

CS FOR HOUSE BILL NO. 439(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 4/6/04

Referred: Finance

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the authority to take oaths, affirmations, and acknowledgments in**
2 **the state, to notarizations, to verifications, to acknowledgments, to fees for issuing**
3 **certificates with the seal of the state affixed, and to notaries public; and providing for an**
4 **effective date."**

5 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

6 * **Section 1.** AS 09.63.010 is amended to read:

7 **Sec. 09.63.010. Oath, affirmation, and acknowledgment.** The following
8 persons may take an oath, affirmation, or acknowledgment in the state:

9 (1) a justice, judge, or magistrate of a court of the State of Alaska or of
10 the United States;

11 (2) a clerk or deputy clerk of a court of the State of Alaska or of the
12 United States;

13 (3) a notary public;

14 (4) a United States postmaster;

1 (5) a commissioned officer under AS 09.63.050(4); [OR]

2 (6) a municipal clerk carrying out the clerk's duties under
3 AS 29.20.380;

4 **(7) the lieutenant governor when carrying out the lieutenant**
5 **governor's duties under AS 24.05.160;**

6 **(8) the presiding officer of each legislative house when carrying**
7 **out the officer's duties under AS 24.05.170.**

8 * **Sec. 2.** AS 09.63.030(c) is amended to read:

9 (c) If the document is sworn to or affirmed before a notary public of the state,
10 the notary public shall

11 (1) **affix** [ENDORSE AFTER THE SIGNATURE OF THE NOTARY
12 PUBLIC THE DATE OF EXPIRATION OF THE NOTARY'S COMMISSION;

13 (2) PRINT OR EMBOSS THE NOTARY'S SEAL] on the document

14 **the**

15 **(A) notary public's official signature and official seal; and**

16 **(B) date of expiration of the notary public's commission;**

17 **and**

18 **(2)** [; (3)] comply with **AS 44.50.060 - 44.50.065 and** [AS 44.50.060 -
19 44.50.080 OR] other applicable law.

20 * **Sec. 3.** AS 09.63.040(d) is amended to read:

21 (d) If the verification is sworn to or affirmed before a notary public of the
22 state, the notary public shall

23 (1) **affix** [ENDORSE AFTER THE SIGNATURE OF THE NOTARY
24 PUBLIC THE DATE OF EXPIRATION OF THE NOTARY'S COMMISSION;

25 (2) PRINT OR EMBOSS THE NOTARY'S SEAL] on the document

26 **the**

27 **(A) notary public's official signature and official seal; and**

28 **(B) date of expiration of the notary public's commission;**

29 **and**

30 **(2)** [; (3)] comply with **AS 44.50.060 - 44.50.065 and** [AS 44.50.060 -
31 44.50.080 OR] other applicable law.

1 * **Sec. 4.** AS 09.63.090 is amended to read:

2 **Sec. 09.63.090. Certificate of acknowledgment.** The words "acknowledged
3 before me" mean that

4 (1) the person acknowledging

5 (A) appeared before the person taking the acknowledgment;

6 (B) acknowledged that the person executed the instrument;

7 (C) in the case of

8 (i) a natural person, acknowledged that the person
9 executed the instrument for the purposes stated in it;

10 (ii) an officer or agent of a corporation, acknowledged
11 that the person held the position or title set out in the instrument and
12 certificate, **acknowledge that the person** signed the instrument on
13 behalf of the corporation by proper authority, and **acknowledge that**
14 the instrument was the act of the corporation for the purposes stated in
15 it;

16 (iii) **a member or manager of a limited liability**
17 **company, acknowledged that the individual signed the instrument**
18 **on behalf of the limited liability company by proper authority and**
19 **executed the instrument as the act of the limited liability company**
20 **for the purposes stated in it;**

21 (iv) a partner or agent of a partnership, **limited**
22 **partnership, or limited liability partnership,** acknowledged that the
23 person signed the instrument on behalf of the partnership by proper
24 authority and executed the instrument as the act of the partnership for
25 the purposes stated in it;

26 (v) [(iv)] a person acknowledging as a principal by an
27 attorney in fact, acknowledged that the person executed the instrument
28 by proper authority as the act of the principal for the purposes stated in
29 it;

30 (vi) [(v)] a person acknowledging as a public officer,
31 trustee, administrator, guardian, or other representative, acknowledged

1 that the person signed the instrument in the capacity and for the
2 purposes stated in it; and

3 (2) the person taking the acknowledgment either knew or had
4 satisfactory evidence that the person acknowledging is the person named in the
5 instrument or certificate.

