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ALASKA CODE REVISION COMMISSION



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ALASKA STATE LEGISLATURE
POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
(907) 465-4878

EXECUTIVE SECRETARY
BILLY G. BARRIER

MEMORANDUM

TO: Representative Fred Brown, Chairman
House Judiciary Committee

FROM: Dickerson Regan, Consultant *Dick Regan*
Alaska Code Revision Commission

DATE: March 3, 1981

RE: SB 80--Oath, affirmation, acknowledgment,
notarization and verification.

I am informed SB 80 is scheduled for consideration by the House Judiciary Committee Wednesday, March 4.

The Alaska Code Revision Commission discussed the referenced bill at its meeting February 24th. It suggests that the Committee propose minor amendments to the bill to restore uniform wording in places where stylistic editing and retyping in the Legislative Affairs Agency had resulted in more than stylistic changes. (The change of "any other" to "a" is the only change noted at the time of the meeting. The other changes are of the same type and are offered for the Committee's consideration):

Page 4, line 4: Following "or" delete "a" and insert "any other" in its place.

Page 4, line 8: Following "or" delete "a" and insert "any other" in its place.

Page 4, line 10: Following "United State." insert "or his dependents".

Page 4, line 11: Following "United States" delete ", a" and insert "or his dependents, any other" in its place.

Page 4, line 12: following "United States" delete the comma.

Page 4, line 13: Following "(5)" delete "a" and insert "any other" in its place.

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Page 4, line 19: Following "if" delete "appropriate" and insert "any" in its place.

Page 4, line 20: Following "a" delete "person" and insert "holder of that rank or title" in its place.

Page 7, line 3: Following "acknowledging" delete "is" and insert "was" in its place.

The proposed changes are in the part of the bill taken from the Uniform Recognition of Acknowledgments Act. They would return this section of the bill to the general form in which it was drafted by the commission, which is also the general form of the Uniform Recognition of Acknowledgments Act.

The term "a" was substituted for "any other" when the bill was retyped in the Legislative Affairs Agency. Although the term "a" is preferred to the term "any" in Alaska's drafting style, substituting "a" for "any other" in each of the places noted above has created a redundancy. In each instance it is comparable to listing three categories of apples:

- (1) a red apple
- (2) a yellow apple
- (3) an apple

when the intent is to spell out two specific kinds and a third category--any other kind.

Although probably is has no substantive effect, changing the "a" back to "any other" would clear up the redundancy problem.

Another change that was made when the bill was retyped in Legislative Affairs resulted from an effort to eliminate a mid-sentence colon (p. 4, lines 10, 11, 12). Although the colon is in the commission's draft bill and in the uniform act, it is not favored drafting form and it is appropriate to try to avoid its use. In the resulting form of 050 in the bill, however, it is not clear that "or his dependents" is intended to modify all three categories that precede it. The proposed amendment would make this clear but would continue the elimination of the colon in mid-sentence since that is a desirable stylistic change.

The proposed change in 060 of the bill (p. 4, lines 19-20) would also change the bill back to its form before it was retyped. The original wording "if any", is more definite than "if appropriate" and should be used. Substitution, during retyping, of "a person" for "a holder of that rank or title" leaves confusion between subsections (a), and (d). In the uniform act and the commission's

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draft bill, (a) sets out what is sufficient proof that a holder of an office (within specified categories) can perform a notarial act; (d) creates a rebuttable presumption (i.e., prima facie evidence) that the person who performed the notarial act had the title he designated and his signature is genuine. The form of the uniform act seems preferable, using the term "person" only in (d).

The final amendment to the bill proposed above (090, p. 7, line 3) is just to return all of 090(4) to the past tense. The retyped form of the bill seems comparable to saying, "He knew the person then acknowledging is George Washington." The uniform act and the commission's draft bill would keep it all in the past tense.

Each amendment proposed in this memorandum would restore uniform language where editorial change made during retyping were somewhat more than stylistic changes.

The commission would appreciate consideration of these suggestions by the Judiciary Committee.

