CIVIL PRACTICE AND REMEDIES CODE

TITLE 6. MISCELLANEOUS PROVISIONS

CHAPTER 121. ACKNOWLEDGMENTS AND PROOFS OF WRITTEN INSTRUMENTS

Sec. 121.001. OFFICERS WHO MAY TAKE ACKNOWLEDGMENTS OR PROOFS. (a) An acknowledgment or proof of a written instrument may be taken in this state by:

(1) a clerk of a district court;

(2) a judge or clerk of a county court;

(3) a notary public;

(4) a county tax assessor-collector or an employee of the county tax assessor-collector if the instrument is required or authorized to be filed in the office of the county tax assessor-collector; or

(5) an employee of a personal bond office if the acknowledgment or proof of a written instrument is required or authorized by Article 17.04, Code of Criminal Procedure.

(b) An acknowledgment or proof of a written instrument may be taken outside this state, but inside the United States or its territories, by:

(1) a clerk of a court of record having a seal;

(2) a commissioner of deeds appointed under the laws of this state; or

(3) a notary public.

(c) An acknowledgment or proof of a written instrument may be taken outside the United States or its territories by:

(1) a minister, commissioner, or charge d'affaires of the United States who is a resident of and is accredited in the country where the acknowledgment or proof is taken;

(2) a consul-general, consul, vice-consul, commercial agent, vice-commercial agent, deputy consul, or consular agent of the United States who is a resident of the country where the acknowledgment or proof is taken; or

(3) a notary public or any other official authorized to administer oaths in the jurisdiction where the acknowledgment or proof is taken.

(d) A commissioned officer of the United States Armed Forces

or of a United States Armed Forces Auxiliary may take an acknowledgment or proof of a written instrument of a member of the armed forces, a member of an armed forces auxiliary, or a member's spouse. If an acknowledgment or a proof is taken under this subsection, it is presumed, absent pleading and proof to the contrary, that the commissioned officer who signed was a commissioned officer on the date that the officer signed, and that the acknowledging person was a member of the authorized group of military personnel or spouses. The failure of the commissioned officer to attach an official seal to the certificate of acknowledgment or proof of an instrument does not invalidate the acknowledgment or proof.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 891, Sec. 1, eff. Sept. 1, 1987; Acts 1995, 74th Leg., ch. 165, Sec. 18, eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 986, Sec. 2, eff. June 15, 2001.

Sec. 121.002. CORPORATE ACKNOWLEDGMENTS. (a) An employee of a corporation is not disqualified because of his employment from taking an acknowledgment or proof of a written instrument in which the corporation has an interest.

(b) An officer who is a shareholder in a corporation is not disqualified from taking an acknowledgment or proof of an instrument in which the corporation has an interest unless:

(1) the corporation has 1,000 or fewer shareholders; and

(2) the officer owns more than one-tenth of one percent of the issued and outstanding stock.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985.

Sec. 121.003. AUTHORITY OF OFFICERS. In a proceeding to prove a written instrument, an officer authorized by this chapter to take an acknowledgment or a proof of a written instrument is also authorized to:

(1) administer oaths;

(2) employ and swear interpreters; and

(3) issue subpoenas.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985.

Sec. 121.004. METHOD OF ACKNOWLEDGMENT. (a) To acknowledge a written instrument for recording, the grantor or person who executed the instrument must appear before an officer and must state that he executed the instrument for the purposes and consideration expressed in it.

(b) The officer shall:

(1) make a certificate of the acknowledgment;

(2) sign the certificate; and

(3) seal the certificate with the seal of office.

(c) The failure of a notary public to attach an official seal to a certificate of an acknowledgement or proof of a written instrument made outside this state but inside the United States or its territories renders the acknowledgement or proof invalid only if the jurisdiction in which the certificate is made requires the notary public to attach the seal.

(d) The application of an embossed seal is not required on an electronically transmitted certificate of an acknowledgement.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1995, 74th Leg., ch. 603, Sec. 1, eff. June 14, 1995; Acts 2001, 77th Leg., ch. 95, Sec. 1, eff. May 11, 2001.

