal matters.
- e. 7 FAM 880 addresses the performance of notarial and authentication services for documents submitted to federal and state agencies.
- f. Finally, 7 FAM 890 addresses frequently asked requested services not provided by consular or other notarizing officers, but available from other federal agencies and other entities, including Medallion Signature Guarantees, Criminal Record Checks, Protesting Bills of Exchange, and Proctoring of Examinations.

- g. See 7 FAM 900 for special procedures regarding criminal matters and 7 FAM 1600 for special procedures for authentication of extradition documents.
- h. Guidance on the taking of depositions is provided in 7 FAM 900.

7 FAM 812 MANAGING WORKLOAD

(CT:CON-110; 09-13-2005)

Posts may limit the hours of operation for notarial and authentication services. Some posts provide services to foreign nationals only one day a week. In countries party to the Hague Convention Abolishing the Requirement for Legalization of Foreign Public Documents, non-U.S. citizens may also be directed to local notaries whose seals may then be “legalized” with the Hague Legalization Convention apostille certificate by the competent authority of the host country. (See 7 FAM 870).

7 FAM 813 DEFINITIONS

(CT:CON-110; 09-13-2005)

Acknowledgment. A declaration by an individual before a notarizing officer that an instrument (such as a deed, mortgage, lease, contract for the sale of land, etc.) signed by the individual is the individual’s act and deed. The purpose of an acknowledgment is to permit the instrument to be recorded or received in evidence. An acknowledgment is almost never made under oath or affirmation.

Affiant. A person who makes and signs an affidavit.

Affidavit. A written declaration (1) confirmed by the oath or affirmation of the party making it, taken before an officer having authority to administer such oath or affirmation or (2) containing a declaration under penalty of perjury. An affidavit is most commonly used as a method of presenting a fact witness’s statement to a court. Unlike a deposition (see 7 FAM 900), an affidavit is taken without notice to the other party or parties.

Affirmation. A solemn and formal declaration that a statement, or series of statements, is true (for example, “I, (Name), do solemnly affirm under penalty of perjury that the foregoing is true and correct”). When an oath is required, an affirmation may be taken in its place by any person having conscientious scruples against taking an oath. As a general rule, an affirmation has the same legal force and effect as an oath.

Attestation. The act of witnessing the execution of an instrument and then signing it as a witness (most commonly seen on wills).

Certificate of Acknowledgment. A notarizing officer's certificate on a document that an individual appeared before the officer and declared that the instrument was the individual's act and deed.

Declaration Under Penalty Of Perjury. A declaration used in an affidavit instead of an oath or affirmation before the consular officer. In federal court, it has the same force or effect as an oath or affirmation. (See 28 U.S.C. 1746).

Grantor. A person by whom a grant or transfer of ownership is made.

Instrument. Any written document, made and executed as the expression of some legal act, such as a bond, deed, contract, or will.

Jurat. A certificate added to an affidavit stating when, where, and before whom it was sworn. A jurat is similar to an acknowledgment, except that the jurat contemplates an oath or affirmation, whereas an acknowledgment does not. The usual form of a jurat is: "Subscribed and sworn before me this day".

Notarial Act. An act recognized by law or usage as one performed by a notary public. In the United States, notaries are generally empowered to administer oaths and affirmations and to take affidavits and acknowledgments.

Notarizing officer. A U.S. consular officer, a U.S. diplomatic officer, or a U.S. citizen employee of the Department designated by the Deputy Assistant Secretary of the Department of State for Overseas Citizens Services under 22 CFR 92.1(d).

Notary or Notary Public. A public officer authorized under the laws of a particular jurisdiction to perform notarial acts, usually in connection with the execution of a document.

Oath. A solemn declaration or outward pledge, whether oral or written, given by the person making it under an immediate sense of responsibility to God, affirming the truth of statements (for example, "I, (Name), do solemnly affirm that the foregoing is true and correct. So help me God.").

Self-Proving Will. A will having an attached affidavit signed by a notary public that shows the will was properly signed and witnessed and that it is the will of the person who signed it. Many states accept such wills in order to avoid the cumbersome process of requiring an executor to track down the witnesses. A will whose validity does not have to be testified to in court by

the witnesses to it, since the witnesses executed an affidavit reflecting proper execution of the will prior to the maker's death.

Testator. A person who makes a will.

Venue. A statement identifying the geographical location where an act is performed.

Will. A solemn, authentic instrument in writing, by which a person declares his/her will as to disposal of his/her estate and effects after his/her death.

