

# PREPARING FOR THE NOTARY PUBLIC EXAM

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PLLC



# INTRODUCTION

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Notary Publics are officials appointed by the New York Secretary of State to serve as impartial witnesses and to serve as a deterrent to fraud in connection with the execution of documents.

The notarization of a document establishes that the signer knows what document they are signing and that they are signing the document voluntarily.

This handbook provides a summary of the NY Notary Public License Law and the information needed to pass the Notary Exam.



# POWERS AND DUTIES

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- ❑ Administering oaths and affirmations;
- ❑ Taking affidavits and depositions;
- ❑ Receiving and certifying acknowledgments of conveyance of real property (such as deeds, mortgages and powers of attorney);

# POWERS AND DUTIES

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- ❑ Demanding acceptance or payment of foreign and inland bills of exchange, promissory notes and obligations in writing, and protesting the same for non-payment.
- ❑ Witness the opening of an un-paid safe deposit box and prepare a certificate with date of opening and list of safe contents (to be mailed within 10 days of opening);

# POWERS AND DUTIES

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## ❑ Sample Acknowledgment:

State of New York )

) ss.:

County of . . . . . )

On the . . . . . day of . . . . . in the year . . . . . before me, the undersigned, personally appeared . . . . ., personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s)

whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

(Signature and office of individual taking acknowledgment.)

# POWERS AND DUTIES

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- ❑ Statement of Authority (Printed under the Notary's signature):

“Notary Public, State of New York

No. \_\_\_\_\_

Qualified in \_\_\_\_\_ County

Commission Expires \_\_\_\_\_, 20\_\_.”

# QUALIFICATIONS

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- ❑ 18 years or older;
- ❑ NY resident or NY business address;
- ❑ Good moral character (never convicted of a crime – unless the conviction does not constitute a bar to appointment as per article 23-A of the NYS Correction Law);

# NOTARY REQUIREMENTS

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- ❑ Achieve a score of seventy percent (70%) or higher on the Notary Public Exam;
- ❑ Complete Notary Public Application and Oath of Office (Must be signed in the presence of a commissioned Notary);
- ❑ Submit application, original exam pass notice and \$60 fee to NY Secretary of State;
- ❑ Four (4) year term (\$60 renewal fee). NYS extended the expiration date of any Notary license that was set to expire after March 27, 2020 to June 16, 2021.



# DISQUALIFICATIONS

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- ❑ Notary does not live or have a place of business in NY;
- ❑ Notary is a party to or directly interested in the transaction (for example you cannot notarize your own signature on a loan document or deed);

# KEY DEFINITIONS

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- ❑ **Acknowledgement:** formal declaration before a notary by a person who has executed a document (certification of identity and execution);
- ❑ **Affiant:** person signing an affidavit;
- ❑ **Affidavit:** sworn, signed statement (administration of an oath);
- ❑ **Affirmation:** solemn declaration made by persons who decline to take an oath (equally as binding as an oath);
  - Do you solemnly, sincerely and truly declare and affirm that the statements made by you are correct and true?
- ❑ **Conveyance:** transfer, surrender or assignment of estate or interest in real property;

# KEY DEFINITIONS

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- ❑ **Forgery:** falsely makes, completes or alters a written instrument;
- ❑ **Jurat:** Latin word for the statement “Sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 2021”;
- ❑ **Oath:** verbal pledge to God that the statements made are true;
  - “Do you solemnly swear that the contents of this affidavit subscribed by you is correct and true”.
- ❑ **Statement of Venue:** location where notarization takes place;
- ❑ **Acknowledgment** (affiant ID certification) vs. **Affidavit** (administering oath to affiant).

# PROFESSIONAL CONDUCT

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- ❑ #1 Rule: **Always witness the signature:** taking acknowledgments or affidavits without the personal appearance (over the phone, via the internet, etc.) of the signer is illegal;
- ❑ #2 Rule: **Know your signer:** Always verify and make a copy of the signer's ID;
- ❑ #3 Rule: **Keep a journal:** Recording each notarial act in a journal is an important protection for the Notary against liability and to respond to inquiries;

# PROFESSIONAL CONDUCT

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- ❑ #4 Rule: **Do not engage in the practice of law** (no drafting, offering advice or explaining documents – only witness the execution of the document(s) and administer an oath, if necessary);
- ❑ #5 Rule: **Do not execute an acknowledgment of the execution of a will** (this is considered the practice of law).



# RESTRICTIONS AND VIOLATIONS

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- ❑ Notaries may not solemnize a marriage or acknowledge a written contract of marriage;
- ❑ Notaries cannot charge a fee to a legislator, military officer or other public employee or officer or divide fees with a lawyer or accept any part of a lawyer's fee;



# RESTRICTIONS AND VIOLATIONS

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- ❑ Committing a fraud or being deceitful in your capacity of a notary can be considered a misdemeanor punishable up to one (1) year in jail and a fine;
- ❑ Always use black ink.

# RESTRICTIONS AND VIOLATIONS

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- ❑ Committing a forgery (class D) or issuing a false certificate (class E) is a felony.
  - Class D felony: prison term set by court but no more than 7 years;
  - Class E felony: prison term fixed by court but no more than 4 years.
- ❑ Refusing to administer oath or affidavit is a misdemeanor.