Sec. 121.005. PROOF OF IDENTITY OF ACKNOWLEDGING PERSON. (a) An officer may not take the acknowledgment of a written instrument unless the officer knows or has satisfactory evidence that the acknowledging person is the person who executed the instrument and is described in it. An officer may accept, as satisfactory evidence of the identity of an acknowledging person, only:

(1) the oath of a credible witness personally known to the officer;

(2) a current identification card or other document issued by the federal government or any state government that contains the photograph and signature of the acknowledging person; or

(3) with respect to a deed or other instrument

relating to a residential real estate transaction, a current passport issued by a foreign country.

(b) Except in a short form certificate of acknowledgment authorized by Section 121.008, the officer must note in the certificate of acknowledgment that:

(1) he personally knows the acknowledging person; or

(2) evidence of a witness or an identification card or other document was used to identify the acknowledging person.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1997, 75th Leg., ch. 90, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1242 (S.B. 1320), Sec. 2, eff. September 1, 2011.

Sec. 121.006. ALTERATION OF AUTHORIZED FORMS; DEFINITION. (a) An acknowledgment form provided by this chapter may be altered as circumstances require. The authorization of a form does not prevent the use of other forms. The marital status or other status of the acknowledging person may be shown after the person's name.

(b) In an acknowledgment form "acknowledged" means:

(1) in the case of a natural person, that the person personally appeared before the officer taking the acknowledgment and acknowledged executing the instrument for the purposes and consideration expressed in it;

(2) in the case of a person as principal by an attorney-in-fact for the principal, that the attorney-in-fact personally appeared before the officer taking the acknowledgment and that the attorney-in-fact acknowledged executing the instrument as the act of the principal for the purposes and consideration expressed in it;

(3) in the case of a partnership by a partner, partners, authorized officer, or agent acting for the partnership, that the partner, partners, authorized officer, or agent personally appeared before the officer taking the acknowledgment and acknowledged executing the instrument in the capacity stated, as the act of the partnership, for the purposes and consideration expressed in it;

(4) in the case of a corporation by a corporate officer or agent, that the corporate officer or agent personally appeared before the officer taking the acknowledgment and that the corporate officer or agent acknowledged executing the instrument in the capacity stated, as the act of the corporation, for the purposes and consideration expressed in it;

(5) in the case of a person acknowledging as a public officer, trustee, executor or administrator of an estate, guardian, or other representative, that the person personally appeared before the officer taking the acknowledgment and acknowledged executing the instrument by proper authority in the capacity stated and for the purposes and consideration expressed in it; and

(6) in the case of a limited liability company by a member, manager, authorized officer, or agent acting for the limited liability company, that the member, manager, authorized officer, or agent personally appeared before the officer taking the acknowledgment and acknowledged executing the instrument in the capacity stated, as the act of the limited liability company, for the purposes and consideration expressed in it.

(c) For purposes of Subsection (b), a person may personally appear before the officer taking the acknowledgment by:

(1) physically appearing before the officer; or

(2) appearing by an interactive two-way audio and video communication that meets the online notarization requirements under Subchapter C, Chapter 406, Government Code, and rules adopted under that subchapter.

(d) The acknowledgment form provided by this chapter must include a space for an online notarization as defined by Section 406.101, Government Code, to indicate by which method described by Subsection (c) the acknowledging person appeared before the officer.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 340 (H.B. 1217), Sec. 1, eff. July 1, 2018.

Acts 2019, 86th Leg., R.S., Ch. 32 (H.B. 1159), Sec. 1, eff. September 1, 2019.

Sec. 121.007. FORM FOR ORDINARY CERTIFICATE OF ACKNOWLEDGMENT. The form of an ordinary certificate of acknowledgment must be substantially as follows:

"The State of _____,

"County of _____,

"Before me _____ (here insert the name and character of the officer) on this day personally appeared _____, known to me (or proved to me on the oath of _____ or through _____ (description of identity card or other document)) to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

(Seal) "Given under my hand and seal of office this _____ day of _____, A.D., _____."

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1997, 75th Leg., ch. 90, Sec. 1, eff. Sept. 1, 1997.