6 * **Sec. 5.** AS 09.63.100 is amended to read:

7 **Sec. 09.63.100. Forms of acknowledgment.** (a) The forms of
8 acknowledgment set out in this subsection may be used and are sufficient for their
9 respective purposes under a law of the state. The authorization of the forms in this
10 section does not preclude the use of other forms.

11 (1) For an individual acting in the individual's own right:

12 State of _____ Judicial
13 District (or County of _____)

14 The foregoing instrument was acknowledged before me this
15 (date) by (name of person who acknowledged).

16 _____
17 Signature of Person Taking
18 Acknowledgment

19 _____
20 Title or Rank
21 _____
22 Serial Number, if any

23 (2) For a corporation:

24 State of _____ Judicial
25 District (or County of _____)

26 The foregoing instrument was acknowledged before me this
27 (date) by (name of officer or agent, title of officer or agent) of (name of
28 corporation acknowledging) a (state or place of incorporation)
29 corporation, on behalf of the corporation.

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31 Signature of Person Taking

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Acknowledgment

Title or Rank

Serial Number, if any

(3) For a limited liability company:

State of _____ Judicial
District (or County of _____)

The foregoing instrument was acknowledged before me this
(date) by (name of member or manager), member (or manager) of
(name of limited liability company acknowledging) a (state or place
of organization) limited liability company, on behalf of the limited
liability company.

Signature of Person Taking

Acknowledgment

Member (or Manager)

Serial Number, if any

(4) For a partnership:

State of _____ Judicial
District (or County of _____)

The foregoing instrument was acknowledged before me this
(date) by (name of acknowledging partner or agent), partner (or agent)
on behalf of (name of partnership), a **(partnership, limited**
partnership, or limited liability partnership).

Signature of Person Taking

Acknowledgment

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Title or Rank

Serial Number, if any

(5) [(4)] For an individual acting as principal by an attorney in fact:

State of _____ Judicial

District (or County of _____)

The foregoing instrument was acknowledged before me this (date) by (name of attorney in fact) as attorney in fact on behalf of (name of principal).

Signature of Person Taking

Acknowledgment

Title or Rank

Serial Number, if any

(6) [(5)] By a public officer, trustee, or personal representative:

State of _____ Judicial

District (or County of _____)

The foregoing instrument was acknowledged before me this (date) by (name and title of position).

Signature of Person Taking

Acknowledgment

Title or Rank

Serial Number, if any

(b) If a document is acknowledged before a notary public of the state, the notary public shall

(1) **affix** [ENDORSE AFTER THE NOTARY'S SIGNATURE THE

1 DATE OF EXPIRATION OF THE NOTARY'S COMMISSION;

2 (2) PRINT OR EMBOSS THE NOTARY'S SEAL] on the document

3 the

4 (A) notary public's official signature and official seal; and

5 (B) date of expiration of the notary public's commission;

6 and

7 (2) [; (3)] comply with AS 44.50.060 - 44.50.065 and [AS 44.50.060 -
8 44.50.080 OR] other law.

9 * **Sec. 6.** AS 44.19.024 is amended to read:

10 **Sec. 44.19.024. Fees for issuing certificate.** For issuing each certificate with
11 the seal of the state affixed, the lieutenant governor shall collect a fee of \$5 for each
12 certificate [\$2 FOR THE FIRST THREE FOLIOS OR LESS AND 20 CENTS PER
13 FOLIO FOR EACH ADDITIONAL FOLIO. THE LIEUTENANT GOVERNOR
14 SHALL ACCOUNT FOR THE FEES RECEIVED UNDER THIS SECTION AND
15 SHALL PAY THEM INTO THE STATE TREASURY].

