

HOUSE BILL NO. 92

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE THERRIAULT

Introduced: 1/27/93

Referred: Labor & Commerce, Judiciary

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,  
5 the notary 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;

10 and

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

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

14 (3) comply with AS 44.50 [AS 44.50.060 - 44.50.080] or other

1 applicable law.

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 AS 09.63.040(d) is repealed and reenacted to read:

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

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 AS 09.63.100(b) is repealed and reenacted to read:

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

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

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

12 \* Sec. 5. AS 44.50.060 is amended to read:

13 Sec. 44.50.060. DUTIES. A notary public shall

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

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

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

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

1 \* Sec. 6. AS 44.50.060 is amended by adding a new subsection to read:  
2 (b) When a notarial act requires the signature of a notary, the notary shall sign  
3 the document and comply with AS 09.63.030(c).

4 \* Sec. 7. AS 44.50 is amended by adding a new section to read:  
5 Sec. 44.50.065. DISQUALIFICATIONS. A notary is disqualified from  
6 performing a notarial act if the notary

- 7 (1) is a signer of or named in the document that is to be notarized;
- 8 (2) will receive directly from a transaction connected with the notarial  
9 act a commission, fee, advantage, right, title, interest, cash, property, or other  
10 consideration exceeding in value the normal fee charged by the notary for the notarial  
11 act; or
- 12 (3) is related to the person whose signature is to be notarized as a  
13 spouse, sibling, or lineal ascendant or descendant to the second degree of kindred.

14 \* Sec. 8. AS 44.50 is amended by adding new sections to read:  
15 Sec. 44.50.072. IMPARTIALITY. (a) A notary may not influence a person  
16 to enter or not enter into a lawful transaction involving a notarial act by the notary.

17 (b) A notary shall perform notarial acts in lawful transactions for a requesting  
18 person who tenders the fee charged by the notary, if a fee is required by the notary,  
19 unless the notary has stated a reason for refusal.

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

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

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

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

1 that professional field.

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

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

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

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

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

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

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

16 (2) the type of notarial act;

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

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

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

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

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

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

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

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

3 \* Sec. 11. AS 44.50.100 is amended to read:

4 Sec. 44.50.100. RETURN OF PAPERS TO LIEUTENANT GOVERNOR. If  
5 a notary public dies, resigns, is disqualified, removed from office, or permanently  
6 moves [OR REMOVES] from the state, or if a notary public's commission is not  
7 reissued when it expires, [ALL] the notary's seal, other public papers that are  
8 related to the notary commission, and a copy of the notary's journal shall be  
9 delivered to the office of the lieutenant governor.

10 \* Sec. 12. AS 44.50.110 is amended to read:

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

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

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

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

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

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

26 \* Sec. 15. TRANSITIONAL PROVISION. Notwithstanding AS 44.50.080(b), amended  
27 by sec. 9 of this Act, a person who has a valid notary public commission on July 1, 1993,  
28 may use a stamp with an ink color other than black or a seal press until the person's  
29 commission that is in effect on July 1, 1993, terminates.

30 \* Sec. 16. This Act takes effect July 1, 1993.