Notarization Law of the PRC

Dan Young Business Consultancy — www.danyoungcpa.com

Unofficial English translation prepared for reference only. The official Chinese text prevails.

Contents

Table of Contents 1

Chapter I — General Provisions 1

Chapter II — Notarial Institutions 2

Chapter III — Notaries 2

Chapter IV — Notarial Procedures 3

Chapter V — Effect of Notarization 3

Chapter VI — Legal Liability 3

Chapter VII — Supplementary Provisions 4

Adopted at the 17th Session of the Standing Committee of the Tenth National People's Congress on August 28, 2005

Amended in accordance with the Decision on Amending the Notarization Law of the People's Republic of China adopted at the 29th Session of the Standing Committee of the Twelfth National People's Congress on September 1, 2017

Effective: January 1, 2018 (Revised Version)

Table of Contents

- Chapter I — General Provisions
- Chapter II — Notarial Institutions
- Chapter III — Notaries
- Chapter IV — Notarial Procedures
- Chapter V — Effect of Notarization
- Chapter VI — Legal Liability
- Chapter VII — Supplementary Provisions

Chapter I — General Provisions

Article 1 — This Law is enacted for the purposes of regulating notarization activities, guaranteeing the lawful performance of functions and duties by notarial institutions and notaries, preventing disputes and safeguarding the lawful rights and interests of natural persons, legal persons and other organizations.

Article 2 — Notarization means the activities of a notarial institution, upon the application of a natural person, legal person or other organization and in accordance with statutory procedures, certifying the truthfulness and legality of a civil juristic act, a fact or document with legal significance.

Article 3 — Notarial institutions shall abide by the law, adhere to the principles of objectivity and impartiality, and observe the professional ethics and practice discipline of notarization.

Article 4 — Notarial institutions and notaries shall keep confidential the state secrets, trade secrets and personal privacy they come to know in the course of notarization activities.

Article 5 — The judicial administrative departments of the people's governments at or above the county level shall exercise supervision, administration and guidance over notarization work in accordance with this Law.

Chapter II — Notarial Institutions

Article 6 — Notarial institutions are certification institutions established in accordance with law, not for profit, independently performing notarization functions and bearing civil liability in accordance with the law.

Article 7 — The establishment of a notarial institution shall be subject to the approval of the judicial administrative department of the people's government of the province, autonomous region or municipality directly under the Central Government. A notarial institution may be established in a county, a city not divided into districts, a district of a city or a municipality directly under the Central Government.

Article 8 — A notarial institution shall meet the following conditions:

(1) Having its own name;

(2) Having a fixed workplace;

(3) Having two or more notaries;

(4) Having funds required for carrying out notarization activities.

Article 9 — A notarial institution shall have a responsible person. The responsible person of a notarial institution shall be a notary who has practiced for three or more years and shall be approved by the judicial administrative department.

Article 10 — Notarial institutions shall not carry out business for profit nor engage in activities other than notarization.

Chapter III — Notaries

Article 11 — A notary means a practicing lawyer who meets the requirements prescribed by this Law and practices in a notarial institution.

Article 12 — To serve as a notary, one shall meet the following conditions:

(1) Having the nationality of the People's Republic of China;

(2) Being between 25 and 65 years of age;

(3) Being fair and upright, observing the law and discipline, and having good moral character;

(4) Having passed the national uniform legal profession qualification examination and obtained the legal profession qualification;

(5) Having interned in a notarial institution for at least two years or having at least three years of other legal professional experience, and having passed the assessment;

(6) Other conditions prescribed by the judicial administrative department under the State Council.

Article 13 — A notary shall not concurrently hold any other paid position, nor concurrently serve as a director, supervisor or senior manager of a for-profit organization.

Article 14 — Notaries shall perform their duties independently in accordance with the law and shall not be interfered with by any organization or individual. Notaries shall accept the supervision of notarial institutions, the Notaries Association and the judicial administrative departments.

Chapter IV — Notarial Procedures

Article 15 — A natural person, legal person or other organization may apply to a notarial institution for notarization. The application for notarization shall be submitted to a notarial institution at the place of domicile, habitual residence, place of conduct or place of occurrence of the facts.

Article 16 — The parties concerned shall truthfully state the facts to the notarial institution and provide truthful, lawful and sufficient supporting materials. Where the materials provided are insufficient, the notarial institution may request supplementation.

Article 17 — A notarial institution shall, after accepting the application, examine the identity of the party concerned, the capacity of the party concerned to apply for notarization, the documents provided by the party concerned and the matters for which notarization is applied.

Article 18 — A notarial institution shall, within 15 working days from the date of accepting the application, issue a notarial certificate to the party concerned. However, this time limit shall not apply where force majeure, the need to supplement supporting materials or verification of relevant circumstances is involved.

Article 19 — A notarial institution shall refuse to notarize under any of the following circumstances:

(1) The party concerned has no civil capacity or is a person with limited civil capacity and has no guardian acting as an agent;

(2) The party concerned has an interest in the matters applied for notarization;

(3) The matters applied for notarization are personal matters or matters involving personal privacy;

(4) The matters applied for notarization are illegal or violate social morality;

(5) The matters applied for notarization are untrue or illegal.

Chapter V — Effect of Notarization

Article 20 — A notarized civil juristic act, fact or document with legal significance shall be taken as the basis for determining the facts, unless there is evidence to the contrary sufficient to overturn the notarization.

Article 21 — For a monetary claim document with the content of payment that has been notarized and given executory force in accordance with the law, where the debtor fails to perform or performs improperly, the creditor may apply to the people's court with jurisdiction for enforcement in accordance with the law.

Article 22 — A notarial certificate shall be valid as probative evidence in litigation, arbitration, administration and other fields.

Article 23 — Where a party concerned or an interested party of the notarization believes that the notarial certificate is erroneous, he or she may apply to the notarial institution that issued the notarial certificate for review. Where the notarial institution refuses to review or the party is dissatisfied with the result of the review, the party may institute legal proceedings in the people's court.

Chapter VI — Legal Liability

Article 24 — Where a notarial institution or a notary commits any of the following acts, the judicial administrative department shall give a warning and impose a fine of not less than 2,000 yuan but not more

Source: https://www.danyoungcpa.com/notarization-law-prc-2005-amended-2017-english-translation/

than 20,000 yuan:

(1) Notarizing matters beyond the scope of business without authorization;

(2) Issuing a false notarial certificate;

(3) Damaging or tampering with notarization files.

Article 25 — Where a party concerned or another person provides false supporting materials, thereby causing losses to others, he or she shall bear civil liability in accordance with the law; where a crime is constituted, criminal liability shall be pursued in accordance with the law.

Article 26 — Where a notarial institution or a notary causes losses to a party concerned or an interested party due to fault, the notarial institution shall bear civil liability in accordance with the law. Where a notarial institution bears liability for compensation, it may seek recourse from the notary who acted with intent or gross negligence.

Chapter VII — Supplementary Provisions

Article 27 — Foreign nationals, foreign enterprises and organizations that need to handle notarization matters in China shall follow the provisions of this Law.

Article 28 — This Law shall come into effect on January 1, 2018.

Disclaimer: This English translation is provided for informational purposes only and is not an official translation. While every effort has been made to ensure accuracy, only the original Chinese text has legal force. Readers should consult the official Chinese version or seek professional legal advice for matters requiring legal certainty. Dan Young Business Consultancy makes no warranty as to the accuracy or completeness of this translation and accepts no liability for any loss or damage arising from reliance on it.