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Referred: Judiciary

BY THE RULES COMMITTEE BY  
REQUEST OF THE LEGISLATIVE  
COUNCIL (for the Code  
Revision Commission)

1 IN THE SENATE

2 SENATE BILL NO. 80 am H

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to oath, affirmation, acknowledgment,  
7 notarization and verification and adopting the Uniform  
8 Recognition of Acknowledgments Act."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 \* Section 1. AS 09 is amended by adding a new chapter to read:

11 CHAPTER 63. OATH, ACKNOWLEDGMENT AND OTHER PROOF.

12 Sec. 09.63.010. OATH, AFFIRMATION, AND ACKNOWLEDGMENT IN THE  
13 STATE. The following persons may take an oath, affirmation, or acknow-  
14 ledgment in the state:

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

17 (2) a clerk or deputy clerk of a court of the State of  
18 Alaska or of the United States;

19 (3) a notary public;

20 (4) a United States postmaster; or

21 (5) a commissioned officer under AS 09.63.050(4).

22 Sec. 09.63.020. CERTIFICATION OF DOCUMENTS. (a) A matter re-  
23 quired or authorized to be supported, evidenced, established, or proven  
24 by the sworn statement, declaration, verification, certificate, oath,  
25 or affidavit, in writing of the person making it (other than a deposi-  
26 tion, an acknowledgment, an oath of office, or an oath required to be  
27 taken before a specified official other than a notary public), may be  
28 supported, evidenced, established or proven by the person certifying in  
29 writing "under penalty of perjury" that the matter is true. The certi-

1 fication shall state the date and place of execution, the fact that a  
2 notary public or other official empowered to administer oaths is un-  
3 available, and the following:

4 "I certify under penalty of perjury that the foregoing is true."

5 (b) A person who makes a false sworn certification which he does  
6 not believe to be true under penalty of perjury is guilty of perjury.

7 Sec. 09.63.030. NOTARIZATION. (a) When a document is required  
8 by law to be notarized, the person who executes the document shall sign  
9 and swear to or affirm it before an officer authorized by law to take  
10 his oath or affirmation and the officer shall certify on the document  
11 that it was signed and sworn to or affirmed before him.

12 (b) The certificate required by this section may be in substan-  
13 tially the following form:

14 Subscribed and sworn to or affirmed before me at \_\_\_\_\_  
15 on \_\_\_\_\_.  
16 (date)

17 \_\_\_\_\_  
18 Signature of Officer

19 \_\_\_\_\_  
20 Title of Officer

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

- 23 (1) endorse after his signature the date of expiration of  
24 his commission;  
25 (2) print or emboss his seal on the document;  
26 (3) comply with AS 44.50.060 - 44.50.080 or other applicable  
27 law.

28 Sec. 09.63.040. VERIFICATION. (a) When a document is required  
29 by law to be verified, the person required to verify it shall certify

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under oath or affirmation that he has read the document and believes its content to be true.

(b) The person who makes the verification shall sign it before a person authorized by law to take his oath or affirmation.

(c) A verification made under this section may be in substantially the following form:

\_\_\_\_\_ says on oath or affirms that he has read the foregoing (or attached) document and believes all statements made in the document are true.

Subscribed and sworn to or affirmed before me at \_\_\_\_\_ on \_\_\_\_\_ (date)

\_\_\_\_\_  
Signature of Officer

\_\_\_\_\_  
Title of Officer

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

- (1) endorse after his signature the date of expiration of his commission;
- (2) print or emboss his seal on the document;
- (3) comply with AS 44.50.060 - 44.50.080 or other applicable law.

Sec. 09.63.050. RECOGNITION OF NOTARIAL ACTS PERFORMED OUTSIDE THE STATE. Notarial acts may be performed outside the state for use in the state with the same effect as if performed by a notary public of the state by

- (1) a notary public authorized to perform notarial acts in the place in which the act is performed;

1 (2) a justice, judge, magistrate, clerk, or deputy clerk of  
2 a court of record in the place in which the notarial act is performed;

3 (3) an officer of the foreign service of the United States,  
4 a consular agent, or a person authorized by regulation of the United  
5 States Department of State to perform notarial acts in the place in  
6 which the act is performed;

7 (4) a commissioned officer in active service with the armed  
8 forces of the United States or a person authorized by regulation of the  
9 armed forces to perform notarial acts if the notarial act is performed  
10 for a merchant seaman of the United States, a member of the armed  
11 forces of the United States, a person serving with or accompanying the  
12 armed forces of the United States, or his dependents; or

13 (5) a person authorized to perform notarial acts in the  
14 place in which the act is performed.