CODE REVISION COMMISSION



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SECRETARY
WILLIAM T. BERT

MEMORANDUM

TO: Chairman, Alaska Legislative Council

FROM: John W. Abbott, Chairman *John W. Abbott*
Alaska Code Revision Commission

DATE: January 9, 1981

RE: Bill on oath, affirmation, acknowledgment,
notarization and verification

Pursuant to the authority granted in AS 24.20.075(c), the Alaska Code Revision Commission has prepared the attached bill on oath, affirmation, acknowledgment, notarization and verification and asks that it be introduced in the legislature.

The need for statutory treatment of these subjects became apparent during the commission's consideration of the state's recording law. The terms are frequently encountered in Alaska Statutes, but neither a clear definition nor recommended forms are provided. The enclosed bill would take care of the deficiency.

Much of the attached bill is the Uniform Recognition of Acknowledgments Act, drafted by the National Conference of Commissioners on Uniform State Laws. The history of this Act and the Uniform Acknowledgments Act is set out in the attached comments. The last Alaska uniform legislation in this general area was enacted in 1915.

This bill was submitted to the council on February 21, 1980.

JWA:dr:chw

cc: Hon. Jay S. Hammond, Governor
Hon. Jay A. Rabinowitz, Chief Justice
Myrton R. Charney, Executive Director
Legislative Affairs Agency

Enclosures

COMMENTARY TO ACCOMPANY
BILL ON
OATH, AFFIRMATION, ACKNOWLEDGMENT,
NOTARIZATION AND VERIFICATION

For general background, following is a brief history of uniform laws on acknowledgment. It is followed by a section analysis of the attached bill.

General Background

Although acknowledgments have long been recognized as an ideal subject for uniformity among the states, Alaska has lagged far behind in this area.

In 1892 the Conference of Commissioners on Uniform State Laws adopted an Act for the acknowledgment and execution of written instruments, the Uniform Acknowledgment Act. It was generally revised in 1939 and was further revised in 1942, 1949 and 1960. Alaska has never adopted it.

In 1914 the Conference adopted an Act for the acknowledgment of written instruments taken outside the United States, the Uniform Foreign Acknowledgments Act, which was enacted in Alaska as ch. 66, SLA 1915 and now is codified as AS 40.10. Although the Uniform Foreign Acknowledgments Act was withdrawn by the Conference in 1943, it still is retained in Alaska law.

In 1968 the conference brought out a new act called the "Uniform Recognition of Acknowledgments Act". The act covers most of the same ground as the "Uniform Acknowledgment Act", dealing both with in-state and out-of-state acknowledgments.

When the conference put out its most recent "Summaries of Uniform Acts Currently Recommended for Adoption", it listed the "Recognition" Act for adoption but categorized the "Uniform Acknowledgment Act" as "being revised or considered for revision at this time".

There is reason to believe the two uniform acts will merge into one, using the general format of the 1968 "Recognition" Act.

Organization of the bill

In this bill the overlapping subject matter of the two uniform acts is covered by a section on who can acknowledge in the state (see Sec. 010) coupled with adoption of the entire "Recognition" Act (see Sec. 050 - 130).

The sections between 020 - 040 extend the subject matter of the bill beyond acknowledgments, serve to perpetuate existing "under penalty of perjury" certification of certain documents and clarify what is an acceptable form of "notarization" and "verification", terms that are used throughout Alaska Statutes.

Section analysis

Sec. 010 lists who can acknowledge in Alaska. To the persons who can take an acknowledgment in Alaska is added a commissioned officer. This category is not in the "Uniform Acknowledgment Act" but is in the "Recognition" Act.

Sec. 020 is an existing section (AS 09.65.020) which permits substitution of a signature "under penalty of perjury" for an oath given before a notary in some limited circumstances.

Sections 030 and 040 are definitions of notarization and verification based upon the common meanings of the terms.

Sections 050 - 130 are the Uniform Recognition of Acknowledgments Act. Sec. 050 recognizes foreign acknowledgments and covers the general area covered by the 1914 Uniform Foreign Acknowledgments Act, AS 40.10, which would be superceded by this uniform act section.