16 * **Sec. 7.** AS 44.50.010 is repealed and reenacted to read:

17 **Sec. 44.50.010. Notary public commission; term.** (a) The lieutenant
18 governor may commission for the state

19 (1) notaries public without limitation, who are authorized to use the
20 notary seal for all legal purposes; and

21 (2) limited governmental notaries public, who are state, municipal, or
22 federal employees authorized to use the notary seal only for official government
23 business.

24 (b) The term of a notary public commission is four years, except that the term
25 of a limited governmental notary public commission coincides with the term of
26 government employment.

27 (c) A person who is a state, municipal, or federal employee commissioned as a
28 limited governmental notary public may also be commissioned as a notary public
29 without limitation.

30 * **Sec. 8.** AS 44.50.020 is repealed and reenacted to read:

31 **Sec. 44.50.020. Qualifications.** To be commissioned as a notary public a

1 person

2 (1) shall submit an application under AS 44.50.032;

3 (2) shall be at least 18 years of age;

4 (3) shall have established residency in this state under AS 01.10.055;

5 (4) shall reside legally in the United States;

6 (5) may not have been incarcerated in a correctional facility for a
7 felony conviction within 10 years before the commission takes effect;

8 (6) may not have had a notary public commission revoked in this state
9 or another jurisdiction;

10 (7) may not have committed acts for which a notary public
11 commission may be denied or revoked under this chapter; and

12 (8) shall meet the other requirements in this chapter to be
13 commissioned as a notary public.

14 * **Sec. 9.** AS 44.50 is amended by adding new sections to read:

15 **Sec. 44.50.032. Application.** (a) A person applying for a commission as a
16 notary public shall submit a completed application as required by this section, using
17 the forms or format required by the lieutenant governor.

18 (b) A completed application for a commission under AS 44.50.010(a)(1) must
19 include

20 (1) an affirmation that the applicant meets the qualifications set out in
21 AS 44.50.020(2) - (7);

22 (2) the applicant's mailing and physical addresses, the applicant's
23 telephone number, if any, the applicant's employer or business, the physical address
24 and telephone number of the applicant's employer or business at the location where the
25 applicant works, and an electronic mailing address, if any, where the applicant can be
26 contacted;

27 (3) information concerning any denial, suspension, revocation, or
28 restriction of the applicant's commission as a notary public in this state or another
29 jurisdiction; that information must include

30 (A) identification of the jurisdiction;

31 (B) the date the jurisdiction issued the denial, suspension,

1 revocation, or restriction;

2 (C) the reasons for the denial, suspension, revocation, or
3 restriction; and

4 (D) information concerning final resolution of the matter;

5 (4) the applicant's notarized signature on the portion of the application
6 that contains the oath or affirmation required by AS 44.50.035;

7 (5) the fee required by AS 44.50.033; and

8 (6) the bond required by AS 44.50.034.

9 (c) A completed application for a commission under AS 44.50.010(a)(2) must
10 include

11 (1) a signed statement by the applicant's government employer that the
12 commission is needed for the purpose of conducting official government business;

13 (2) the applicant's mailing and physical addresses, the applicant's
14 telephone number, if any, the applicant's employer, the name, address, and telephone
15 number for the employer where the applicant works, and an electronic mailing
16 address, if any, where the applicant can be contacted;

17 (3) the affirmation, information, and signature required by (b)(1), (3),
18 and (4) of this section; and

19 (4) the fee required by AS 44.50.033.

20 **Sec. 44.50.033. Application fee.** A person applying for a commission as a
21 notary public shall pay a nonrefundable application fee of \$40. However, an applicant
22 for a limited governmental notary public commission under AS 44.50.010(a)(2) who is
23 employed by the state may not be required to pay an application fee.

24 **Sec. 44.50.034. Bond.** (a) A person applying for a commission as a notary
25 public without limitation under AS 44.50.010(a)(1) shall execute an official bond of
26 \$1,000 and submit the bond with the application under AS 44.50.032. The bond must
27 be for a term of four years from the date of commission.

28 (b) The lieutenant governor shall keep a bond submitted under this section for
29 10 years after the end of the term of the commission for which the bond was issued.
30 Disposition of the bond after the end of the commission does not affect the time for
31 commencing an action on the bond.