Sec. 121.008. SHORT FORMS FOR CERTIFICATES OF ACKNOWLEDGMENT. (a) The forms for certificates of acknowledgment provided by this section may be used as alternatives to other authorized forms. They may be referred to as "statutory forms of acknowledgment."

(b) Short forms for certificates of acknowledgment include:

(1) For a natural person acting in his own right:

State of Texas

County of _____

This instrument was acknowledged before me on (date) by (name or names of person or persons acknowledging).

(Signature of officer)

(Title of officer)

My commission expires: _____

(2) For a natural person as principal acting by attorney-in-fact:

State of Texas

County of _____

This instrument was acknowledged before me on (date) by

(name of attorney-in-fact) as attorney-in-fact on behalf of (name of principal).

(Signature of officer)

(Title of officer)

My commission expires: _____

(3) For a partnership acting by one or more partners, an authorized officer, or an agent:

State of Texas

County of _____

This instrument was acknowledged before me on (date) by (name of acknowledging partner, partners, authorized officer, or agent), (partner(s), authorized officer, or agent) on behalf of (name of partnership), a partnership.

(Signature of officer)

(Title of officer)

My commission expires: _____

(4) For a corporation:

State of Texas

County of _____

This instrument was acknowledged before me on (date) by (name of officer), (title of officer) of (name of corporation acknowledging) a (state of incorporation) corporation, on behalf of said corporation.

(Signature of officer)

(Title of officer)

My commission expires: _____

(5) For a public officer, trustee, executor, administrator, guardian, or other representative:

State of Texas

County of _____

This instrument was acknowledged before me on (date) by (name of representative) as (title of representative) of (name of entity or person represented).

(Signature of officer)

(Title of officer)

My commission expires: _____

(6) For a limited liability company:

State of Texas

County of _____

This instrument was acknowledged before me on (date) by (name of acknowledging member, manager, authorized officer, or agent), a (member, manager, authorized officer, or agent) of (name of limited liability company) on behalf of (name of limited liability company), a limited liability company.

(Signature of officer)

(Title of officer)

My commission expires: _____

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 32 (H.B. 1159), Sec. 2, eff. September 1, 2019.

Sec. 121.009. PROOF OF ACKNOWLEDGMENT BY WITNESS. (a) To prove a written instrument for recording, at least one of the witnesses who signed the instrument must personally appear before an officer who is authorized by this chapter to take acknowledgments or proofs and must swear:

(1) either that he saw the grantor or person who executed the instrument sign it or that that person acknowledged in the presence of the witness that he executed the instrument for the purposes and consideration expressed in it; and

(2) that he signed the instrument at the request of the grantor or person who executed the instrument.

(b) The officer must make a certificate of the testimony of the witness and must sign and officially seal the certificate.

(c) The officer may take the testimony of a witness only if the officer personally knows or has satisfactory evidence on the oath of a credible witness that the individual testifying is the person who signed the instrument as a witness. If evidence is used to identify the witness who signed the instrument, the officer must note the use of the evidence in the certificate of acknowledgment.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985.

Sec. 121.010. FORM OF CERTIFICATE FOR PROOF BY WITNESS.

When the execution of a written instrument is proved by a witness, the certificate of the officer must be substantially as follows:

"The State of _____,

"County of _____.

"Before me, _____ (here insert the name and character of the officer), on this day personally appeared _____, known to me (or proved to me on the oath of _____), to be the person whose name is subscribed as a witness to the foregoing instrument of writing, and after being duly sworn by me stated on oath that he saw _____, the grantor or person who executed the foregoing instrument, subscribe the same (or that the grantor or person who executed such instrument of writing acknowledged in his presence that he had executed the same for the purposes and consideration therein expressed), and that he had signed the same as a witness at the request of the grantor (or person who executed the same.)

(Seal) "Given under my hand and seal of office this _____ day of _____, A.D., _____."

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985.

Sec. 121.011. PROOF OF ACKNOWLEDGMENT BY HANDWRITING. (a) The execution of an instrument may be established for recording by proof of the handwriting of persons who signed the instrument only if:

(1) the grantor of the instrument and all of the witnesses are dead;

(2) the grantor and all of the witnesses are not residents of this state;

(3) the residences of the grantor and the witnesses are unknown to the person seeking to prove the instrument and cannot be ascertained;

(4) the witnesses have become legally incompetent to testify; or

(5) the grantor of the instrument refuses to acknowledge the execution of the instrument and all of the witnesses are dead, not residents of this state, or legally incompetent or their places of residence are unknown.

