

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 92
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE THERRIAULT

Introduced: 2/1/93

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; and

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

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

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

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 AS 09.63.040(d) is repealed and reenacted to read:

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

1 state, the notary public shall comply with AS 09.63.030(c).

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 AS 09.63.100(b) is repealed and reenacted to read:

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

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

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

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

10 Sec. 44.50.060. DUTIES. A notary public shall

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 (1) the date of the notarial act;

13 (2) the type of notarial act;

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

16 (4) the name, address, and signature of each person for whom a notarial
17 act is performed;

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

20 (6) whether a fee is charged for the notarial act.

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

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

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

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

30 Sec. 44.50.100. RETURN OF PAPERS TO LIEUTENANT GOVERNOR. If
31 a notary public dies, resigns, is disqualified, removed from office, or permanently

1 moves [OR REMOVES] from the state, or if a notary public's commission is not
2 reissued when it expires, [ALL] the notary's seal, other public papers that are
3 related to the notary commission, and a copy of the notary's journal shall be
4 delivered to the office of the lieutenant governor.

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

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

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

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

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

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

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

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

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