

# **7 FAM 800 NOTARIAL SERVICES ABROAD**

## **7 FAM 800 (This is under the OLD Numbering Scheme)**

### **7 FAM 801 INTRODUCTION**

*(TL:CON-6; 6-30-84)*

A U.S. consular officer may perform notarial services similar to those performed by a notary public in the United States. Such services include taking acknowledgments of signatures on documents for use in the United States (such as, deeds, powers of attorney, and bills of sale), taking affidavits and protests of negotiable papers and taking depositions. In addition, U.S. consular officers may perform authentications. A discussion of the taking of depositions, sometimes referred to as notarial acts, is included in Chapter 7 FAM 900 under Judicial Services Abroad. Boundaries of the consular district determine the consular officer's jurisdiction in notarial matters (for limits of consular districts, see 2 FAM 050 Appendix A ).

### **7 FAM 802 AUTHORITY**

a. Federal authority to perform notarial acts is governed by Title 22, U.S. Code, Section 4215, which states:

Every consular officer of the United States is required, whenever application is made to him therefor, within the limits of his consulate, to administer to or take from, any person any oath, affirmation, affidavit, or deposition, and to perform any other notarial act which any notary public is required or authorized by law to do within the United States; and for every such notarial act performed he shall charge in each instance the appropriate fee prescribed by the President under section 4219 of this title.

It is governed also by Section 4221 of Title 22, U.S. Code, which states:

Every secretary of embassy or legation and consular officer is authorized, whenever he is required or deems it necessary or proper so to do, at the post, port, place, or within the limits of his embassy, legation, or consulate, to administer to or take from any person an oath, affirmation, affidavit, or deposition, and to perform any notarial act which any notary public is required or authorized by law to do within the United States. Every such oath, affirmation, affidavit, deposition, and notarial act administered, sworn, affirmed, taken, had, or done, by or before any such officer, when certified under his hand and seal of office, shall be as valid, and of like force and effect within the United States, to all intents and purposes, as if administered, sworn, affirmed, taken, had, or done, by or before any other person within the United States duly authorized and competent thereto. If any person shall willfully and corruptly commit perjury, or by any means procure any person to commit perjury in any such oath, affirmation, affidavit, or deposition, within the intent and meaning of any Act of Congress now or hereafter made, such offender may be charged, proceeded against, tried, convicted, and dealt with in any district of the United States, in the same manner, in all respects, as if such offense had been committed in the United States,

before any officer duly authorized therein to administer or take such oath, affirmation, affidavit, or deposition, and shall be subject to the same punishment and disability therefor as are or shall be prescribed by any such act for such offense; and any document purporting to have affixed, impressed, or subscribed thereto or thereon the seal and signature of the officer administering or taking the same in testimony thereof, shall be admitted in evidence without proof of any such seal or signature being genuine or of the official character of such person; and if any person shall forge any such seal or signature, or shall tender in evidence any such document, with a false or counterfeit seal or signature thereto, knowing the same to be false or counterfeit, he shall be deemed and taken to be guilty of a misdemeanor and on conviction shall be imprisoned not exceeding three years nor less than one year, and fined in a sum not to exceed \$3,000, and may be charged, proceeded against, tried, convicted, and dealt with therefor in the district where he may be arrested or in custody.

b. Federal authority to perform authentications, which are governmental rather than notarial acts, is governed by Rule 44(a)(2), Federal Rules of Civil Procedures, Title 28, U.S. Code, Appendix, which states:

A foreign official record, or an entry therein, when admissible for any purpose, may be evidenced by an official publication thereof; or a copy thereof, attested by a person authorized to make attestation, and accompanied by a final certification as to the genuineness of the signature and official position (i) of the attesting person, or (ii) of any foreign official whose certificate of genuineness of signature and official position relates to the attestation or is in a chain of certificates of genuineness of signature and official position relating to the attestation. A final certification may be made by a secretary of embassy or legation, consul general, consul, vice consul, or consular agent of the United States, or a diplomatic or consular official of the foreign country assigned or accredited to the United States. If reasonable opportunity has been given to all parties to investigate the authenticity and accuracy of the documents, the court may, for good cause shown, (i) admit an attested copy with final certification or (ii) permit the foreign official record to be evidenced by an attested summary with or without a final certification.

[Emphasis supplied.]

It is governed also by Rule 902(3), Federal Rules of Evidence, Title 28, U.S. Code, Appendix, which states:

Extrinsic evidence of authenticity as a condition precedent to admissibility is not required with respect to the following:

• • • • •

(c) Foreign public documents. - A document purporting to be executed or attested in his official capacity by a person authorized by the laws of a foreign country to make the execution or attestation, and accompanied by a final certification as to the genuineness of the signature and official position (A) of the executing or attesting person, or (B) of any foreign official whose certificate of genuineness of signature and official position relates to the execution or attestation or is in a chain of certificates of genuineness of signature and official position relating to the execution or attestation. A final certification may be made by a secretary of embassy or legation, consul general, consul, vice consul, or consular agent of the United States, or a diplomatic or consular agent of the foreign country assigned or accredited to the United States....