1 **Sec. 44.50.035. Oath.** The application required by the lieutenant governor
 2 under AS 44.50.032 must contain an oath or affirmation, in the form set out in
 3 AS 39.05.045, to be signed by the applicant. A signed oath or affirmation submitted
 4 in an application under AS 44.50.032 takes effect on the date of the applicant's
 5 commission as a notary public under this chapter.

6 **Sec. 44.50.036. Denial of applications.** The lieutenant governor shall deny
 7 an application for a notary public commission if the

8 (1) applicant does not meet the requirements of this chapter;

9 (2) application is not complete or contains a material misstatement or
 10 omission of fact relating to the requirements for a commission under this chapter;

11 (3) applicant has been incarcerated in a correctional facility for a
 12 felony conviction within 10 years before the commission is to take effect; or

13 (4) applicant's commission as a notary public has been revoked in this
 14 state for a reason set out in AS 44.50.068, or in another jurisdiction for a substantially
 15 similar reason.

16 **Sec. 44.50.037. Certificate of commission.** Upon commission of a notary
 17 public under this chapter, the lieutenant governor shall provide to the notary public a
 18 certificate of commission indicating the commission and the dates of the term of the
 19 commission.

20 **Sec. 44.50.038. Subsequent commissions.** A notary public whose term of
 21 commission is ending may apply for a new notary public commission by submitting a
 22 new application under AS 44.50.032 and complying with the requirements of this
 23 chapter. The lieutenant governor's approval of a new application for a commission for
 24 a notary public without limitation under AS 44.50.010(a)(1) terminates an applicant's
 25 existing commission under that paragraph.

26 **Sec. 44.50.039. Limited governmental notaries public.** A state, municipal,
 27 or federal employee commissioned as a notary public under AS 44.50.010(a)(2)

28 (1) is designated a limited governmental notary public;

29 (2) may perform notarial acts only in the conduct of official
 30 government business; and

31 (3) may not charge or receive a fee or other consideration for notarial

1 services provided under this chapter.

2 * **Sec. 10.** AS 44.50.060 is amended to read:

3 **Sec. 44.50.060. Duties.** A notary public shall

4 (1) **administer oaths and affirmations** [WHEN REQUESTED,
5 DEMAND ACCEPTANCE AND PAYMENT OF FOREIGN AND INLAND BILLS
6 OF EXCHANGE, OR PROMISSORY NOTES, PROTEST THEM FOR
7 NONACCEPTANCE AND NONPAYMENT, AND EXERCISE THE OTHER
8 POWERS AND DUTIES THAT BY THE LAW OF NATIONS AND ACCORDING
9 TO COMMERCIAL USAGES, OR BY THE LAWS OF ANY OTHER STATE,
10 GOVERNMENT, OR COUNTRY, MAY BE PERFORMED BY NOTARIES];

11 (2) take the acknowledgment **of** or proof of **execution of** [POWERS
12 OF ATTORNEY, MORTGAGES, DEEDS, GRANTS, TRANSFERS, AND OTHER]
13 instruments **in** [OF] writing, and give a **notarial** certificate of the proof or
14 acknowledgment, **included in** [ENDORSED ON] or attached to the instrument; the
15 **notarial** certificate shall be signed by the notary **public** in the **notary public's**
16 [NOTARY'S] own handwriting [;

17 (3) TAKE DEPOSITIONS AND AFFIDAVITS, AND ADMINISTER
18 OATHS AND AFFIRMATIONS, IN ALL MATTERS INCIDENT TO THE DUTIES
19 OF THE OFFICE, OR TO BE USED BEFORE A COURT, JUDGE, OFFICER, OR
20 BOARD IN THE STATE; A DEPOSITION, AFFIDAVIT, OATH, OR
21 AFFIRMATION SHALL BE SIGNED BY THE NOTARY IN THE NOTARY'S
22 OWN HANDWRITING, AND THE NOTARY SHALL ENDORSE AFTER THE
23 SIGNATURE THE DATE OF EXPIRATION OF THE NOTARY'S COMMISSION].