Sec. 060(a), (b) and (c) provide what will suffice to prove the authority of a designated office holder to take an acknowledgment. A final sentence in (a) reading "Further proof of his authority is not required" is omitted in this bill because it is surplusage. No substantive effect is intended by the omission. (d) of the subsection distinguishes proof of the authority of the holder of the office from proof of the genuineness of the signature and the genuineness of the claim that the person is an officer.

Form requirements, which are generally minimal, are covered by section 070 and 080.

Sec. 090 defines what is meant by the short-form phrase. "acknowledged before me". The general treatment is the same as the treatment of statutory short forms of deeds under AS 34.15.040.

Sec. 100 provides the statutory short form for acknowledgments made by persons acting in various capacities.

Sections 110 - 130 are the savings clause, uniformity, and

title sections expected in uniform acts.

Bill sections 2, 3 and 4 near the end of the bill are technical amendments to correct references and avoid duplication in the real property title.

The repeal of AS 09.65.010 - 09.65.020 at the end of the draft is needed to remove the subject matter of oaths to this new chapter.

Repeal of AS 34.15.170 is to avoid duplication with AS 09.63.060 in section 1 of the bill. (The section being repealed is erroneously titled; it covers authentication, not acknowledgment.) Repeal of AS 34.15.190 is to avoid retention of a section on acknowledgment by married persons that is no longer necessary. Repeal of AS 34.15.200 is to avoid duplication with AS 09.63.070 in section 1 of the bill; for notaries the section is also duplicated by existing AS 44.50.070. In a separate bill on recording the commission is proposing more far reaching amendments and repeals in these and other sections of AS 34.15. However, the treatment of AS 34.15 here is minimal, encompassing only what is necessary in order to make this bill a complete unit not dependant upon passage of any other bill.

The repeal of AS 40.10 is a repeal of the 1914 version of the Uniform Foreign Acknowledgments Act which is superceded by this bill.

AS 44.53 also is repealed. It is a chapter permitting the governor to appoint commissioners to serve as Alaska notaries in other states. The chapter is not necessary when foreign acknowledgments are recognized, as they are under existing AS 40.10 and would be under this bill. The governor's office can find no record of commissioners having been appointed under AS 44.53.

than \$200. A new or an additional undertaking may be ordered by the court upon proof that the original undertaking is insufficient in amount or security. (§ 5.12 ch 101 SLA 1962; am § 1 ch 3 SLA 1971)

This section is substantive. *Ware v. City of Anchorage*, Sup. Ct. Op. No. 477 (File No. 882), 439 P.2d 793 (1968).

It creates new right and new liability.—This section creates a new right in the resident defendant and a new liability in the nonresident plaintiff which are separate and apart from, and go beyond, the procedure of computing and assessing costs and attorney's fees. *Ware v. City of Anchorage*, Sup. Ct. Op. No. 477 (File No. 882), 439 P.2d 793 (1968).

ALR and C.J.S. references.—Waiver of statute or court rule declaring nonresident plaintiff to give security for cost, 8 ALR 1510.

Statute regarding security for cost as mandatory or permitting exercise of discretion, 84 ALR 252.

Nonresident's duty to furnish security for costs as affected by joinder or addition of resident, 158 ALR 737. 20 C.J.S. Costs § 125 et seq.

Chapter 65. Miscellaneous Provisions.

Section

- 10. Officers authorized to administer oaths or affirmations
- 12. Certification of documents
- 20. Successive actions
- 30. Corporate sureties
- 40. Parties exempt from giving bond
- 50. Death or disability of a party
- 60. Defense not prejudiced by assignment

Section

- 70. Suits against incorporated units of local government
- 80. Suits by incorporated units of local government
- 90. Civil liability for emergency aid
- 100. Civil liability for examination or treatment of minors

Sec. 09.65.010. Officers authorized to administer oaths or affirmations. Every justice, judge, magistrate, clerk of a court, notary public, United States postmaster, and the commanding officer of a vessel of the United States Coast Guard may administer oaths or affirmations. (§ 3.09 cl. 101 SLA 1962)

ALR and C.J.S. references.—Disqualification of official empowered to administer oath, where he is attorney

for person taking oath, 74 ALR 771. 67 C.J.S. Oaths and Affirmations § 5.

