

2095

2009-2010 Regular Sessions

I N A S S E M B L Y

January 15, 2009

Introduced by M. of A. SCHROEDER, COOK -- read once and referred to the
Committee on Judiciary

AN ACT to amend the real property law, in relation to notary publics

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Section 303 of the real property law is amended to read as
2 follows:

3 S 303. Requisites of acknowledgments. An acknowledgment must not be
4 taken by any officer unless he knows or has satisfactory evidence, that
5 the person making it is the person described in and who executed such
6 instrument. SATISFACTORY EVIDENCE OF IDENTITY MEANS RELIANCE ON AT
7 LEAST ONE CURRENT FORM OF IDENTIFICATION ISSUED BY A FEDERAL OR STATE
8 GOVERNMENT THAT CONTAINS THE BEARER'S PHOTOGRAPH AND SIGNATURE; OR ON
9 THE OATH OR AFFIRMATION OF AN INDIVIDUAL WHO IS PERSONALLY KNOWN TO THE
10 NOTARY AND WHO PERSONALLY KNOWS THE ACKNOWLEDGER; OR, IN THE CASE OF AN
11 ACKNOWLEDGER SIXTY-FIVE YEARS OF AGE OR OLDER, ON THE OATH OR AFFIRMA-
12 TION OF AN INDIVIDUAL WHO PERSONALLY KNOWS THE ACKNOWLEDGER, AND
13 PROVIDES AT LEAST ONE CURRENT FORM OF IDENTIFICATION AS DESCRIBED IN
14 THIS SECTION, AND HAS NO INVOLVEMENT IN THE TRANSACTION REQUIRING A
15 NOTARIAL ACT.

16 S 2. Section 309 of the real property law, as amended by chapter 179
17 of the laws of 1997, is amended to read as follows:

18 S 309. Acknowledgment by INDIVIDUAL, corporation, PARTNERSHIP OR
19 ATTORNEY IN FACT and form of certificate; FORM OF CERTIFICATE FOR PROOF
20 BY SUBSCRIBING WITNESS. 1. The acknowledgment of a conveyance or other
21 instrument by a corporation, must be made by an officer or attorney in
22 fact duly appointed, or in case of a dissolved corporation, by an offi-
23 cer, director or attorney in fact duly appointed thereof authorized to
24 execute the same by the board of directors of said corporation.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

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2. A. The certificate of acknowledgment must conform substantially with one of the following alternative forms, the blanks being properly filled:

State of New York)ss.:

County of.....)

On the..... day of..... in the year..... before me personally came....., to me known, who, being by me duly sworn, did depose and say that he/she/they reside(s) in..... (if the place of residence is in a city, include the street and street number, if any, thereof); that he/she/they is (are) the (president or other officer or director or attorney in fact duly appointed) of the (name of corporation), the corporation described in and which executed the above instrument; that he/she/they know(s) the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by authority of the board of directors of said corporation, and that he/she/they signed his/her/their name(s) thereto by like authority.

(Signature and office of person taking acknowledgment.)

State of New York)ss.:

County of.....)

On the..... day of..... in the year..... before me personally came....., to me known, who, being by me duly sworn, did depose and say that he/she/they reside(s) in..... (if the place of residence is in a city, include the street and street number, if any, thereof); that he/she/they is (are) the (president or other officer or director or attorney in fact duly appointed) of the (name of corporation), the corporation described in and which executed the above instrument; and that he/she/they signed his/her/their name(s) thereto by authority of the board of directors of said corporation.

(Signature and office of person taking acknowledgment.)

B. THE CERTIFICATE OF ACKNOWLEDGMENT OF A CONVEYANCE OR OTHER INSTRUMENT BY AN INDIVIDUAL ON HIS OR HER OWN BEHALF MUST CONFORM SUBSTANTIALLY WITH THE FOLLOWING FORM, THE BLANKS BEING PROPERLY FILLED:

STATE OF NEW YORK) SS.:

COUNTY OF)

ON THE DAY OF IN THE YEAR BEFORE ME PERSONALLY CAME, TO ME KNOWN TO BE THE INDIVIDUAL DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT, AND ACKNOWLEDGED THAT HE/SHE EXECUTED THE SAME.

(SIGNATURE AND OFFICE OF PERSON TAKING ACKNOWLEDGMENT.)