24 * **Sec. 11.** AS 44.50 is amended by adding new sections to read:

25 **Sec. 44.50.061. Unauthorized practice.** (a) A notary public who is not an
26 attorney may complete but may not select notarial certificates, and may not assist
27 another person in drafting, completing, selecting, or understanding a document or
28 transaction requiring a notarial act.

29 (b) This section does not prohibit a notary public who is qualified in and, if
30 required, licensed to practice, a particular profession from giving advice relating to
31 matters in that professional field.

1 (c) A notary public may not make representations to have powers,
2 qualifications, rights, or privileges that the office of notary public does not have.

3 **Sec. 44.50.062. Prohibited acts.** A notary public may not

4 (1) violate state or federal law in the performance of acts authorized by
5 this chapter;

6 (2) influence a person to enter into or avoid a transaction involving a
7 notarial act by the notary public;

8 (3) affix the notary public's signature or seal on a notarial certificate
9 that is incomplete;

10 (4) charge a fee for a notarial act unless a fee schedule has been
11 provided to the signer before the performance of the notarial act;

12 (5) affix the notary public's official seal to a document, unless the
13 person who is to sign the document

14 (A) appears and signs the document before the notary public or,
15 for an acknowledgment, appears and indicates to the notary public that the
16 person voluntarily affixed the person's signature on the document for the
17 purposes stated within the document;

18 (B) gives an oath or affirmation if required under law or if the
19 notarial certificate states that the document was signed under oath or
20 affirmation; and

21 (C) is personally known to the notary public, produces
22 government-issued identification containing the photograph and signature of
23 the person signing, or produces

24 (i) government-issued identification containing the
25 signature of the person signing, but without a photograph; and

26 (ii) another valid identification containing the
27 photograph and signature of the person signing;

28 (6) perform a notarial act if the notary public

29 (A) is a signer of or named in the document that is to be
30 notarized; or

31 (B) will receive directly from a transaction connected with the

1 notarial act a commission, fee, advantage, right, title, interest, cash, property,
2 or other consideration exceeding in value the normal fee charged by the notary
3 for the notarial act.

4 **Sec. 44.50.063. Official signature.** (a) When performing a notarization, a
5 notary public shall

6 (1) sign in the notary public's own handwriting, on the notarial
7 certificate, exactly and only the name indicated on the notary public's commission
8 certificate; a notary public may not sign through the use of a facsimile stamp or an
9 electronic or graphic printing method; and

10 (2) affix the official signature only at the time the notarial act is
11 performed.

12 (b) A notary public shall comply in a timely manner with a request by the
13 lieutenant governor to supply a current sample of the notary public's official signature.

14 **Sec. 44.50.064. Official seal.** (a) A notary public shall keep an official seal,
15 which is the exclusive property of the notary public, and shall ensure that another
16 person does not possess or use the official seal.

17 (b) A notary public's official seal

18 (1) must contain

19 (A) the notary public's name exactly as indicated on the notary
20 public's commission certificate;

21 (B) the words "Notary Public" and "State of Alaska"; and

22 (2) may be a circular form not over two inches in diameter or may be a
23 rectangular form not more than one inch in width by two and one-half inches in
24 length.

25 (c) When not in use, a notary public's official seal shall be kept in a secure
26 area under the exclusive control of the notary public.

27 (d) Within 10 days after a notary public's official seal is stolen or lost, the
28 notary public shall provide the lieutenant governor with written notification of the
29 theft or loss.

30 (e) In order to avoid misuse, a notary public's official seal shall be destroyed
31 or defaced

1 (1) upon the notary public's resignation or death;

2 (2) upon the revocation or termination by the lieutenant governor of
3 the notary public's commission; or

4 (3) when the notary public's term of commission ends if the notary
5 public has not received a new commission under this chapter.

6 **Sec. 44.50.065. Seal impression or depiction.** (a) A sharp, legible,
7 photographically reproducible impression or depiction of a notary public's official seal
8 shall be affixed

9 (1) on the notarial certificate of each paper document notarized, near
10 the notary public's official signature; and

11 (2) only at the time the notarial act is performed.

