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Acknowledgments and jurats for title to real property - by Lyons and Young

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The preparation of documents to be recorded or filed in registered land or the review of a title examination must always confirm that the correct form of acknowledgments and jurats are used on every document.

Acknowledgments and jurats are the two types of notarizations for documents that are recorded in Massachusetts. It is a statutory requirement, M.G.L. ch.222, that the correct form of an acknowledgment or jurat must be used on every document recorded in Massachusetts. The statute does not take any exception to the use of this form language for acknowledgments taken outside of the Commonwealth when that document is to be recorded or registered in the Commonwealth.

The Land Court issued a Memorandum on February 4, 2021, which mandates that all deeds and powers of attorney must be acknowledged with a statutorily compliant acknowledgment if they are to be filed in registered land. .

The Acknowledgement: An Acknowledgement is the language that a notary uses to confirm that the person signing a document is, in fact, who she purports to be, and that she signs the document voluntarily for its stated purpose.

Documents that are acknowledged include but are not limited to: Deeds, Powers of Attorney, Discharges and Partial releases, Homesteads, Declarations of Trust and Resignations of Trustees.

M.G.L. Ch. 222 section 15(b): A notary public shall take the acknowledgment of the signature or mark of persons acknowledging for themselves or in any representative capacity by using substantially the following form:

“On this ____ day of _____, 20__, before me, the undersigned notary public, _____ (name of document signer) personally appeared, proved to me through satisfactory evidence of identification, which were _____, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that (he) (she) signed it voluntarily for its stated purpose.

(as partner for _____, a partnership)

(as _____ for _____, a corporation or other entity)

(as attorney in fact for _____, the principal)

(as _____ for _____, (a) (the) _____)

as the voluntary act of the (partnership) (corporation or other entity) (principal) ().

_____ (official signature and seal of notary public).”

The Jurat: A Jurat is the language that is used when the person signing the document swears to the truthfulness of a statement. The reader of the document is relying on the validity and truthfulness of the statement being made in the document.

Documents for which a Jurat must be used are affidavits, certificates and Trustee certificates, or any other “sworn to” written document.

M.G.L. Ch. 222 section 15(c) A notary public shall use a jurat certificate in substantially the following form in notarizing a signature or mark on an affidavit or other sworn or affirmed written declaration:

“On this ____ day of _____, 20__, before me, the undersigned notary public, _____ (name of document signer) personally appeared, proved to me through satisfactory evidence of identification, which were _____, to be the person who signed the preceding or attached document in my presence and who swore or affirmed to me that the contents of the document are truthful and accurate to the best of (his) (her) knowledge and belief.

_____ (official signature and seal of notary public).”

Deeds are never acknowledged with a jurat, even if there are “sworn statements” within the deed: e.g. “under pains and penalties of perjury...”

An acknowledge may be used instead of a jurat if the document is signed “under the penalties of perjury” or “pursuant to the pains and penalties of perjury.”

The Real Estate Bar Association (REBA) of Massachusetts’ website has these forms available on its website. The comments on the form for a Jurat, REBA Form No. 37, clarifies that this guideline: An affidavit, certificate or other document signed “under the penalties of perjury” is effective without any notarization, but one may find it difficult to record in the absence of an attached acknowledgment or jurat certificate of a notary public. Use of a notary certificate is thus recommended if the document may need to be recorded. If the document itself is sworn to or affirmed, or signed under the penalties of perjury, either a jurat or acknowledgment may be used.

The contents of a document to be recorded must be accurate and compliant with statutes, regulations and title standards in every detail, including the acknowledge clause. Seller and buyer beware!

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