[Emphasis supplied.]

c. For information on State authority to perform notariats, see the subsection on “acknowledgments” in the Law Digest volume of the Martindale-Hubbell Law Directory (Summit, New Jersey: Martindale-Hubbell, Inc., published annually, 8 volumes). See also section 7 FAM 840 .

## **7 FAM 803 DEFINITIONS**

The following definitions of terms used in this chapter are essential to understanding notarial services:

a. “Acknowledgment” means a declaration that one’s act or a fact is genuine. For example, in the case of instruments, an acknowledgment could be either a formal declaration before the consular officer that the instrument is the requesting person’s free act and deed, or the consular officer’s certificate on the instrument that it has been so acknowledged. In consular practice, an acknowledgment is the consular officer’s declaration that a certain person appeared before him and signed a document. For example, it might state, “I do hereby acknowledge that on 17 January 1981 John Baker appeared before me and signed the attached document in my presence as his free act.” It is important to distinguish an acknowledgment from an authentication (see section 7 FAM 840 ).

b. "Affiant" means a person who makes and signs an affidavit.

c. "Affidavit" means a written declaration or statement of facts, made voluntarily and confirmed by the oath or affirmation of the party making it, taken before an officer having authority to administer such oath or affirmation. An affidavit is most commonly used as a method of presenting a fact witness's statement to a court. In many cases, a more simple "declaration" can be used instead of an affidavit, which obviates the need for an oath before the consular officer (see section 7 FAM 831 ).

d. "Affirmation" means a solemn and formal declaration that a statement, or series of statements, is true (for example, "I, John Baker, 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.

e. "Attestation" means the act of witnessing the execution of an instrument and of signing it (most commonly seen on wills).

f. "Declaration under penalty of perjury" (see 28 U.S.C. 1746) means a simple declaration used instead of affidavits, which obviates the need for an oath before the consular officer (see section 7 FAM 831 ). This type of declaration is especially useful for people who are unable to travel to a U.S. embassy or consulate, and where permitted it has the same force or effect as a sworn affidavit for use in Federal jurisdictions.

g. "Grantor" means a person by whom a grant or transfer of ownership is made.

h. "Instrument" means any written document, made and executed as the expression of some act, such as a bond, deed, contract, or will.

i. "Jurat" means a certificate added to an affidavit stating when, where, and before whom it was sworn. A jurat is similar to an acknowledgment (see section 7 FAM 803 , item a), 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" (see section 7 FAM 832 ).

j. "Notarial act" means 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.

k. "Notary" or "notary public" means an official whose duty is to record transactions and to certify the authenticity of documents.

l. "Oath" means a solemn declaration or outward pledge given by the person making it, affirming the truth of the statements, whether oral or written (such as, "I, John Baker, do solemnly swear").

m. "Testament" means a written instrument declaring the will of the person making it, generally regarding the disposal of the person's real and personal property after death.

n. "Testator" means a person who makes or leaves a will and testament.

o. "Venue" means a statement identifying the geographical location where an act is performed.

p. "Witness" means a person who attests to a fact or event, or who provides evidence or proof to establish a fact or event.

# **7 FAM 804 DELEGATION OF AUTHORITY**

## **7 FAM 804.1 Unassigned**

## **7 FAM 804.2 Administrative Notarials**

Title 22 U.S.C. 3903(6) includes administrative functions among the duties of Foreign Service national employees (FSN's). When a document is intended for use by a Federal executive agency (not by a state or Federal court in the United States), that agency may establish any regulation it deems appropriate to assist in the execution of the certification of such document abroad for use by that agency. If a Foreign Service post considers that certain notarial functions for other U.S. Government agencies could be better accomplished by FSN's in an administrative capacity, the post should forward a detailed proposal to CA/OCS/CCS for submission to the appropriate agency (for example, notarials executed in connection with documents to be used by the Social Security Administration, the Veterans Administration, or the Immigration and Naturalization Service). The agency will determine whether to delegate the function. If it is delegated, the FSN to whom the function is assigned will be given a befitting title, to be determined by the agency.

## **7 FAM 804.3 Unassigned**

## **7 FAM 804.4 Limitation of Certification of True Copies**

a. Title 22 U.S.C. 4215 states that a consular officer is required to perform any notarial act which any notary public is required or authorized to do within the United States. Certification of true copies is not such an act. Therefore, the certification of true copies by consular officers may be regarded as a nonessential, discretionary function. Most notaries public in the United States will not execute certifications of true copies because of the risk of fraud, since they do not have access to the records of the issuing office or the seal and signature of the custodian of records. For a list of states that permit notaries public to execute certifications of true copies, see 7 FAM 804 Exhibit 804.4a .

b. When certification of a true copy of a document is requested, the applicant should be referred to the office which issued the original document. Usually the originating office will issue a duplicate original or certified true copy that is suitable for authentication.

c. The Department recognizes the fact that many foreign countries do not issue duplicate originals of documents such as birth, death, and marriage certificates. U.S. embassies and consulates are besieged with requests for certifications of true copies when such foreign documents are needed for presentation in the United States. Similarly, consular officers may receive requests for certifications of true copies of documents issued in the United States for presentation in the host country.

d. Consular officers may ask the following questions when deciding whether to perform this function.