(b) If the grantor or person who executed the instrument

signed his name to the instrument, its execution must be proved by evidence of the handwriting of that person and at least one witness who signed the instrument. If the grantor or person who executed the instrument signed the instrument by making his mark, its execution must be proved by the handwriting of at least two of the witnesses who signed the instrument.

(c) Evidence taken for proof of handwriting must give the residence of the testifying witness. A testifying witness must have known the person whose handwriting is being proved and must be well acquainted with the handwriting in question and recognize it as genuine.

(d) Evidence offered for proof of handwriting must be given in writing by the deposition or affidavit of two or more disinterested persons. The evidence must satisfactorily prove to the officer each of the requirements provided by this section. The officer taking the proof must certify the witnesses' testimony. The officer must sign, officially seal, and attach this certificate to the instrument with the depositions or affidavits of the witnesses.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985.

Sec. 121.012. RECORD OF ACKNOWLEDGMENT. (a) An officer authorized by law to take an acknowledgment or proof of a written instrument required or permitted by law to be recorded must enter in a well-bound book and officially sign a short statement of each acknowledgment or proof. The statement must contain the date that the acknowledgment or proof was taken, the date of the instrument, and the names of the grantor and grantee of the instrument.

(b) If the execution of the instrument is acknowledged by the grantor of the instrument, the statement must also contain:

(1) the grantor's mailing address;

(2) whether the grantor is personally known to the officer; and

(3) if the grantor is unknown to the officer, the name and mailing address of the person who introduced the grantor to the officer, if any.

(c) If the execution of the instrument is proved by a

witness who signed the instrument, the statement must also contain:

(1) the name of the witness;

(2) the mailing address of the witness;

(3) whether the witness is personally known to the officer; and

(4) if the witness is unknown to the officer, the name and mailing address of the person who introduced the witness to the officer, if any.

(d) If land is charged or conveyed by the instrument, the statement must also contain:

(1) the name of the original grantee; and

(2) the name of the county in which the land is located.

(e) The statements of acknowledgment recorded by the officer are original public records, open for public inspection and examination at all reasonable times. The officer must deliver the book to his successor in office.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 731 (S.B. 1098), Sec. 2, eff. September 1, 2017.

Sec. 121.013. SUBPOENA OF WITNESS; ATTACHMENT. (a) On the sworn application of a person interested in the proof of an instrument required or permitted by law to be recorded, stating that a witness to the instrument refuses to appear and testify regarding the execution of the instrument and that the instrument cannot be proven without the evidence of the witness, an officer authorized to take proofs of instruments shall issue a subpoena requiring the witness to appear before the officer and testify about the execution of the instrument.

(b) If the witness fails to obey the subpoena, the officer has the same powers to enforce the attendance and compel the answers of the witness as does a district judge. Attachment may not be issued, however, unless the witness receives or is tendered the same compensation that is made to witnesses in other cases. An officer may not require the witness to leave his county of

residence, but if the witness is temporarily present in the county where the execution of the instrument is sought to be proven for registration, he may be required to appear.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985.

Sec. 121.014. ACTION FOR DAMAGES. A person injured by the failure, refusal, or neglect of an officer to comply with a provision of this chapter has a cause of action against the officer to recover damages resulting from the failure, refusal, or neglect of the officer.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985.

Sec. 121.015. PRIVATE SEAL OR SCROLL NOT REQUIRED. A private seal or scroll may not be required on a written instrument other than an instrument made by a corporation.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 2, eff. Sept. 1, 1993.

Sec. 121.016. EFFECT OF OTHER LAW. To the extent that a provision of this chapter conflicts with Subchapter C, Chapter 406, Government Code, that subchapter controls with respect to an online notarization as defined by Section 406.101, Government Code.

Added by Acts 2017, 85th Leg., R.S., Ch. 340 (H.B. 1217), Sec. 2, eff. July 1, 2018.