

STATE OF NEW YORK

2271

2023-2024 Regular Sessions

IN SENATE

January 19, 2023

Introduced by Sen. LIU -- read twice and ordered printed, and when printed to be committed 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:

1 Section 1. Section 299 of the real property law, as amended by chapter
2 279 of the laws of 1939, is amended to read as follows:
3 § 299. Acknowledgments and proofs without the state, but within the
4 United States or any territory, possession, or dependency thereof. 1.
5 The acknowledgment or proof of a conveyance of real property situate in
6 this state, if made [~~a~~] without the state but within the United
7 States, [~~b~~] within any territory, possession, or dependency of the
8 United States, or [~~e~~] within any place over which the United States,
9 at the time when such acknowledgment or proof is taken, has or exercises
10 jurisdiction, sovereignty, control, or a protectorate, may be made
11 before any of the following officers acting within his territorial
12 jurisdiction or within that of the court of which he is an officer:
13 [~~1~~] (a) A judge or other presiding officer of any court having a
14 seal, or the clerk or other certifying officer thereof.
15 [~~2~~] (b) A mayor or other chief civil officer of any city or other
16 political subdivision.
17 [~~3~~] (c) A notary public.
18 [~~4~~] (d) A commissioner of deeds appointed pursuant to the laws of
19 this state to take acknowledgments or proofs without this state.
20 [~~5~~] (e) Any person authorized, by the laws of the state, District of
21 Columbia, territory, possession, dependency, or other place where the
22 acknowledgment or proof is made, to take the acknowledgment or proof of
23 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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1 2. The signature and title of an officer listed in subdivision one of
2 this section who performs a notarial act in another state are prima
3 facie evidence that the signature is genuine and that the individual
4 holds the designated title.

5 3. The signature and title of a notarial officer described in para-
6 graph (a), (c) or (d) of subdivision one of this section conclusively
7 establish the authority of the officer to perform the acknowledgment or
8 proof of a conveyance.

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

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

23 (c) [~~When~~] Except as provided in subdivision four of this section, an
24 instrument so acknowledged or proved is accompanied by the certificate
25 of conformity and the statement of a judicial officer, if any be
26 required, the acknowledgment or proof of the instrument, for the purpose
27 of recording, filing or registering in any recording or filing office in
28 this state or for use as evidence, shall be equivalent to one taken or
29 made in the form prescribed by law for use in this state; and if the
30 acknowledgment or proof is properly authenticated, where authentication
31 is required by law, and if the instrument be otherwise entitled to
32 record, filing or registering, such instrument, together with the
33 acknowledgment or proof, the certificate of conformity and any certifi-
34 cate of authentication or statement of a judicial officer, may be
35 recorded, filed or registered in any recording or filing office in this
36 state, and shall be so recorded, filed or registered upon payment or
37 tender of lawful fees therefor. In fixing the fees of a recording,
38 filing or registering officer, the certificate of conformity and the
39 statement of a judicial officer appended, if any, shall be treated as
40 certificates of authentication required by other provisions of this
41 chapter.

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

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

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

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

21 5. Except as provided in this section, no certificate of authentica-
22 tion or certificate of conformity shall be required to entitle a convey-
23 ance to be read in evidence or recorded in this state when acknowledged
24 or proved before any officer designated in section two hundred ninety-
25 nine or in section three hundred one of this [~~chapter~~] article to take
26 such acknowledgment or proof.

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

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

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

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

47 § 6. This act shall take effect immediately.