C. THE CERTIFICATE OF ACKNOWLEDGMENT OF A CONVEYANCE OR OTHER INSTRUMENT BY A PARTNER ON BEHALF OF A PARTNERSHIP MUST CONFORM SUBSTANTIALLY WITH THE FOLLOWING FORM, THE BLANKS BEING PROPERLY FILLED:

STATE OF NEW YORK) SS.:

COUNTY OF)

ON THE DAY OF IN THE YEAR BEFORE ME PERSONALLY CAME, TO ME KNOWN TO BE THE PERSON WHO EXECUTED THE FOREGOING INSTRUMENT, AND WHO, BEING BY ME DULY SWORN, DID DEPOSE AND SAY THAT HE/SHE IS A MEMBER OF THE FIRM OF, A CO-PARTNERSHIP, AND THAT HE/SHE EXECUTED THE FOREGOING INSTRUMENT IN THE FIRM NAME OF, AND THAT HE/SHE HAD AUTHORITY TO SIGN THE SAME, AND HE/SHE ACKNOWLEDGED TO ME THAT HE/SHE EXECUTED THE SAME AS THE ACT AND DEED OF SAID FIRM FOR THE USES AND PURPOSES THEREIN CONTAINED.

(SIGNATURE AND OFFICE OF PERSON TAKING ACKNOWLEDGMENT.)

D. THE CERTIFICATE OF ACKNOWLEDGMENT OF A CONVEYANCE OR OTHER INSTRUMENT BY AN ATTORNEY IN FACT ON BEHALF OF ANOTHER PERSON MUST CONFORM SUBSTANTIALLY WITH THE FOLLOWING FORM, THE BLANKS BEING PROPERLY FILLED:

1 STATE OF NEW YORK) SS.:
 2 COUNTY OF)
 3 ON THE DAY OF IN THE YEAR BEFORE ME PERSONALLY
 4 CAME, TO ME PERSONALLY KNOWN TO BE THE PERSON DESCRIBED
 5 AND APPOINTED ATTORNEY IN FACT AND BY A CERTAIN POWER OF ATTORNEY
 6 EXECUTED BY, DATED AND RECORDED IN THE OFFICE
 7 OF THE CLERK OF COUNTY ON THE DAY OF IN THE YEAR
 8 (OR, TO BE RECORDED IN THE OFFICE OF THE CLERK OF COUN-
 9 TY SIMULTANEOUSLY WITH THE FOREGOING INSTRUMENT) AND ACKNOWLEDGED TO ME
 10 THAT HE/SHE HAD EXECUTED THE FOREGOING INSTRUMENT AS THE ACT OF THE SAID
 11

12 (SIGNATURE AND OFFICE OF PERSON TAKING ACKNOWLEDGMENT.)

13 THE CERTIFICATE FOR A PROOF OF EXECUTION BY A SUBSCRIBING WITNESS MUST
 14 CONFORM SUBSTANTIALLY WITH THE FOLLOWING FORM, THE BLANKS BEING PROPERLY
 15 FILLED:

16 STATE OF NEW YORK) SS.:
 17 COUNTY OF)
 18 ON THE DAY OF IN THE YEAR BEFORE ME PERSONALLY CAME
 19, THE SUBSCRIBING WITNESS TO THE FOREGOING INSTRUMENT,
 20 WITH WHOM I AM PERSONALLY ACQUAINTED, WHO, BEING BY ME DULY SWORN, DID
 21 DEPOSE AND SAY THAT HE/SHE RESIDES IN (IF THE PLACE OF RESI-
 22 DENCE IS IN A CITY, INCLUDE THE STREET AND STREET NUMBER, IF ANY, THERE-
 23 OF); THAT HE/SHE KNOWS TO BE THE INDIVIDUAL DESCRIBED IN
 24 AND WHO EXECUTED THE FOREGOING INSTRUMENT; THAT HE/SHE, SAID SUBSCRIBING
 25 WITNESS, WAS PRESENT AND SAW SAID EXECUTE THE SAME; AND
 26 THAT HE/SHE, SAID WITNESS, AT THE SAME TIME SUBSCRIBED HIS/HER NAME AS
 27 WITNESS THERETO.

28 (SIGNATURE AND OFFICE OF PERSON TAKING PROOF.)

29 3. Subdivision two of this section shall be inapplicable to the
 30 acknowledgment, within this state, of a conveyance or other instrument
 31 in respect to real property situate in this state executed on or after
 32 the first day of September, nineteen hundred ninety-nine. A certificate
 33 of such an acknowledgment shall be subject to the provisions of section
 34 three hundred nine-a of this article.

35 S 3. This act shall take effect immediately.