Witness. A person who attests to a fact or event, or who provides evidence or proof to establish a fact or event.

7 FAM 814 EQUIPMENT AND SUPPLIES

(CT:CON-110; 09-13-2005)

Notarizing officers need the equipment and supplies listed below to perform notarials and authentications. Questions concerning how to order consular seals, grommets, and other notarial and authentication supplies ordered through CA/EX/GSD should be sent to the Department via email to the "CA Consular Supplies" mailbox, email address CASUPPLIES@STATE.GOV. This address should also be used to follow up on or inquire about the status of previous orders, and to report transfer and return of Consular Supplies. Supply requests via cable are no longer required. Requests sent to individual email addresses in CA/EX/GSD will be forwarded to the CA Consular Supplies mailbox. See also the Consular Equipment and Supplies Handbook, available on the Consular Affairs Intranet page under the heading Management, CA Support Desk.

- (1) Seals:
 - (a) Embossed.
 - (b) Rubberstamp.
 - (c) Wax impression (only impression seals are used with wax).
- (2) Consular Certificate Forms
 - (a) DS-1986 – Individual Certificate of Acknowledgment
 - (b) OF-175 – Certificate of Acknowledgment of Execution of an Instrument

- (c) DS-1983 – Affidavit
- (d) DS-1982 – General Authentication Certificate
- (3) Rubberstamps:
 - (a) Jurat stamps.
 - (b) Venue stamps.
 - (c) Certificate stamps.
- (4) Ribbon.
- (5) Wafers.
- (6) Wax.
- (7) Eyelet grommets.

7 FAM 815 STATE COMMISSIONERS OF DEEDS

(CT:CON-407; 06-29-2012)

Various statutes still in effect in a number of U.S. states authorize the Secretary of State of the state to appoint commissioners of deeds who can perform notarial acts extraterritorially for use in that state. The Department is concerned that, in the exercise of their powers, state commissioners of deeds may violate the judicial sovereignty of a foreign country by usurping the functions of duly authorized foreign officials. All Foreign Service posts should advise the Department ([CA/OCS/L – Ask-OCS-L-Dom-Post@state.gov](#)) of the operation of any commissioners of deeds in their consular districts.

See:

Performance Of Notary Functions Abroad By American Notaries Public Or State Commissioners Of Deeds on the CA Internet page.

7 FAM 816 FOREIGN LANGUAGE DOCUMENTS

(CT:CON-168; 05-22-2007)

- a. While consular officers may provide notarial or authentication services to

non-English speaking applicants, they must understand the document in question sufficiently to:

- (1) Determine whether notarial or authentication service must be refused because the document is fraudulent or otherwise unlawful, or inimical to the interests of the United States.
 - (2) Determine that the person requesting a notarial service understands the document and is executing it without duress.
- b. Officers of the Foreign Service are not permitted to translate notarial documents or to certify to the correctness of translations for the public.
 - c. Officers of the Foreign Service are authorized to administer an oath to the translator executing an affidavit as to the correctness of a (English or foreign language) translation; to take an acknowledgment of the preparation of the translation; and to authenticate the seal and signature of a local official affixed to a translation.
 - d. Translations of a foreign language text should be provided by the applicant. If the consular officer is not comfortable providing the service, he/she should decline and direct the person to a local notary or foreign consul who can communicate in the same language.

7 FAM 817 REFERENCE MATERIAL

(CT:CON-407; 06-29-2012)

- a. Questions concerning how to order consular seals and other notarial related supplies ordered through CA/EX/GSD should be sent to the Department via email to the "CA Consular Supplies" mailbox, email address CASUPPLIES@STATE.GOV. This address should also be used to follow up on or inquire about the status of previous orders, and to report transfer and return of Consular Supplies.
- b. Reference material about notarial services must be ordered by posts directly from the publisher or other supplier using post administrative funds. The following reference materials about notarial services are not mandatory, but may be useful. Individual copies of these volumes are maintained in *CA/OCS/L*, which can assist post in researching notarial and authentication related questions.

For example:

Anderson's Manual for Notaries Public, 9th Edition, Anderson Publishing

Company, ISBN 1583603573, 2001 is one excellent reference source.

Jones Legal Forms is no longer in print but may be available from companies dealing in used or out of print books.

- c. Reference material about the Hague Apostille Convention is available on the Apostille web page of the Hague Conference on Private International Law.

7 FAM 818 THROUGH 819 UNASSIGNED