15 Sec. 09.63.060. AUTHENTICATION OF AUTHORITY OF OFFICER. (a)  
16 If the notarial act is performed by a person described in AS 09.63.-  
17 050(1) - (4) other than a person authorized to perform notarial acts  
18 by the laws or regulations of a foreign country, the signature, rank or  
19 title and, if appropriate, the serial number of the person are suffi-  
20 cient proof of the authority of a person to perform the act.

21 (b) If the notarial act is performed by a person authorized by  
22 the laws or regulations of a foreign country to perform the act, there  
23 is sufficient proof of the authority of that person to act if

24 (1) either a foreign service officer of the United States  
25 resident in the country in which the act is performed or a diplomatic  
26 or consular officer of the foreign country resident in the United  
27 States certifies that a person holding that office is authorized to  
28 perform the act;

29 (2) the official seal of the person performing the notarial

1 act is affixed to the document; or

2 (3) the title and indication of authority to perform notarial  
3 acts of the person appears either in a digest of foreign law or in a  
4 list customarily used as a source of that information.

5 (c) If the notarial act is performed by a person other than a  
6 person described in this section, there is sufficient proof of the  
7 authority of the person to act if the clerk of a court of record in the  
8 place in which the notarial act is performed certifies to the official  
9 character of the person and to his authority to perform the notarial  
10 act.

11 (d) The signature and title of the person performing the act are  
12 prima facie evidence that he is a person with the designated title and  
13 that the signature is genuine.

14 Sec. 09.63.070. CERTIFICATE OF PERSON TAKING ACKNOWLEDGMENT. The  
15 person taking an acknowledgment shall certify that

16 (1) the person acknowledging appeared before him and acknow-  
17 ledged he executed the instrument; and

18 (2) the person acknowledging was known to the person taking  
19 the acknowledgment or the person taking the acknowledgment had satis-  
20 factory evidence that the person acknowledging was the person described  
21 in and who executed the instrument.

22 Sec. 09.63.080. RECOGNITION OF CERTIFICATE OF ACKNOWLEDGMENT. The  
23 form of a certificate of acknowledgment used by a person whose authority  
24 is recognized under AS 09.63.010 or 09.63.050 shall be accepted in the  
25 state if

26 (1) the certificate is in a form prescribed by the laws or  
27 regulations of the state;

28 (2) the certificate is in a form prescribed by the laws or  
29 regulations applicable in the place in which the acknowledgment is

1 taken; or

2 (3) the certificate contains the words "acknowledged before  
3 me" or their substantial equivalent.

4 Sec. 09.63.090. CERTIFICATE OF ACKNOWLEDGMENT. The words "acknow-  
5 ledged before me" mean

6 (1) that the person acknowledging appeared before the person  
7 taking the acknowledgment;

8 (2) that the person acknowledging acknowledged that he exe-  
9 cuted the instrument;

10 (3) that, in the case of

11 (A) a natural person, the person acknowledging acknow-  
12 ledged that he executed the instrument for the purposes stated in  
13 it;

14 (B) an officer or agent of a corporation, the person  
15 acknowledging acknowledged that he held the position or title set  
16 out in the instrument and certificate, he signed the instrument on  
17 behalf of the corporation by proper authority, and the instrument  
18 was the act of the corporation for the purposes stated in it;

19 (C) a partner or agent of a partnership, the person  
20 acknowledging acknowledged that he signed the instrument on behalf  
21 of the partnership by proper authority and he executed the instru-  
22 ment as the act of the partnership for the purposes stated in it;

23 (D) a person acknowledging as a principal by an attorney  
24 in fact, the person acknowledging acknowledged that he executed  
25 the instrument by proper authority as the act of the principal for  
26 the purposes stated in it;

27 (E) a person acknowledging as a public officer, trustee,  
28 administrator, guardian, or other representative, the person  
29 acknowledging acknowledged that he signed the instrument in the

1 capacity and for the purposes stated in it; and

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

5 Sec. 09.63.100. FORMS OF ACKNOWLEDGMENT. (a) The forms of ack-  
6 nowledge ment set out in this subsection may be used and are sufficient  
7 for their respective purposes under a law of the state. The authoriza-  
8 tion of the forms in this section does not preclude the use of other  
9 forms.

