

CS FOR HOUSE BILL NO. 394 (L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Offered: 2/14/92

Referred: Judiciary

Sponsor(s): REPRESENTATIVE GRUENBERG

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to notaries; and providing for an effective date."**

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

3 *** Section 1. AS 09.63.030(c) is amended to read:**

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

6 (1) endorse after the signature of the notary public

7 (A) the date of expiration of the notary's commission;

8 (B) the date of the notarization;

9 (C) the city and state where the notarization was performed; and

10 (D) the fact that the notarization was entered on the date of
11 notarization in the journal maintained by the notary under AS 44.50.095;

12 (2) place [PRINT OR EMBOSS] the notary's seal on the document;

13 (3) comply with AS 44.50 [AS 44.50.060 - 44.50.080] or other applicable law.

14 *** Sec. 2. AS 09.63.040(d) is repealed and reenacted to read:**

1 (d) If the verification is sworn to or affirmed before a notary public of the state, the
2 notary public shall comply with AS 09.63.030(c).

3 * Sec. 3. AS 09.63.100(b) is repealed and reenacted to read:

4 (b) If a document is acknowledged before a notary public of the state, the notary public
5 shall comply with AS 09.63.030(c).

6 * Sec. 4. AS 44.50.020 is amended by adding a new subsection to read:

7 (b) A person may not be appointed and commissioned a notary public under
8 AS 44.50.010 if the person has been convicted within five years before the appointment of a
9 crime involving dishonesty.

10 * Sec. 5. AS 44.50.060 is amended to read:

11 Sec. 44.50.060. DUTIES. A notary public shall

12 (1) when requested, demand acceptance and payment of foreign and inland bills
13 of exchange, or promissory notes, protest them for nonacceptance and nonpayment, and exercise
14 the other powers and duties that by the law of nations and according to commercial usages, or
15 by the laws of any other state, government, or country, may be performed by notaries;

16 (2) take the acknowledgment or proof of powers of attorney, mortgages, deeds,
17 grants, transfers, and other instruments of writing, and give a certificate of the proof or
18 acknowledgment, endorsed on or attached to the instrument; [THE CERTIFICATE SHALL BE
19 SIGNED BY THE NOTARY IN THE NOTARY'S OWN HANDWRITING;]

20 (3) take depositions and affidavits, and administer oaths and affirmations, in all
21 matters incident to the duties of the office, or to be used before a court, judge, officer, or board
22 in the state;

23 **(4) keep a journal under AS 44.50.095 of the notarial acts performed by the**
24 **notary** [A DEPOSITION, AFFIDAVIT, OATH, OR AFFIRMATION SHALL BE SIGNED BY
25 THE NOTARY IN THE NOTARY'S OWN HANDWRITING, AND THE NOTARY SHALL
26 ENDORSE AFTER THE SIGNATURE THE DATE OF EXPIRATION OF THE NOTARY'S
27 COMMISSION].

28 * Sec. 6. AS 44.50.060 is amended by adding a new subsection to read:

29 (b) When a notarial act requires the signature of a notary, the notary shall sign the
30 document and comply with AS 09.63.030(c).

31 * Sec. 7. AS 44.50 is amended by adding a new section to read:

1 Sec. 44.50.065. DISQUALIFICATIONS. A notary is disqualified from performing a
2 notarial act if the notary

3 (1) is a signer of or named in the document that is to be notarized;

4 (2) will receive directly from a transaction connected with the notarial act a
5 commission, fee, advantage, right, title, interest, cash, property, or other consideration exceeding
6 in value the normal fee charged by the notary for the notarial act; or

7 (3) is related to the person whose signature is to be notarized as a spouse, sibling,
8 or lineal ascendant or descendant to the second degree of kindred.

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

10 Sec. 44.50.072. IMPARTIALITY. (a) A notary may not influence a person to enter or
11 not enter into a lawful transaction involving a notarial act by the notary.

12 (b) A notary shall perform notarial acts in lawful transactions for a requesting person
13 who tenders the fee charged by the notary, if a fee is required by the notary, unless the notary
14 has stated a reason for refusal and recorded that reason in the journal as required by
15 AS 44.50.095(c).