Sec. 09.65.012. Certification of documents. (a) A matter required or authorized to be supported, evidenced, established, or proved by the sworn statement, declaration, verification, certificate, oath, or affidavit, in writing of the person making it (other than a deposition, an acknowledgement, or an oath of office, or an oath required to be taken before a specified official other than a notary public), may be supported, evidenced, established, or proved, by the person certifying in writing "under penalty of perjury" that the matter is true and accurate. The certification shall state the date and place of execution, the fact that no notary public or other official empowered to administer oaths is available, and the following:

"I certify under penalty of perjury that the foregoing is true and accurate."

(b) A person who wilfully and falsely executes a certification under penalty of perjury is guilty of perjury. (§ 1 ch 58 SLA 1970)

Legislative committee report.—For report on ch. 58, SLA 1970 (HCSSB 481), see 1970 House Journal, p. 716.

Sec. 09.65.020. Successive actions. Successive actions may be maintained upon the same contract or transaction when a new cause of action arises under the contract. (§ 5.01 ch 101 SLA 1962)

Cross reference. — See Civ. R. 8; 13(e).

Sec. 09.65.030. Corporate sureties. When, by the laws of the state or by a charter, ordinance, rule, or regulation of a political subdivision, municipality, public corporation, or by a board, body, organization, court, or judge, a recognizance, stipulation, bond, undertaking, or bail in an action, suit, proceeding, or matter conditioned for the faithful performance of an act or duty or for the doing of an act or thing is permitted or required to be given with one or more sureties, it is sufficient compliance if the instrument is executed by a corporation which has complied with the laws of the state and is authorized by law to act as surety upon instruments and in proceedings, actions, suits, and matters as set out in this section. (§ 5.02 ch 101 SLA 1962)

Cross reference.—See Civ. R. 80(a).

Sec. 09.65.040. Parties exempt from giving bond. In an action or proceeding in a court in which the state is a party or in which the state is interested, no bond or undertaking is required of the state or an officer of the state. (§ 5.03 ch 101 SLA 1962)

Sec. 09.65.050. Death or disability of a party. In case of the death or disability of a party to an action, the court may at any time within two years after the death or disability, on motion, allow the action to be continued by or against his personal representatives or successor in interest. (§ 5.06 ch 101 SLA 1962)

The substitution of a new party is generally effected by motion, which should ordinarily be made by the party in interest. *Nome & Sinook Co. v. Ames Mercantile Co.*, 187 F. 928 (9th Cir. 1911).

Case continues from point where original party left off.—As a general rule, the substituted party takes up the prosecution or defense at the point where the original party left off, and the pleadings already filed inure to the benefit of the new party.

Nome & Sinook Co. v. Ames Mercantile Co., 187 F. 928 (9th Cir. 1911).

Better practice is to direct substituted party to file supplemental pleading.—The substitution having been allowed, probably the better practice would be for the court to direct the substituted party to file a supplemental complaint, showing the transfer and his right to continue the action, or for such party to obtain leave to file such a complaint; but the mere omission to file such a com-

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include a lease. *Smalley v. Juneau Clinic Bldg. Corp.*, Sup. Ct. Op. No. 766 (File Nos. 1310, 1311), 493 P.2d 1296 (1972).

Hence, this section applies to a lease for a term of years. *Smalley v. Juneau Clinic Bldg. Corp.*, Sup. Ct. Op. No. 766 (File Nos. 1310, 1311), 493 P.2d 1296 (1972).

A lease is not void as between the parties to it by reason of noncompliance with the acknowledgment statute. *Smalley v. Juneau Clinic Bldg. Corp.*, Sup. Ct. Op. No. 766 (File Nos. 1310, 1311), 493 P.2d 1296 (1972).

Failure to comply with the mandatory acknowledgment requirement of subsection (a) of this section, while affecting recordation and admissibility, does not have the effect of making the conveyance void as between the parties. *Smalley v. Juneau Clinic Bldg. Corp.*, Sup. Ct. Op. No. 766 (File Nos. 1310, 1311), 493 P.2d 1296 (1972).