### **(1) Foreign Public Documents**

(a) Is it possible for the applicant to obtain a duplicate original or certified true copy of the document in the host country?

(b) What evidence does the applicant present that the document is required for use in the United States?

### **(2) U.S. Public Documents**

(a) Is a notary public authorized to execute certified true copies of documents located in the jurisdiction where the document will be used?

(b) What evidence does the applicant present that the document is required for use in the United States?

## **7 FAM 805 ACCEPTABILITY OF NOTARIAL ACTS BY CONSULAR PERSONNEL UNDER STATE LAWS**

a. Under the Uniform Recognition of Acknowledgments Act, the Uniform Acknowledgments Act, and the Uniform Notarial Act, notarial acts by any U.S. consul, vice consul, consul general, or consular agent are acceptable in many States in the United States (see 7 FAM 805 Exhibit 805a ).

b. Notarial acts by any U.S. consul, vice consul, consul general, or consular agent are accepted under specific statutes in some States (see 7 FAM 805 Exhibit 805b ).

c. Notarial acts by any U.S. consul, vice consul, consul general, or consular agent are not specifically provided for by state statute in Georgia, Vermont, or Mississippi. The Attorney General's office in each of these States has advised the Department that the state statute may be construed to include any officer so empowered by the Department of State.

d. Notarial acts by any U.S. consul, vice consul, consul general, or consular agent are not specifically prohibited by any State in the United States.

## **7 FAM 806 SPECIAL JURISDICTIONAL LIMITATIONS ON NOTARIAL AUTHORITY**

a. The authority of secretaries of embassy as well as that of consular officers to perform notarial acts is generally recognized. However, notarial powers are essentially consular and should be exercised by other diplomatic officers only in the absence of a consular officer.

b. Notarial acts by an officer who is assigned in dual diplomatic and consular capacity shall be performed under a consular commission.

c. A consular officer may perform a notarial act for use in countries that are occupied by the United States or under its administrative jurisdiction. These acts may be performed for U.S. citizens, third country nationals, and for nationals of the occupied or administered countries, except in areas where another government is protecting the interests of the occupied or administered country. For example, during the U.S. administration of the U.S. sector of West Berlin, notarial acts could be performed under the circumstances described in this paragraph.

## **7 FAM 807 STATE COMMISSIONERS OF DEEDS**

Various statutes still in effect in a number of States authorize the Secretary of State in each such 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 of the operation of any commissioners of deeds in their consular districts.

## **7 FAM 808 AND 809 UNASSIGNED**

# 7 FAM 804 Exhibit 804.4a

(TL:CON-6; 6-30-84)

## States That Permit Notaries Public To Execute Certifications of True Copies

### STATES THAT PERMIT NOTARIES PUBLIC TO EXECUTE CERTIFICATIONS OF TRUE COPIES

The following states permit notaries public to execute certification of true copies, following a comparison of the documents word for word and figure for figure:

|               |                |
|---------------|----------------|
| ALASKA        | NEVADA         |
| COLORADO      | NEW MEXICO     |
| CONNECTICUT   | NEW YORK       |
| FLORIDA       | NORTH CAROLINA |
| KANSAS        | NORTH DAKOTA   |
| MAINE         | OREGON         |
| MASSACHUSETTS | PENNSYLVANIA   |
| MICHIGAN      | SOUTH DAKOTA   |
| MINNESOTA     | UTAH           |
| MISSOURI      | VERMONT        |
| NEBRASKA      | WEST VIRGINIA  |

Other states construe certification of true copy to mean that the person requesting the document comes before the notary and, after making the original document available to the notary for review, execute an affidavit stating that the photocopy is a true copy of the original documents.

The following states do not permit any manner of certification of true copies of documents:

|                      |                |
|----------------------|----------------|
| ALABAMA              | MARYLAND       |
| ARIZONA              | MISSISSIPPI    |
| ARKANSAS             | MONTANA        |
| CALIFORNIA           | NEW HAMPSHIRE  |
| DELAWARE             | NEW JERSEY     |
| DISTRICT OF COLUMBIA | OHIO           |
| GEORGIA              | OKLAHOMA       |
| HAWAII               | RHODE ISLAND   |
| IDAHO                | SOUTH CAROLINA |
| ILLINOIS             | TENNESSEE      |
| INDIANA              | TEXAS          |
| IOWA                 | VIRGINIA       |
| KENTUCKY             | WISCONSIN      |
| LOUISIANA            | WYOMING        |

# 7 FAM 805 Exhibit 805a

(TL:CON-6; 6-30-84)

