STATE OF NEW YORK

3225

2023-2024 Regular Sessions

IN ASSEMBLY

February 2, 2023

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

AN ACT to amend the real property law and the civil practice law and rules, in relation to clarifying requirements for acknowledgments, proofs, oaths and affirmations without the state

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 299 of the real property law, as amended by chapter 279 of the laws of 1939, is amended to read as follows:

§ 299. Acknowledgments and proofs without the state, but within the United States or any territory, possession, or dependency thereof. 1. The acknowledgment or proof of a conveyance of real property situate in this state, if made [~~(a)~~] without the state but within the United States, [~~(b)~~] within any territory, possession, or dependency of the United States, or [~~(c)~~] within any place over which the United States, at the time when such acknowledgment or proof is taken, has or exercises jurisdiction, sovereignty, control, or a protectorate, may be made before any of the following officers acting within his territorial jurisdiction or within that of the court of which he is an officer:

[~~1.~~] (a) A judge or other presiding officer of any court having a seal, or the clerk or other certifying officer thereof.

[~~2.~~] (b) A mayor or other chief civil officer of any city or other political subdivision.

[~~3.~~] (c) A notary public.

[~~4.~~] (d) A commissioner of deeds appointed pursuant to the laws of this state to take acknowledgments or proofs without this state.

[~~5.~~] (e) Any person authorized, by the laws of the state, District of Columbia, territory, possession, dependency, or other place where the acknowledgment or proof is made, to take the acknowledgment or proof of deeds to be recorded therein.

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

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2. The signature and title of an officer listed in subdivision one of this section who performs a notarial act in another state are prima facie evidence that the signature is genuine and that the individual holds the designated title.

3. The signature and title of a notarial officer described in paragraph (a), (c) or (d) of subdivision one of this section conclusively establish the authority of the officer to perform the acknowledgment or proof of a conveyance.

§ 2. The opening paragraph of subdivision 1 and paragraph (c) of subdivision 2 of section 299-a of the real property law, as amended by chapter 10 of the laws of 1940, are amended and two new subdivisions 3 and 4 are added to read as follows:

An acknowledgment or proof made pursuant to the provisions of section two hundred ninety-nine of this [~~chapter~~] **article** may be taken in the manner prescribed either by the laws of the state of New York or by the laws of the state, District of Columbia, territory, possession, dependency, or other place where the acknowledgment or proof is taken. [~~The~~] **Except as provided in subdivision three of this section** acknowledgment or proof, if taken in the manner prescribed by such state, District of Columbia, territory, possession, dependency, or other place, must be accompanied by a certificate to the effect that it conforms with such laws. Such certificate may be made by**:**

(c) [~~When~~] **Except as provided in subdivision four of this section,** an instrument so acknowledged or proved is accompanied by the certificate of conformity and the statement of a judicial officer, if any be required, the acknowledgment or proof of the instrument, for the purpose of recording, filing or registering in any recording or filing office in this state or for use as evidence, shall be equivalent to one taken or made in the form prescribed by law for use in this state; and if the acknowledgment or proof is properly authenticated, where authentication is required by law, and if the instrument be otherwise entitled to record, filing or registering, such instrument, together with the acknowledgment or proof, the certificate of conformity and any certificate of authentication or statement of a judicial officer, may be recorded, filed or registered in any recording or filing office in this state, and shall be so recorded, filed or registered upon payment or tender of lawful fees therefor. In fixing the fees of a recording, filing or registering officer, the certificate of conformity and the statement of a judicial officer appended, if any, shall be treated as certificates of authentication required by other provisions of this chapter.

3. No certificate of conformity may be required for an acknowledgment or proof taken without this state if the acknowledgment or proof is taken by and accompanied by the signature and title of a notarial officer listed in paragraph (a), (c) or (d) of subdivision one of section two hundred ninety-nine of this article.

4. An instrument acknowledged or proved taken by and accompanied by the signature and title of a notarial officer listed in paragraph (a), (c) or (d) of subdivision one of section two hundred ninety-nine of this article and taken in the manner prescribed by the laws of such notarial officer's jurisdiction shall be equivalent to one taken or made in the form prescribed by law for use in this state. Such instrument, if otherwise entitled to record, filing, or registering, may be recorded, filed, or registered in any recording or filing office in this state, and shall be so recorded, filed or registered upon payment or tender of lawful fees therefor.

§ 3. Subdivisions 4 and 5 of section 311 of the real property law, as amended by chapter 10 of the laws of 1940, are amended to read as follows:

4. When a certificate of acknowledgment or proof is made pursuant to the provisions of **paragraph (e) of** subdivision [~~five~~] **one** of section two hundred ninety-nine or of subdivision seven of section three hundred one of this [~~chapter~~] **article** by an officer or person not elsewhere in either of said sections specifically designated to take acknowledgments or proofs, the conveyance so acknowledged or proved is not entitled to be read in evidence or recorded within this state unless such certificate is authenticated (a) by the certificate of the secretary of state of a state, or of the secretary of a territory, of the United States, or (b) by the certificate of any officer designated in subdivision three of this section to authenticate certificates of acknowledgment or proof, or (c) by the certificate of any officer designated in [~~clauses~~] **paragraph** (a) or (b) of subdivision two of this section to authenticate certificates of acknowledgment or proof, or (d) by the certificate of the officer having charge of the official records showing that the person taking the acknowledgment or proof is such officer as he purports to be, or having a record of the signature of such person.

5. Except as provided in this section, no certificate of authentication **or certificate of conformity** shall be required to entitle a conveyance to be read in evidence or recorded in this state when acknowledged or proved before any officer designated in section two hundred ninety-nine or in section three hundred one of this [~~chapter~~] **article** to take such acknowledgment or proof.

§ 4. Subdivision 3 of section 312 of the real property law, as amended by chapter 282 of the laws of 1963, is amended to read as follows:

3. When such original certificate is made pursuant to **paragraph (e) of** subdivision [~~five~~] **one** of section two hundred ninety-nine of this [~~chapter~~] **article**, such certificate of authentication must also specify that the person making such original certificate, at the time when it purports to have been made, was authorized, by the laws of the state, District of Columbia, territory, possession, dependency, or other place where the acknowledgment or proof was made, to take the acknowledgment or proof of deeds to be recorded therein.

§ 5. Subdivision (c) of section 2309 of the civil practice law and rules, as amended by chapter 282 of the laws of 1963, is amended to read as follows:

(c) Oaths and affirmations taken without the state. An oath or affirmation taken without the state shall be treated as if taken within the state if it is accompanied by such certificate or certificates as would be required to entitle a deed acknowledged without the state to be recorded within the state if [~~such deed had been acknowledged before the officer who administered the oath or affirmation~~] **made in accordance with the provisions of this section**.

§ 6. This act shall take effect immediately.