

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1971



ENROLLED

HOUSE BILL No. 629

(By Mr. MYLES AND MR. BUSH)



PASSED FEBRUARY, 5 1971

In Effect NINETY DAYS FROM Passage



629

FILED IN THE OFFICE
OF THE CLERK OF THE
HOUSE OF DELEGATES
STATE OF WEST VIRGINIA
THIS DATE 2-11-71

ENROLLED
House Bill No. 629
(By MR. MYLES and MR. BUCK)

[Passed February 5, 1971; in effect ninety days from passage.]

AN ACT to amend chapter thirty-nine of the Code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article one-a, relating to the uniform recognition of acknowledgments act, notarial acts performed outside this state, persons with authority to take acknowledgments, recognition and meaning of certificates of acknowledgment, short forms of taking acknowledgments and specifying other acknowledgments not affected or invalidated by this article.

Be it enacted by the Legislature of West Virginia:

That chapter thirty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article one-a, to read as follows:

**ARTICLE 1A. UNIFORM RECOGNITION OF ACKNOWLEDGMENTS
ACT.**

**§39-1A-1. Recognition of notarial acts performed outside this
state.**

1 For the purposes of this article, “notarial acts” means
2 acts which the laws and regulations of this state au-
3 thorize notaries public of this state to perform, including
4 the administering of oaths and affirmations, taking proof
5 of execution and acknowledgments of instruments, and
6 attesting documents. Notarial acts may be performed
7 outside this state for use in this state with the same
8 effect as if performed by a notary public of this state
9 by the following persons authorized pursuant to the laws
10 and regulations of other governments in addition to any
11 other person authorized by the laws and regulations of
12 this state:

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

15 (2) A judge, clerk, or deputy clerk of any court of
16 record in the place in which the notarial act is per-
17 formed;

18 (3) An officer of the foreign service of the United

19 States, a consular agent, or any other person authorized
20 by regulation of the United States department of state
21 to perform notarial acts in the place in which the act is
22 performed;

23 (4) A commissioned officer in active service with the
24 armed forces of the United States and any other person
25 authorized by regulation of the armed forces to perform
26 notarial acts if the notarial act is performed for one of
27 the following or his dependents: A merchant seaman
28 of the United States, a member of the armed forces of
29 the United States or any other person serving with or
30 accompanying the armed forces of the United States;
31 or

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

§39-1A-2. Authentication of authority of officer.

1 (a) If the notarial act is performed by any of the
2 persons described in subdivisions one to four, inclusive,
3 section one of this article, other than a person authorized
4 to perform notarial acts by the laws or regulations of a
5 foreign country, the signature, rank or title and serial

6 number, if any, of the person are sufficient proof of the
7 authority of a holder of that rank or title to per-
8 form the act. Further proof of his authority is not re-
9 quired.

10 (b) If the notarial act is performed by a person
11 authorized by the laws or regulations of a foreign country
12 to perform the act, there is sufficient proof of the au-
13 thority of that person to act if:

14 (1) Either a foreign service officer of the United
15 States resident in the country in which the act is per-
16 formed or a diplomatic or consular officer of the foreign
17 country resident in the United States certifies that a
18 person holding that office is authorized to perform the
19 act; and

20 (2) The official seal of the person performing the
21 notarial act is affixed to the document; or

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

26 (c) If the notarial act is performed by a person other

27 than one described in subsections (a) and (b) of this
28 section, there is sufficient proof of the authority of that
29 person to act if the clerk of a court of record in the place
30 in which the notarial act is performed certifies to the
31 official character of that person and to his authority to
32 perform the notarial act.

33 (d) The signature and title of the person performing
34 the act are prima facie evidence that he is a person with
35 the designated title and that the signature is genuine.

§39-1A-3. Certificate of person taking acknowledgment.

1 The person taking an acknowledgment shall certify
2 that:

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

5 (2) The person acknowledging was known to the
6 person taking the acknowledgment or that the person
7 taking the acknowledgment had satisfactory evidence
8 that the person acknowledging was the person described
9 in and who executed the instrument.

§39-1A-4. Recognition of certificate of acknowledgment.

1 The form of a certificate of acknowledgment used by

2 a person whose authority is recognized under section
3 one of this article shall be accepted in this state if:

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

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

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

§39-1A-5. Certificate of acknowledgment.

