

**CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 92(JUD)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**EIGHTEENTH LEGISLATURE - FIRST SESSION**

**BY THE HOUSE JUDICIARY COMMITTEE**

**Offered: 4/15/93**

**Referred: Rules**

**Sponsor(s): REPRESENTATIVE THERRIAULT**

**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 EMOSS] 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 AS 09.63.040(d) is repealed and reenacted to read:**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 AS 09.63.100(b) is repealed and reenacted to read: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 applying for  
8 the appointment of a crime involving theft, dishonesty, fraud, deceit, or  
9 misrepresentation.

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  
13 inland bills of exchange, or promissory notes, protest them for nonacceptance and  
14 nonpayment, and exercise the other powers and duties that by the law of nations and  
15 according to commercial usages, or by the laws of any other state, government, or  
16 country, may be performed by notaries;

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

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

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

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

31 (b) When a notarial act requires the signature of a notary, the notary shall sign

1 the document and comply with AS 09.63.030(c).

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

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

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

6 (2) will receive directly from a transaction connected with the notarial  
7 act a commission, advantage, right, title, interest, cash, property, or other consideration  
8 exceeding in value the normal fee charged by the notary for the notarial 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 notary may not influence a person to  
13 enter or not enter into a lawful transaction involving a notarial act by the notary.

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

17 Sec. 44.50.076. TESTIMONIALS. A notary may not use the notary's title or  
18 seal to endorse or promote a product, service, contest, or other offering.

19 Sec. 44.50.078. UNAUTHORIZED PRACTICE. (a) Unless the notary is an  
20 attorney, a notary may not select a notarial certificate, assist another person to select,  
21 draft, or understand a notarial certificate, or assist another person to understand a  
22 transaction requiring a notarial act.

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

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

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

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

1 and one-half inches long.

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

3 Sec. 44.50.095. NOTARY JOURNAL. (a) A notary public shall maintain and  
4 preserve a chronological, permanently bound journal of the notarial acts performed  
5 by the notary and shall retain the journal for a minimum of six years after the date of  
6 the last entry in the journal.

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

- 9 (1) the date 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  
12 the notarial act;  
13 (4) the name, address, and signature of each person for whom a notarial  
14 act is performed; and  
15 (5) a description of the evidence used to identify each person for whom  
16 a notarial act is performed.

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

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

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

25 \* Sec. 11. AS 44.50.100 is repealed and reenacted to read:

26 Sec. 44.50.100. ADDRESS PROVIDED TO OFFICE OF LIEUTENANT  
27 GOVERNOR. If a notary public resigns, is disqualified, is removed from office, or  
28 permanently moves from the state, or if a notary public's commission is not reissued  
29 when it expires, the notary shall inform the office of the lieutenant governor of the  
30 notary's current address. If a notary public dies, the next of kin or the personal  
31 representative of the notary shall notify the office of the lieutenant governor of the

1 address where the notary's seal and public papers related to the notary commission are  
2 located.

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

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

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

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

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

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

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

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

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