## Acceptability of Notarial Acts by Consular Personnel Under Uniform State Laws the United States

### ACCEPTABILITY OF NOTARIAL ACTS BY CONSULAR PERSONNEL UNDER UNIFORM STATE LAWS IN THE UNITED STATES

Notarial acts by consular personnel, named in 7 FAM 805 a , are acceptable under the Uniform Recognition of Acknowledgements Act, the Uniform Acknowledgements Act, and the Uniform Notarial Act in the states named below:

|               |                |
|---------------|----------------|
| ARIZONA       | MONTANA        |
| ARKANSAS      | NEBRASKA       |
| COLORADO      | NEVADA         |
| CONNECTICUT   | NEW HAMPSHIRE  |
| DELAWARE      | NEW MEXICO     |
| FLORIDA       | NORTH DAKOTA   |
| HAWAII        | OHIO           |
| IDAHO         | OKLAHOMA       |
| ILLINOIS      | OREGON         |
| IOWA          | PENNSYLVANIA   |
| KANSAS        | SOUTH CAROLINA |
| KENTUCKY      | SOUTH DAKOTA   |
| LOUISIANA     | UTAH           |
| MAINE         | VIRGINIA       |
| MARYLAND      | WASHINGTON     |
| MASSACHUSETTS | WEST VIRGINIA  |
| MICHIGAN      | WISCONSIN      |
| MINNESOTA     | WYOMING        |

Such acts are also acceptable in the Virgin Islands.

# 7 FAM 805 Exhibit 805b

(TL:CON-6; 6-30-84)

## Acceptability of Notarial Acts by Consular Personnel Under State Laws

### ACCEPTABILITY OF NOTARIAL ACTS BY CONSULAR PERSONNEL UNDER STATE LAWS

Notarial acts by consular personnel, named in 7 FAM 805 b , are acceptable under state statutes in the states named below:

ALABAMA

NEW YORK

ALASKA

NORTH CAROLINA

CALIFORNIA

RHODE ISLAND

INDIANA

TENNESSEE

MISSOURI

TEXAS

NEW JERSEY

Such acts are also acceptable in the District of Columbia and Puerto Rico.

# **7 FAM 810 GENERAL NOTARIAL PROCEDURES**

*(TL:CON-6; 6-30-84)*

## **7 FAM 810 (This is under the OLD Numbering Scheme)**

### **7 FAM 810.1 Procedural Regularity**

Before performing a notarial act, the consular officer must determine:

- (1) That the requesting party's identification is adequate;
- (2) That the party is competent and willing to perform such an act;
- (3) Whether the transaction is suspicious, potentially illegal, or irregular;
- (4) Whether the person executing the notarial must be examined separately.

When a document is to be acknowledged by more than one person, the consular officer must address the question as to whether the jurisdiction where the document will be used requires that signatories execute the instrument separately (that is, physically apart from one another). For example, if a husband and wife are signing a power of attorney authorizing the sale of property, some jurisdictions require that they be examined separately to assure that no undue influence is being exerted by one over the other. For guidance, consult the [Martindale-Hubbell Law Directory](#) Law Digest volume listing for the state in question, under acknowledgments."

- (5) Whether the officer has a disqualifying interest in the requested transaction.

### **7 FAM 810.2 Eligibility**

U.S. citizens, host country nationals, and third country nationals are all eligible to request notarial services. Generally, notaries for host country and third country nationals are for use in the United States. See also section 7 FAM 0814 .

## **7 FAM 811 PROOF OF IDENTITY**

The consular officer must be certain of the identity of the persons who appear before the officer for notarial services. A consular officer who does not know the person requesting the service should require some reliable evidence of identity, such as a passport or identity card. Social Security cards are not considered good proof of identity. An identification card with a photograph is preferable to one without a photograph. If the proof of identity offered is of doubtful quality, more than one specimen should be requested. The signature on a notarial act should be compared to that on the identification card(s) or documents.

## **7 FAM 812 COMPETENCE AND UNDERSTANDING**

The consular officer must be assured that the person executing any notarial act (1) understands the nature and language of the instrument, (2) is able to comprehend the significance of the act, and (3) is not acting under duress. The officer should observe whether the person's behavior indicates incompetence, instability, or duress. If so, the consular officer should decline to perform the requested act until after consulting the Department (CA/OCS/CCS).

### **7 FAM 812.1 Physical Disability**

#### **a. Visually Impaired Persons**

Ideally, a sightless or visually impaired person's attorney should prescribe notarial procedures that will protect the client's interests. The consular officer must make sure that the blind person understands the contents of any instrument to be executed. This can best be determined by having the document read aloud to the visually impaired person in the presence of the consular officer. The notarial certificate should reflect the special procedures employed for the notarial act. For example: Today, Thomas Martin personally appeared before me and was read aloud the annexed instrument. Having established that he understood the contents of the document, I executed an acknowledgment of his signature on the document."