1 The words "acknowledged before me" mean:

2 (1) That the person acknowledging appeared before
3 the person taking the acknowledgment;

4 (2) That he acknowledged he executed the instru-
5 ment;

6 (3) That, in the case of:

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

9 (b) A corporation, the officer or agent acknowledged
10 he held the position or title set forth in the instrument
11 and certificate, he signed the instrument on behalf of

12 the corporation by proper authority, and the instru-
13 ment was the act of the corporation for the purpose
14 therein stated;

15 (c) A partnership, the partner or agent acknowl-
16 edged he signed the instrument on behalf of the partner-
17 ship by proper authority and he executed the instru-
18 ment as the act of the partnership for the purposes
19 therein stated;

20 (d) A person acknowledging as principal by an at-
21 torney in fact, he executed the instrument by proper
22 authority as the act of the principal for the purposes
23 therein stated;

24 (e) A person acknowledging as a public officer, trus-
25 tee, administrator, guardian or other representative, he
26 signed the instrument by proper authority and he exe-
27 cuted the instrument in the capacity and for the pur-
28 poses therein stated; and

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

§39-1A-6. Short forms of acknowledgment.

1 The forms of acknowledgment set forth in this section
 2 may be used and are sufficient for their respective pur-
 3 poses under any law of this state. The forms shall be
 4 known as "Statutory Short Forms of Acknowledgment"
 5 and may be referred to by that name. The authoriza-
 6 tion of the forms in this section does not preclude the
 7 use of other forms.

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

9 State of _____

10 County of _____

11 The foregoing instrument was acknowledged
 12 before me this _____ by
 13 (date)

14 _____
 15 (name of person acknowledged)

16 _____
 17 (Signature of Person Taking Acknowledgment)

18 _____
 19 (Title or Rank)

20 _____
 21 (Serial Number, if any)

22 (2) For a corporation:

23 State of

24 County of

25 The foregoing instrument was acknowledged

26 before me this.....by

27 (date)

28

29 (name of officer or agent,

30 of

31 title or officer or agent) (name of corporation

32, a

33 acknowledging) (state or place of incorporation)

34 corporation, on behalf of the corporation.

35

36 (Signature of Person Taking Acknowledgment)

37

38 (Title or Rank)

39

40 (Serial Number, if any)

41 (3) For a partnership:

42 State of

43 County of

44 The foregoing instrument was acknowledged
45 before me this by
46 (date)

47
48 (name of acknowledging partner or agent)

49 partner (or agent) on behalf of
50 (name of

51), a partnership.
52 partnership)

53
54 (Signature of Person Taking Acknowledgment)

55
56 (Title or Rank)

57
58 (Serial Number, if any)

59 (4) For an individual acting as principal by an at-
60 torney in fact:

61 State of

62 County of

63 The foregoing instrument was acknowledged
64 before me this by
65 (date)

66 as attorney in fact
67 (name of attorney in fact)

68 on behalf of
69 (name of principal)

70 _____
71 (Signature of Person Taking Acknowledgment)

72 _____
73 (Title or Rank)

74 _____
75 (Serial Number, if any)

76 (5) By any public officer, trustee or personal repre-
77 sentative:

78 State of _____

79 County of _____

80 The foregoing instrument was acknowledged
81 before me this _____ by
82 (date)

83 _____
84 (name and title of position)

85 _____
86 (Signature of Person Taking Acknowledgment)

87 _____
88 (Title or Rank)

89 _____
90 (Serial Number, if any)

§39-1A-7. Acknowledgments not affected by this article.

1 A notarial act performed prior to the effective date of
2 this article is not affected by this article. This article
3 provides an additional method of proving notarial acts.

4 Nothing in this article diminishes or invalidates the
5 recognition accorded to notarial acts by article one of
6 this chapter or by other laws or regulations of this state.

§39-1A-8. Uniformity of interpretation.

1 This article shall be so interpreted as to make uniform
2 the laws of those states which enact it.

§39-1A-9. Short title.

1 This article may be cited as the "Uniform Recognition
2 of Acknowledgments Act."

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Fred B. Bice
Chairman Senate Committee

Phyllis R. Rutledge
Chairman House Committee

Originated in the House.

Ninety days from passage.

Howard Kuyper
Clerk of the Senate

C. A. Blankenship
Clerk of the House of Delegates

E. Brockert
President of the Senate

Sam. T. Bessinger
Speaker House of Delegates

The within *approved* this the *9th*
day of *February*, 1971.

Archie A. Moore, Jr.
Governor



PRESENTED TO THE
GOVERNOR

Date 2/9/71

Time 4:00 p.m.

RECEIVED
FEB 11 9 20 AM '71
OFFICE
SECRETARY OF STATE
STATE OF MISSISSIPPI

RECEIVED