

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 92(JUD) am
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Amended: 4/20/93

Offered: 4/15/93

Sponsor(s): REPRESENTATIVES THERRIAULT, Ulmer

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 AS 09.63.040(d) is repealed and reenacted to read:**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 AS 09.63.100(b) is repealed and reenacted to read: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 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; or

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

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

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

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

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

16 Sec. 44.50.078. UNAUTHORIZED PRACTICE. A notary may not make
17 representations to have powers, qualifications, rights, or privileges that the office of
18 notary does not have.

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 AS 44.50.080(b) is repealed and reenacted to read:

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

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

25 Sec. 44.50.095. NOTARY JOURNAL. (a) A notary public shall maintain and
26 preserve a chronological, permanently bound journal of the notarial acts performed
27 by the notary and except as provided in AS 44.50.100 shall retain the journal for a
28 minimum of six years after the date of the last entry in the journal.

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

31 (1) the date of the notarial act;

- 1 (2) the type of notarial act;
2 (3) a description of the document or proceeding that is the subject of
3 the notarial act;
4 (4) the name, address, and signature of each person for whom a notarial
5 act is performed; and
6 (5) a description of the evidence used to identify each person for whom
7 a notarial act is performed.

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

11 (d) The journal is an official record that is available at reasonable times and
12 in the notary's presence for public inspection or reproduction. A notary may charge
13 a fee for reproducing pages of the journal. The fee shall be established under
14 AS 09.25.110 insofar as it relates to public officers having custody of public records.

15 (e) A notary shall keep the journal in the exclusive custody of the notary
16 except as provided in AS 44.50.100. The journal of a notary may not be used by
17 another notary.

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

19 Sec. 44.50.100. ADDRESS PROVIDED TO OFFICE OF LIEUTENANT
20 GOVERNOR. If a notary public resigns, is disqualified, is removed from office, or
21 permanently moves from the state, or if a notary public's commission is not reissued
22 when it expires, the notary shall inform the office of the lieutenant governor of the
23 notary's current address and may surrender the notary's seal and journal to the
24 lieutenant governor. If a notary public dies, the next of kin or the personal
25 representative of the notary shall notify the office of the lieutenant governor of the
26 address where the notary's seal and public papers related to the notary commission are
27 located and may surrender the notary's seal and journal to the lieutenant governor.

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

29 Sec. 44.50.110. APPLICATION OF ADMINISTRATIVE PROCEDURE ACT
30 [TO REVOCATION OF NOTARY COMMISSION]. The procedures set out in the
31 Administrative Procedure Act (AS 44.62) shall be followed in the revocation of the

1 commission of a notary public and in the adoption of regulations under this
2 chapter.

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

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

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

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

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

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

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