#### **b. Hearing Impaired Persons**

Ideally, a deaf or hearing impaired person's attorney should prescribe notarial procedures that will protect the client's interests. The consular officer must make sure that the deaf person understands the contents of any instrument to be executed. This can best be determined by having the person read the document in the presence of the consular officer, after which the officer poses questions to the hearing impaired person in writing. The notarial certificate should reflect the special procedures employed for the notarial act. For example: "Today, Alice Walker personally appeared before me and read the annexed instrument in my presence. Having established that she understood the contents of the document, I executed an acknowledgement of her signature on the document."

#### **c. Speech Impaired Persons**

When a person is mute or physically unable to speak, the requesting party should respond in writing to the consular officer's questions concerning identity, competence, and understanding. The notarial certificate should reflect the procedures employed for the notarial act. For example: "Today, Mary Smith personally appeared before me, established her identity, competence to execute a notarial act, and understanding of the document hereto annexed by virtue of her written responses to standard questions put to her. She acknowledged her signature on the annexed document." Similarly, a speech impaired person should be allowed to take an oath or affirmation by responding in writing.

#### **d. Persons Unable to Sign**

When a person is physically unable to sign a notarial instrument or make an identifying mark, the impaired person should give oral responses in the presence of two consular officers, who should then attest to the manner in which the notarial was taken.

NOTE: -- At a small post with only one consular officer, or where the second consular officer is away on official business or annual leave, a diplomatic officer may act in place of the second consular officer.

### **7 FAM 812.2 Mental Incapacity**

Although consular officers are not competent to form a medical opinion as to a person's mental state, they should use common sense in assessing a person's competence to execute a notarial act. For instance, a person who cannot understand the nature or significance of a notarial act, whether due to inebriation or some unspecified state of confusion, should not be permitted to execute the notarial. In doubtful cases, consult the Department (CA/OCS/CCS).

### **7 FAM 812.3 Age**

In performing a notarial service for a person of tender or advanced age, the consular officer must be satisfied that the age factor does not diminish such a person's ability to understand the nature of the act and to perform it voluntarily. The issue of whether an extremely young person can legally perform the act must also be addressed; for guidance on how young is too young to perform notarial functions, see section 7 FAM 1332.10 .

### **7 FAM 812.4 Illiteracy**

Persons who are unable to read or write may execute a notarial by making a mark, provided that the document is read to them by the consular officer and the officer is satisfied that the requesting party understands the nature of the act. The notarial certificate should reflect these procedures.

### **7 FAM 812.5 Fees**

Consular officers should collect the appropriate fees for notarial and authentication services (see 7 FAM 052 ).

## **7 FAM 813 BLANK DOCUMENTS**

Most State laws on notarial practice prohibit the notarization of a partially blank document. Therefore, notarization of such a document is discouraged. A consular officer who receives a request to execute a notarial act in connection with a blank or partially blank document should consult the Department (CA/OCS/CCS) before performing the notarial act.

## **7 FAM 814 NOTARIALS FOR USE IN THIRD COUNTRIES**

As a courtesy, consular officers may perform notarial acts for use in third countries that have formal diplomatic and consular relations with the United States. For example, if a document intended for use in Greece is executed in Honduras, where there is no Greek consular or diplomatic mission, it may be necessary for the requesting party to execute the notarial act before a U.S. consular officer in Honduras. The document can then be sent to the U.S. Department of State for authentication of the seal of the U.S. Embassy in Honduras. Thereupon it can be authenticated by the Greek consul in Washington and be forwarded to Athens where the document was intended to be used. Generally, the person who requests such service is a U.S. citizen or a national of the country where the notarized document will be used. The consular officer may comply with such a request if it is reasonable and without any apparent irregularity.

## **7 FAM 815 PREPARATION OF LEGAL DOCUMENTS**

### **7 FAM 815.1 By Attorneys**

A consular officer should not question the form of a document prepared by an attorney for signature unless the form is obviously incorrect.

## **7 FAM 815.2 By Consular Officers**

- a. A consular officer should not draft legal documents for private persons.
- b. When asked to draft a legal document, the consular officer should explain that:
  - (1) The preparation of legal forms is normally the task of an attorney;
  - (2) The forms used and the purposes for which they are used vary widely from one jurisdiction to another; and
  - (3) Consular officers are precluded by the Department's regulations from preparing legal documents for private parties (see 22 CFR 92.81(a); 92.11(b)), "except when instructed to do so by the Secretary of State, or in cases of emergency when the interests of the United States Government might be involved, or in cases in which no lawyer is available and refusal to perform the service would result in the imposition of extreme hardship upon a United States citizen."
- c. A person who wishes to have a legal document prepared may be referred to such publications as Jones Legal Forms Annotated: Contractual Business and Conveyancing Forms (Indianapolis and New York: Bobbs-Merrill Company, Inc.) with the suggestion that the requester select or adapt the forms which appear best suited to the requester's needs. The person should be advised that the source is only general in nature. The requester should consult the laws of the jurisdiction in which the particular legal document will be used to ensure the legal effectiveness of the document. The requester can also be referred to the Directory of Lawyer Referral Services, often called "The Lawyer's Directory" (Chicago: American Bar Association), or the Martindale-Hubbell Law Directory (see section 7 FAM 802 c) for the name of an attorney in the United States who might prepare the legal document.
- d. On the rare occasion when a document is typed at the post, such as affidavits executed for the disposition of a loss of nationality case, the appropriate fee should be collected (see section 7 FAM 052 ).