16 Sec. 44.50.074. FALSE CERTIFICATE. A notary may not execute a certificate
17 containing a statement known by the notary to be false or perform an official action with intent
18 to deceive or defraud.

19 Sec. 44.50.076. TESTIMONIALS. A notary may not endorse or promote a product,
20 service, contest, or other offering if the notary's title or seal is used in the endorsement or
21 promotional statement.

22 Sec. 44.50.078. UNAUTHORIZED PRACTICE. (a) A notary who is not an attorney
23 may complete but may not select notarial certificates, and may not assist another person in
24 drafting, completing, selecting, or understanding a document or transaction requiring a notarial
25 act.

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

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

31 * Sec. 9. AS 44.50.080(b) is repealed and reenacted to read:

1 (b) A notary public seal must be on a stamp, contain the information required by (a) of
2 this section, and be printed in black ink. The seal may be circular and not over two inches in
3 diameter, or may be rectangular and not over an inch wide and two and one-half inches long.

4 * Sec. 10. AS 44.50 is amended by adding a new section to read:

5 Sec. 44.50.095. NOTARY JOURNAL. (a) A notary public shall maintain and preserve
6 a chronological, permanently bound journal of the notarial acts performed by the notary.

7 (b) When a notary performs a notarial act, the notary shall record in the journal at the
8 time of the notarial act at least

9 (1) the date and time of day of the notarial act;

10 (2) the type of notarial act;

11 (3) a description of the document or proceeding that is the subject of the notarial
12 act;

13 (4) the name and address of each person for whom a notarial act is performed;

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15 (5) a description of the evidence used to identify each person for whom a notarial
16 act is performed;

17 (6) the fee, if any, charged for the notarial act, and

18 (7) the address where the notarial act was performed if the notarial act was not
19 performed at the notary's business address.

20 (c) If a notary refuses to perform or complete a notarial act because the particular act
21 cannot be performed or completed in compliance with this chapter, the notary may record the
22 circumstances of the refusal in the journal.

23 (d) The journal is an official record that is available at reasonable times and in the
24 notary's presence for public inspection or reproduction. A notary may charge a fee for
25 reproducing pages of the journal.

26 (e) A notary shall keep the journal in the exclusive custody of the notary. The journal
27 of a notary may not be used by another notary.

28 * Sec. 11. AS 44.50.100 is amended to read:

29 Sec. 44.50.100. RETURN OF PAPERS TO LIEUTENANT GOVERNOR. If a notary
30 public dies, resigns, is disqualified, removed from office, or permanently moves [OR
31 REMOVES] from the state, or if a notary public's commission is not reissued when it expires,

1 [ALL] the notary's seal, journal, and other public papers that are related to the notary
2 commission shall be delivered to the office of the lieutenant governor.

3 * Sec. 12. AS 44.50.110 is amended to read:

4 Sec. 44.50.110. APPLICATION OF ADMINISTRATIVE PROCEDURE ACT [TO
5 REVOCATION OF NOTARY COMMISSION]. The procedures set out in the Administrative
6 Procedure Act (AS 44.62) shall be followed in the revocation of the commission of a notary
7 public and in the adoption of regulations under this chapter.

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

9 Sec. 44.50.185. REGULATIONS AND HANDBOOK. (a) The lieutenant governor may
10 adopt regulations to carry out the purposes of this chapter. The regulations must include
11 standards for the revocation of the commission of a notary.

12 (b) The lieutenant governor shall produce a handbook for notaries and distribute the
13 handbook to each person who is appointed and commissioned a notary public under this chapter.
14 The handbook must contain a summary of the provisions of this chapter and the regulations
15 adopted under this chapter.

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

17 Sec. 44.50.200. DEFINITION. In this chapter, "notary" means notary public.

18 * Sec. 15. TRANSITIONAL PROVISION. Notwithstanding AS 44.50.080(b), amended by sec. 9
19 of this Act, a person who has a valid notary public commission on July 1, 1992, may use a stamp with
20 an ink color other than black or a seal press until the person's commission that is in effect on July 1,
21 1992, terminates.

22 * Sec. 16. This Act takes effect July 1, 1992.