

## INTERNATIONAL INTERESTS

*Susan Tong*



# Chinese Notaries

**W**ithin the confines of Chinese civil law, no limitation applies to the scope of work Notaries can do in China. Aside from notarizing and certifying an assortment of documents—similar to those that a BC Notary might execute—Notaries in China are also involved in the safekeeping and categorizing of legal documents, probate/estate matters, and the drafting of documents relating to all areas of Chinese civil law.

At one time, all mortgages and loans documents could be notarized only by Notaries, but now others such as lawyers and banks can do the work. Chinese Notaries do not get involved in any conveyancing and mortgage preparation documents.

The fees Chinese Notaries charge are set by the central government in Beijing. Notary offices across the country are given a detailed schedule outlining the set fees for various services. Anyone who deviates from the fee schedule is subject to discipline or charges. Certain guidelines are also given for reducing or exempting the service charges for anyone deemed too poor to afford the set fees, including government subsidy applicants, people with work injuries, adoption cases, and fundraising functions.

Prior to 2001, the selection of Chinese Notary candidates was more confined to the legal community. Notaries could be someone who:

- passed the National Unified Exam for Notaries;
- held a Masters degree;
- was a professional with mid- or

upper-level professional ranking in the areas of economics or law;

- was a graduate with a Bachelor of Laws degree and who had worked as a legal/court clerk or a lawyer; or
- had worked as an administrator for a Notary office or in a law firm for at least five consecutive years and as an assistant to a Notary Public for at least one year.

Beginning in 2001, the Chinese Notary selection program was reformed and simplified. It is now open to all university graduates. Potential candidates can write the National Judiciary Exam. The same exam is required for junior judges, prosecutors, and lawyers. Only those candidates who have passed the exam can enter the program and eventually be granted the professional Notary status. To remain in practice, all Notaries must pay dues and renew their licence annually.

Depending on their educational background and legal practice in a Notary office, Notaries in China belong to four classes. Notary offices fall into three levels, which correspond to the three levels of government:

- the provincial,
- the regional, and
- the county.

Only one Notary office is designated for each jurisdiction.

All three levels of Notary offices in China have very broad legal authority with regard to documents generated within China. International legal documents, however, must be verified by Notaries who

practice where the documents are produced. When legal documents arrive in China, they can be serviced by provincial, regional, and county Notary offices. Each level of Notary Office can compete for the same business.

By law, Chinese Notaries, as well as lawyers, are prohibited from advertising for work. Each Notary must rely on his or her own strength of reputation for sources of business.

With the rapid economic development in China, frequent cultural exchange, and the Chinese citizens' increasing awareness of their own legal rights, Notaries in China enjoy an upward trend in the outlook of the profession. Today, all Notary offices are thriving with success. A large number of the Chinese Notaries have already travelled abroad to visit their overseas counterparts. In the past our Secretariat has been visited by at least two separate groups of Chinese Notaries.

**Note:** I thank my friend Amugulang Honiqin for the translation and his brother Ayongxi for providing me with the above information. Ayongxi is a lawyer with King and Wood Law Firm in Shenzhen, China, and a new immigrant to Canada. ▲

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