## **7 FAM 816 NOTARIAL CERTIFICATES**

- a. A consular officer must prepare a written certificate attesting to the performance of a notarial act. The certificate may be inserted on or appended to the notarized document. Without this certificate, a notarial act is legally invalid.
- b. A separate certificate must be prepared for each notarial act. The form of certificate will vary, depending on the nature of the act. However, the rules that apply to venue, signing, and sealing are common to all notarial certificates. Sample certificates are shown at appropriate places in this chapter. The preprinted form OF-175, Certificate of Acknowledgment of Execution of an Instrument, may be used (see 7 FAM 816 Exhibit 816b ).

### **7 FAM 816.1 Venue**

A venue on a notarial certificate signifies the place where the certificate is executed (see section 7 FAM 803 o).

- a. The venue must be shown on all notarial certificates to establish the qualifications and authority of the notarizing officer to perform the notarial act. The venue consists of these elements (see examples in parentheses):

- (1) Name of country (Canada);
- (2) Name of province (Province of Ontario);
- (3) Name of city (City of Ottawa); and
- (4) Name of Foreign Service post (Embassy of the United States of America).

b. When a notarial act is performed outside an embassy or consulate, the venue should list the name of the consular district rather than the post, as follows:

- (1) Name of country (Republic of Italy), and
- (2) name of consular district (District of the Consular Section of the Embassy of the United States of America at Rome).

c. When a notarial act is performed at a post which has not been designated officially as an embassy, consulate general, consulate, or consular agency, the venue should read "Consular Service of the United States of America," rather than the name of the post. For example:

- (1) Name of country (Confederation of Switzerland);
- (2) Name of province (Canton of Geneva);
- (3) Name of city (Geneva); and
- (4) Name of Foreign Service post (Consular Service of the United States of America).

d. When a notarial act is performed at a U.S. Interests Section, the venue should read:

- (1) Name of country (Cuba);
- (2) Name of city (Havana);
- (3) Name of protecting power (Embassy of Switzerland); and
- (4) Name of Foreign Service post (United States Interests Section).

e. Officers may find it useful to expend post administrative funds (see 7 FAM 034 Appendix A 034.3 (p. 2)) to obtain a rubber stamp that prints the wording of the venue.

## **7 FAM 816.2 Jurat**

a. Officers may find it useful to expend post administrative funds (see section 7 FAM 034 Appendix A 034.3 ) to obtain a rubber stamp that prints the wording of the jurat, especially for use on documents that cannot be inserted conveniently in a typewriter or where the space for the jurat is too small to permit typing. A jurat is the written statement attesting to the administration of an oath or affirmation. The usual form of a jurat is:

Subscribed and sworn before me this day.

b. The jurat must be signed and sealed by the notarizing officer in accordance with general procedures for signing and sealing notarial certificates (see section 7 FAM 816.3 ).

c. If the affiant is blind or unable to hear, speak, read, or write, the jurat should be, in substance, as follows:

Subscribed and sworn to before me this day that the affiant understood the instrument which was signed in my presence.

Or,

Subscribed and sworn to before me this day that the affiant understood the instrument on which the affiant made an identifying mark in my presence.

## **7 FAM 816.3 Signing and Sealing**

a. The notarizing officer should sign on the lower right side of the notarial certificate. The signature should correspond with the officer's specimen signature on file in the Department. The name and full official title of the officer should be typed, stamped with a rubber stamp, or printed in ink on two separate lines just below the officer's signature. When the officer is assigned to a post in both a diplomatic and consular capacity, the consular title is used in the certificate. The officer may not use a rubber stamp signature or a signature machine on notarial; the original signature must appear on the notarial certificate.

b. The officer should apply the embossed seal of the post on the lower left side of the certificate.

(1) A certificate prepared at a diplomatic post, consular agency, or a special overseas post, other than a U.S. Interests Section, should be sealed with an embossed seal bearing the legend:

Consular Service of the

United States

\_\_\_\_\_  
(City)

\_\_\_\_\_  
(Country)

(2) A Certificate prepared at a consulate general or consulate should be sealed with an embossed seal bearing the legend:

Consulate General (or Consulate)

of the United States of America

\_\_\_\_\_  
(City)

\_\_\_\_\_  
(Country)

(3) A certificate prepared at a U.S. Interests Section should bear the legend:

Embassy of (Switzerland)  
Interests Section of the  
United States of America

\_\_\_\_\_  
(City)

\_\_\_\_\_  
(Country)

(4) On preprinted certificates supplied by the person who requests the notarial or on certificates for machine tabulation, the notarizing officer may honor a request that the rubber seal rather than the embossed seal be used on the certificate. The ribbon and wafer seals should not be affixed unless the requesting parties or their attorneys specifically ask for them. Wax impression seals should generally not be used unless specifically authorized by the Department.