12 (b) Illegible information within a seal impression or depiction may be typed or
13 printed legibly by the notary public adjacent to, but not within, the impression or
14 depiction.

15 (c) An embossed seal impression that is not photographically reproducible
16 may be used in addition to, but not in place of, the seal impression or depiction
17 required by (a) of this section.

18 **Sec. 44.50.066. Notary public's status notification.** (a) Within 30 days after
19 change of a notary public's name, mailing address, or physical address, the notary
20 public shall, on a form provided by the lieutenant governor, submit written notification
21 of the change, signed by the notary public.

22 (b) The lieutenant governor may require limited governmental notaries public
23 commissioned under AS 44.50.010(a)(2) who change departmental or agency
24 employers to submit written notification of the change on a form provided by the
25 lieutenant governor.

26 (c) A notary public commissioned under AS 44.50.010(a)(1) reporting a name
27 change shall submit to the lieutenant governor payment of the fee under AS 44.19.024
28 for the issuance of a replacement certificate of commission.

29 (d) A notary public reporting a name change under (a) and (c) of this section
30 shall use the person's former name for the performance of notarial acts until the person
31 has

1 (1) provided written notification of the name change to the surety for
2 any bond required under AS 44.50.034;

3 (2) received a replacement certificate of commission reflecting the
4 name change from the lieutenant governor; and

5 (3) obtained a new seal reflecting the name change.

6 (e) The lieutenant governor may require a notary public to update the
7 information required under AS 44.50.032, including the notary public's current
8 notarized signature.

9 **Sec. 44.50.067. Resignation.** (a) To resign a commission, a notary public
10 shall notify the lieutenant governor in writing of the resignation and the date that it is
11 effective. The notary public shall sign the notification.

12 (b) A notary public who does not any longer meet the requirements of this
13 chapter to be a notary public shall immediately resign the commission.

14 **Sec. 44.50.068. Disciplinary action.** The lieutenant governor may suspend or
15 revoke a notary public's commission or reprimand a notary public for good cause
16 shown, including

17 (1) a ground on which an application for a commission may be denied;

18 (2) failure to comply with this chapter; and

19 (3) incompetence or malfeasance in carrying out the notary public's
20 duties under this chapter.

21 **Sec. 44.50.069. Complaint; hearing; appeal.** (a) A person harmed by the
22 actions of a notary public may file a complaint with the lieutenant governor. The
23 complaint shall be filed on a form prescribed by the lieutenant governor and shall be
24 signed and verified by the person alleging misconduct by the notary public.

25 (b) If the lieutenant governor determines that the allegations in the complaint
26 do not warrant formal disciplinary action, the lieutenant governor may decline to act
27 on the complaint or may advise the notary public of the appropriate conduct and the
28 applicable statutes and regulations governing the conduct. The lieutenant governor
29 shall notify the notary public and the complainant of the determination in writing.

30 (c) If the lieutenant governor determines that the complaint alleges sufficient
31 facts to constitute good cause for disciplinary action, the lieutenant governor shall

1 serve the notary public with a copy of the complaint as provided in Rule 4, Alaska
2 Rules of Civil Procedure. The notary public may file a written response to the
3 complaint with the lieutenant governor within 20 days after receipt of the complaint.
4 The lieutenant governor may extend the time for the notary public's response. The
5 lieutenant governor shall provide a copy of the notary public's response to the
6 complainant.

7 (d) The lieutenant governor shall review the complaint and the response to
8 determine whether formal disciplinary action may be warranted. The lieutenant
9 governor may determine that the allegations in the complaint do not warrant formal
10 disciplinary action, in which case the lieutenant governor may determine not to take
11 further action on the complaint or may determine to advise the notary public of the
12 appropriate conduct and the applicable statutes and regulations governing the conduct.
13 If the lieutenant governor determines that formal disciplinary action is not warranted,
14 the lieutenant governor shall provide the complainant and the notary public with a
15 written statement of the basis for the determination.

16 (e) If the lieutenant governor finds that formal disciplinary action may be
17 warranted, the lieutenant governor may

18 (1) hear the case and issue a decision; or

19 (2) appoint a hearing officer to hear the case and provide a
20 recommended decision, including recommended disciplinary action.