# DEFECTS

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- The following errors by a Notary will not impact the legitimacy of the document (can lead to revocation of your license, civil/criminal charges or suits against the notary):
  - ineligibility of the notary public to be appointed;
  - misspelling of name or other error made in his/her appointment as a notary;
  - omission of the notary public to take or file his/her official oath or otherwise qualify;
  - expiration of his/her term or commission;
  - vacating his/her office by change of residence;
  - action was taken outside the jurisdiction where the notary public was authorized to act.

# FEES

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- ❑ MAXIMUM charge of \$2.00 for:
  - Oath or Affirmation;
  - Acknowledgment (each person);
  - Proof of Execution (each person);
  - Swearing Witness.
- ❑ Certificate of Official Character (Issued by County Clerk to verify Notary's qualifications at time of signing): \$1.00

# THE TEST

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- ❑ Register at the test center on the day of the exam.
- ❑ Bring CURRENT (not expired) PHOTO ID and \$15 exam fee (check, money order or credit card only).
- ❑ Thumb print prior to exam.
- ❑ Exam topics include: law, general terms and information related to the duties and functions of a notary public;
- ❑ 1 hour to complete the test;
- ❑ 40 questions (Need 28 correct out of 40 to pass).

# SAMPLE QUESTIONS

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1) If a Notary refuses to notarize an affidavit presented for notary services, what is the potential maximum jail sentence?

- A. One month.
- B. Three months
- C. Six months.
- D. One Year

2) The notary certificate of a witness to the execution of a real estate conveyance is called a:

- A. Qualified resident.
- B. Official Character
- C. Proof certificate
- D. None of the above

# SAMPLE QUESTIONS

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3) An executed and notarized document may still be recorded if the Notary committed which of the following errors:

- A) If the Notary Public was acting as a notary but was not licensed.
- B) If the Notary Public's commission was expired.
- C) If a New York Notary notarizes a document in another state.
- D) All of the Above.

4) What is the name of the location where the Notary notarizes a document?

- A) Protest for non-payment
- B) Venue.
- C) Affidavit
- D) Mobile Notary



# SAMPLE QUESTIONS

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- 5) Which of the following activities may a non-attorney Notary perform?
- A) Explain the contents of the document.
  - B) Make a certified original certificate of a government document photocopy.
  - C) Notarize a contract of marriage.
  - D) Administer an oath of office for a military officer.
- 6) What is the name of the phrase below the Notary's signature?
- A) Seal
  - B) Stamp
  - C) Statement of Authority
  - D) Certification

# SAMPLE QUESTIONS

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- 7) Who can translate a deed into another language to be filed in a NY County?
- A) Translator with certificate of designation by a county judge.
  - B) Translation Certified Expert by Translators Society of USA.
  - C) Affidavit service magistrate.
  - D) All the above.
- 8) What is an Apostille?
- A) Something certified for international use.
  - B) A Notary application.
  - C) A crime designated as a class D felony.
  - D) The administrator of a will appointed by the court.

# SAMPLE QUESTIONS

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9) Which of the following people can hold the office of Notary Public?

- A) A County Sheriff.
- B) A former Commissioner of Deeds for NYC who was removed from office.
- C) A & B above.
- D) A convicted felon.

10) Can a Notary who is also an officer of a corporation notarize signatures on corporate documents?

- A) No
- B) Yes for employees and even fellow corporate officers.
- C) Yes but only if the Notary is not a party individually or as a Corp representative in the transaction.
- D) B & C above are both correct.





# ANSWERS

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1. D
2. C
3. D
4. B
5. D
6. C
7. A
8. A
9. D
10. D

# NOTARIES IN THE DEALERSHIP

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- ❑ Secure Power of Attorney form (MV-93);
- ❑ Witnessing execution of loan documents;
- ❑ Witnessing execution of general releases from customers in settlement of complaints.



# TEST TIPS

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- ❑ Memorize the fee chart in the Department of State Notary Public License Law booklet ([www.dos.ny.gov/licensing/lawbooks/notary.pdf](http://www.dos.ny.gov/licensing/lawbooks/notary.pdf)).
- ❑ Read the Notary Public License Law booklet thoroughly and familiarize yourself with all of the Definitions and General Terms.



# TEST TIPS

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- ❑ Multiple choice allows you to eliminate clearly wrong answers and narrow down the choices for the correct answer.

# ELECTRONIC NOTARIZATION

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- During the height of the COVID pandemic NYS temporarily authorized electronic notarization.
- Electronic Notarization is permitted when:
  - The person seeking the Notary's services, if not personally known to the Notary, presents valid photo ID to the Notary during the video conference (not after the conference);
  - The video conference allows for direct interaction between the person and the Notary (for example: no pre-recorded videos of the person signing);
  - The person affirmatively represents that he or she is physically in NY;
  - The person transmits by fax or electronic means (for example: e-mail) a legible copy of the signed document directly to the Notary on the same date it was signed;
- The Notary may notarize the copy of the document and send the same back to the person; and
- The Notary may repeat the notarization of the original signed document as of the date of execution provided the Notary receives such original signed document together with the electronically notarized copy within thirty (30) days after the date of execution.
- The Executive Order has been extended to June 16, 2021.

# Q & A

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