## **7 FAM 816.4 Fastening Pages**

a. If the instrument to which the notarial act relates has more than one sheet, or if the notarial certificate will be attached and not written on the document itself, the consular officer should bring all the sheets comprising the document together under the official seal. This is best done by perforating each of the sheets, including the notarial certificate, in the upper left corner, inserting eyelet grommets, and imprinting the embossed seal of the post on the notarial certificate, which is the first page of the set of documents or the last page of the document where a preprinted or rubberstamped certificate is used. 7 FAM 816 Exhibit 816.4 provides a visual aid for fastening pages.

b. The ribboning of multipage documents can be eliminated altogether, provided each page is initialed by the affiant or acknowledger and the total number of pages is indicated on the consular certificate or on the last page of the instrument where no separate certificate is used.

c. The consular officer initials only the first page of a multipage document. The page notation should read as follows: "This document consists of three pages, each initialed by the affiant/grantor."

d. Ribbons and wafer seals should only be used (a) for good reason if the individual or the individual's attorney specifically requests the ribbon and the wafer; and (b) for important court papers (for example, documents that will be used directly in a court proceeding, such as evidence requested by the Department of Justice or by attorneys; letters rogatory; and so forth). When in doubt, consult the Department (CA/OCS/CCS).

## **7 FAM 816.5 Recordkeeping**

A receipt should be prepared whether or not a fee is collected. For collection procedures, see 4 FAM 322.2-3 and 4 FAM 393.3-2 .

## **7 FAM 817 EQUIPMENT AND SUPPLIES**

Consular officers must have the equipment listed below to perform notarials and authentications:

(1) Seals:

- (a) Embossed.
- (b) Rubberstamp.
- (c) Wax impression (only impression seals are used with wax).

(2) Certificates: Form OF-175, Certificate of Acknowledgment of Execution of an Instrument or certificates individually typed at post (see Index Appendix B for a list of samples).

(3) Rubberstamps:

- (a) Jurat stamps.
- (b) Venue stamps.
- (c) Certificate stamps.

(4) Ribbon.

(5) Wafers.

(6) Wax.

(7) Eyelet grommets.

All equipment and supplies are available from GSA supply centers or OPR/ST/P (see section 7 FAM 034 Appendix A 034.3 ). Certificates may be obtained from GSA supply centers by routine requisition procedures or be typed individually at post (see section 7 FAM 817 (2)).

## **7 FAM 818 AND 819 UNASSIGNED**

# 7 FAM 816 Exhibit 816b

## Sample of a Certificate of Acknowledgment of Execution of an Instrument

### Sample of a Certificate of Acknowledgment of Execution of an Instrument

OPTIONAL FORM 175  
(FORMERLY FS-88)  
MARCH 1975  
DEPT. OF STATE  
50175-101

### Certificate of Acknowledgment of Execution of an Instrument

Republic of Ecuador

(Country)

Province of Pichincha

(County and/or other political division)

City of Quito

(County and/or other political division)

Embassy of the United States

(Name of foreign service office)

of America

I, Victor J. Prince, Consul

of the United States of America at Quito, Ecuador

duly commissioned and qualified, do hereby certify that on this tenth

day of July 1983, before me personally appeared Patricio Carrasco

(DATE)

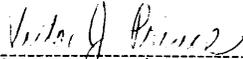
Malo

to me personally known, and known to me to be the individual--described in, whose name is subscribed to, and who executed the annexed instrument, and being informed by me of the contents of said instrument, he duly acknowledged to me that he executed the same freely and voluntarily for the uses and purposes therein mentioned.

[SEAL]

In witness whereof I have hereunto set my hand and

official seal the day and year last above written.

  
Victor J. Prince

Consul of the United States of America.