21 (f) If a hearing officer is appointed, the lieutenant governor may

22 (1) adopt the hearing officer's recommended decision in its entirety;

23 (2) adopt portions of the recommended decision and modify the
24 recommended disciplinary action;

25 (3) decide the case upon the record created at the hearing; or

26 (4) refer the case to the same or another hearing officer to take
27 additional evidence and issue a new recommended decision, including, if appropriate,
28 new recommended disciplinary action based upon the record from the hearing and the
29 additional evidence.

30 (g) The lieutenant governor may delegate the powers under AS 44.50.068 and
31 this section.

1 (h) An appeal from a decision of the lieutenant governor under this section
2 shall be in accordance with the procedures set out in AS 44.62 (Administrative
3 Procedure Act).

4 * **Sec. 12.** AS 44.50.069 is repealed and reenacted to read:

5 **Sec. 44.50.069. Complaint; hearing; appeal.** (a) A person harmed by the
6 actions of a notary public may file a complaint with the lieutenant governor. The
7 complaint shall be filed on a form prescribed by the lieutenant governor and shall be
8 signed and verified by the person alleging misconduct by the notary public.

9 (b) If the lieutenant governor determines that the allegations in the complaint
10 do not warrant formal disciplinary action, the lieutenant governor may decline to act
11 on the complaint or may advise the notary public of the appropriate conduct and the
12 applicable statutes and regulations governing the conduct. The lieutenant governor
13 shall notify the notary public and the complainant of the determination in writing.

14 (c) If the lieutenant governor determines that the complaint alleges sufficient
15 facts to constitute good cause for disciplinary action, the lieutenant governor shall
16 serve the notary public with a copy of the complaint as provided in Rule 4, Alaska
17 Rules of Civil Procedure. The notary public may file a written response to the
18 complaint with the lieutenant governor within 20 days after receipt of the complaint.
19 The lieutenant governor may extend the time for the notary public's response. The
20 lieutenant governor shall provide a copy of the notary public's response to the
21 complainant.

22 (d) The lieutenant governor shall review the complaint and the response to
23 determine whether formal disciplinary action may be warranted. The lieutenant
24 governor may determine that the allegations in the complaint do not warrant formal
25 disciplinary action, in which case the lieutenant governor may determine not to take
26 further action on the complaint or may determine to advise the notary public of the
27 appropriate conduct and the applicable statutes and regulations governing the conduct.
28 If the lieutenant governor determines that formal disciplinary action is not warranted,
29 the lieutenant governor shall provide the complainant and the notary public with a
30 written statement of the basis for the determination.

31 (e) If the lieutenant governor finds that formal disciplinary action may be

1 warranted, the lieutenant governor shall refer the matter to the office of administrative
2 hearings for a hearing.

3 (f) The lieutenant governor may delegate the powers under AS 44.50.068 and
4 this section.

5 (g) An appeal from a decision of the lieutenant governor under this section
6 shall be in accordance with the procedures set out in AS 44.62 (Administrative
7 Procedure Act).

8 * **Sec. 13.** AS 44.50 is amended by adding new sections to read:

9 **Sec. 44.50.071. Handbook.** The lieutenant governor may produce a
10 handbook for commissioned notaries public on the Internet and shall, upon request,
11 distribute the handbook to each person who is commissioned a notary public under
12 this chapter. The handbook must contain a summary of the provisions of this chapter
13 and the regulations adopted under this chapter.

14 **Sec. 44.50.072. Confidentiality.** (a) An address, telephone number, and
15 electronic mail address of a notary public or an applicant that is submitted under
16 AS 44.50.032 or 44.50.038 and that is designated by the notary public or applicant as
17 confidential shall be kept confidential. However, a notary public shall provide a
18 nonconfidential address and telephone number at which the notary public can be
19 contacted.

20 (b) Compilations and data bases of those addresses, telephone numbers, and
21 electronic mail addresses of notaries public that are confidential under (a) of this
22 section shall be kept confidential, except that the lieutenant governor may disclose
23 compilations and data bases if the lieutenant governor determines that disclosure is in
24 the public interest.