10 (1) For an individual acting in his own right:

11 State of \_\_\_\_\_  
12 \_\_\_\_\_ Judicial District (or County of \_\_\_\_\_)

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

15 \_\_\_\_\_  
16 Signature of Person Taking Acknow-  
17 ledgment

18 \_\_\_\_\_  
19 Title or Rank

20 \_\_\_\_\_  
21 Serial Number, if any

22 (2) For a corporation:

23 State of \_\_\_\_\_  
24 \_\_\_\_\_ Judicial District (or County of \_\_\_\_\_)

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

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Signature of Person Taking Acknowledgment

\_\_\_\_\_  
Title or Rank

\_\_\_\_\_  
Serial Number, if any

(3) 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.

\_\_\_\_\_  
Signature of Person Taking Acknowledgment

\_\_\_\_\_  
Title or Rank

\_\_\_\_\_  
Serial Number, if any

(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).

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Signature of Person Taking Acknowledgment

\_\_\_\_\_

Title or Rank

\_\_\_\_\_

Serial Number, if any

(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) endorse after his signature the date of expiration of his commission;

(2) print or emboss his seal on the document;

(3) comply with AS 44.50.060 - 44.50.080 or other law.

Sec. 09.63.110. UNIFORMITY OF INTERPRETATION. AS 09.63.050 - 09.63.110 shall be interpreted as to make uniform the laws of those states which enact them.

Sec. 09.63.120. DEFINITION. In this chapter, "notarial acts" means acts which the laws and regulations of the state authorize nota-

1 ries public of the state to perform, including the administering of  
2 oaths and affirmations, taking proof of execution and acknowledgment of  
3 instruments, and attesting documents.

4 Sec. 09.63.130. TITLE. AS 09.63.050 - 09.63.100 may be cited as  
5 the Uniform Recognition of Acknowledgments Act.

6 \* Sec. 2. AS 34.15.150(a) is amended to read:

7 (a) A conveyance executed in the state of land or an interest in  
8 land in the state shall be acknowledged before a person authorized to  
9 take acknowledgments in AS 09.63.010 [JUDGE, CLERK OF THE SUPERIOR  
10 COURT, NOTARY PUBLIC, POSTMASTER, OR COMMISSIONER IN THE STATE] or  
11 proved in accordance with AS 34.15.210 or 34.15.220. The officer  
12 taking an acknowledgment shall endorse on it a certificate of the  
13 acknowledgment of the conveyance and the date of making the acknowledg-  
14 ment.

15 \* Sec. 3. AS 34.15.160 is amended to read:

16 Sec. 34.15.160. CONVEYANCES EXECUTED OUTSIDE THE STATE. If a  
17 conveyance is executed in a state, territory, or district of the United  
18 States, the conveyance may be executed according to the laws of that  
19 state, territory, or district, and the execution of the conveyance may  
20 be acknowledged under AS 09.63.050 - 09.63.130 [BEFORE A JUDGE OF A  
21 COURT OF RECORD, JUSTICE OF THE PEACE, NOTARY PUBLIC, OR OTHER OFFICER  
22 AUTHORIZED BY THE LAWS OF THAT STATE, TERRITORY, OR DISTRICT TO TAKE  
23 THE ACKNOWLEDGMENT OF CONVEYANCES OR BEFORE A COMMISSIONER APPOINTED  
24 FOR THAT PURPOSE].

25 \* Sec. 4. AS 34.15.180 is amended to read:

26 Sec. 34.15.180. EXECUTION AND ACKNOWLEDGMENT OF CONVEYANCE IN  
27 FOREIGN COUNTRY. If a conveyance is executed in a foreign country it  
28 may be executed according to the laws of that country and the execution  
29 of it acknowledged under AS 09.63.050 - 09.63.130 [AS PROVIDED IN

1 AS 40.10.010 - 40.10.050].

2 \* Sec. 5. A notarial act performed before the effective date of this Act  
3 is not affected by AS 09.63.050 - 09.63.100 as enacted in sec. 1 of this  
4 Act. Nothing in AS 09.63.050 - 09.63.100 as enacted in sec. 1 of this Act  
5 diminishes or invalidates the recognition accorded to notarial acts by other  
6 laws or regulations of this state.

7 \* Sec. 6. AS 09.65.010 - 09.65.012; AS 34.15.170, 34.15.190 - 34.15.200;  
8 AS 40.10, and AS 44.53 are repealed.

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