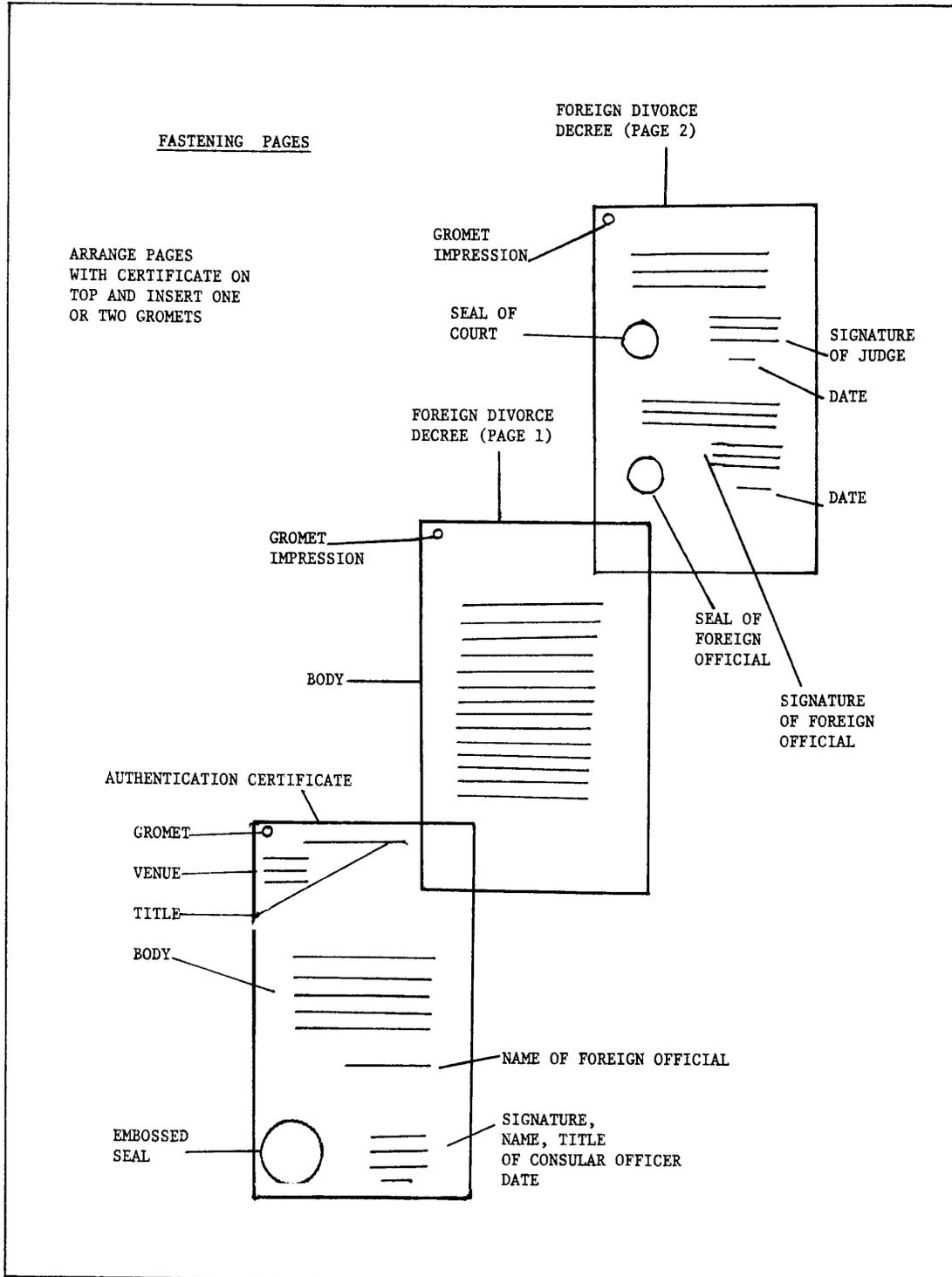
NOTE. - Wherever practicable all signatures to a document should be included in one certificate. \* U.S.GPO:1980-0-311-153/5279

# 7 FAM 814 Exhibit 816.4

## Guide for Fastening Notarial Certificate to Document

(Page 1 of 3)

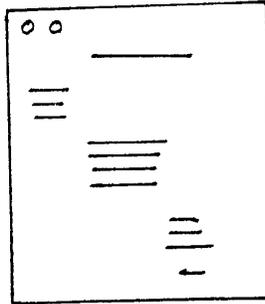
### Guide for Fastening Notarial Certificate to Document



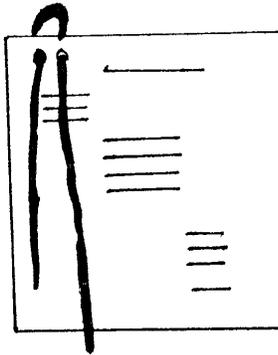
Guide for Fastening Notarial Certificate to Document — Continued

APPLYING RIBBON AND WAFER

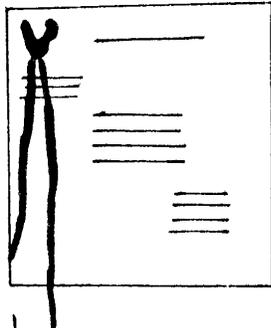
INSERT TWO GROMETS IN TOP  
LEFT HAND CORNER OF DOCUMENT



INSERT RIBBON FROM BACK  
THROUGH GROMETS

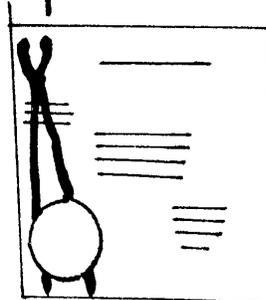


TIE A FIRM KNOT



STRAIGHTEN RIBBON AND AFFIX  
WAFER

TRIM RIBBON



Guide for Fastening Notarial Certificate to Document — Continued