25 (c) A complaint filed under AS 44.50.069 shall be kept confidential unless the
26 lieutenant governor determines under AS 44.50.069(c) that the complaint alleges
27 sufficient facts to constitute good cause for disciplinary action.

28 **Sec. 44.50.073. Regulations.** The lieutenant governor may adopt regulations
29 under AS 44.62 (Administrative Procedure Act) to carry out the purposes of this
30 chapter.

31 * **Sec. 14.** AS 44.50 is amended by adding a new section to read:

1 **Sec. 44.50.200. Definitions.** In this chapter, unless the context otherwise
2 requires,

3 (1) "notarial act" means any act that a notary public is authorized to
4 perform under AS 09.63.120 or AS 44.50.060;

5 (2) "notary public" means a person commissioned to perform notarial
6 acts under this chapter.

7 * **Sec. 15.** AS 44.50.030, 44.50.040, 44.50.070, 44.50.080, 44.50.090, 44.50.100,
8 44.50.110, 44.50.120, 44.50.130, 44.50.140, 44.50.170, 44.50.180(c), and 44.50.190 are
9 repealed.

10 * **Sec. 16.** The uncodified law of the State of Alaska is amended by adding a new section to
11 read:

12 **APPLICABILITY.** (a) AS 44.50.010, repealed and reenacted by sec. 7 of this Act,
13 and AS 44.50.032, 44.50.033, 44.50.035, 44.50.036, 44.50.037, and 44.50.039, enacted by
14 sec. 9 of this Act, do not apply to a notary public whose commission is in effect on the day
15 before the effective date of secs. 1 - 11, 13 - 16, and 18 of this Act until the notary public's
16 term of office expires under former AS 44.50.030, the notary public resigns under
17 AS 44.50.067, enacted by sec. 11 of this Act, or the notary public's commission is revoked
18 under AS 44.50.068, enacted by sec. 11 of this Act.

19 (b) Notwithstanding (a) of this section, if a notary public whose commission is in
20 effect on the day before the effective date of secs. 1 - 11, 13 - 16, and 18 of this Act has been
21 incarcerated in a correctional facility for a felony conviction within 10 years before the notary
22 public's term of office expires under former AS 44.50.030, the lieutenant governor may take
23 an action under AS 44.50.068, enacted by sec. 11 of the Act, against the notary public.

24 * **Sec. 17.** The uncodified law of the State of Alaska is amended by adding a new section to
25 read:

26 **TRANSITION: REGULATIONS.** The lieutenant governor may proceed to adopt
27 regulations necessary to implement the changes made by this Act. The regulations take effect
28 under AS 44.62 (Administrative Procedure Act), but not before the effective date of the
29 respective statutory change.

30 * **Sec. 18.** The uncodified law of the State of Alaska is amended by adding a new section to
31 read:

1 CONDITIONAL EFFECT OF AS 44.50.069, ENACTED BY BILL SECTION 12.

2 Section 12 of this Act takes effect only if a bill is passed by the Twenty-Third Alaska State
3 Legislature that establishes an office of administrative hearings to conduct adjudicative
4 administrative hearings and requires the office of administrative hearings to conduct all
5 adjudicative administrative hearings required under AS 44.50, and the bill is enacted into law.

6 * **Sec. 19.** If, under sec. 18 of this Act, sec. 12 of this Act takes effect, it takes effect on the
7 later of

8 (1) one day after the effective date of sec. 11 of this Act; or

9 (2) the effective date of the jurisdictional section of the bill that is passed by
10 the Twenty-Third Alaska State Legislature that establishes an office of administrative
11 hearings to conduct adjudicative administrative hearings and requires the office of
12 administrative hearings to conduct all adjudicative hearings under AS 44.50; in this
13 paragraph, "jurisdictional section" means the section that sets out the statutes to which the
14 jurisdiction of the office of administrative hearings applies.

15 * **Sec. 20.** Section 17 of this Act takes effect immediately under AS 01.10.070(c).

16 * **Sec. 21.** Except as provided in secs. 19 and 20 of this Act, this Act takes effect July 1,
17 2004.