But recordation thereof is precluded. — Failure to comply with the acknowledgment requirement does not

make an instrument invalid as between the parties to it, but rather only precludes its recordation and thus its effectiveness as against third persons. *Smalley v. Juneau Clinic Bldg. Corp.*, Sup. Ct. Op. No. 766 (File Nos. 1310, 1311), 493 P.2d 1296 (1972).

And admissibility affected. — Under AS 34.15.260 an unacknowledged conveyance cannot be recorded and may not be read in evidence without further proof of the conveyance. *Smalley v. Juneau Clinic Bldg. Corp.*, Sup. Ct. Op. No. 766 (File Nos. 1310, 1311), 493 P.2d 1296 (1972).

But action may not be maintained on defectively executed lease. — See same catchline in note to AS 34.15.010.

Cited in *Waskey v. Chambers*, 224 U.S. 564, 32 S. Ct. 597, 56 L. Ed. 885 (1912).

Am. Jur. and ALR references. — 1 Am. Jur., Acknowledgments, § 1 et seq.; 16 Am. Jur., Deeds, § 89 et seq.

Signing deed with lead pencil, 8 ALR 1339.

Sec. 34.15.160. Conveyances executed outside the state. If a conveyance is executed in a state, territory, or district of the United States, the conveyance may be executed according to the laws of that state, territory, or district, and the execution of the conveyance may be acknowledged before a judge of a court of record, justice of the peace, notary public, or other officer authorized by the laws of that state, territory, or district to take the acknowledgment of conveyances or before a commissioner appointed for that purpose. (§ 22-3-10 ACLA 1949; am § 2 ch 12 SLA 1966)

Quoted in *Alaska Exploration Co. v. Northern Mining & Trading Co.*, 152 F. 145 (9th Cir. 1907).

Sec. 34.15.170. Certificate of acknowledgment. (a) In a case provided for in § 160 of this chapter, the conveyance shall have attached to it a certificate of the clerk or other certifying officer of a court of record of the county or district where the acknowledgment is taken, under the seal of his office, that

(1) the person whose name is subscribed to the certificate of acknowledgment is, at the date of the certificate, the officer he is represented to be in the certificate;

(2) he believes the signature of the person subscribed to the certificate is genuine;

(3) the conveyance is executed and acknowledged according to the laws of the state, territory, or district.

(b) The provisions of (a) of this section do not apply where the acknowledgment is taken before

(1) a commissioner appointed for that purpose;

- (2) a notary public certified under his notarial seal; or
 - (3) the clerk of a court of record certified under the seal of the court.
- (§ 22-3-11 ACLA 1949; am § 3 ch 12 SLA 1966)

Am. Jur. and ALR references. — 1 Certificate of acknowledgment, 29 ALR 921; 72 ALR 1290.
Am. Jur., Acknowledgments, § 70 et seq.

Sec. 34.15.180. Execution and acknowledgment of conveyance in foreign country. If a conveyance is executed in a foreign country it may be executed according to the laws of that country and the execution of it acknowledged as provided in AS 40.10.010 — 40.10.050. (§ 22-3-12 ACLA 1949; am § 18 ch 70 SLA 1964; am § 4 ch 12 SLA 1966)

Sec. 34.15.190. Acknowledgment by a married person. The acknowledgment of a married person to a convenience of real property in this state is taken in the same manner as if the person were unmarried. (§ 22-3-13 ACLA 1949; am § 104 ch 127 SLA 1974)

Effect of amendment. — The 1974 for "married woman" and "the person" for amendment substituted "married person" "she."

Sec. 34.15.200. Officer's knowledge of grantor's identity. No acknowledgment of an executed conveyance may be taken by an officer unless he knows or has satisfactory evidence that the person making the acknowledgment is the individual described in and executing the conveyance. (§ 22-3-15 ACLA 1949)

Compliance presumed. — It is presumed that the officer taking the acknowledgment complied with this section. *Coates v. Smith*, 81 Ore. 556, 160 P. 517 (1916), construing the Oregon statute.

Am. Jur. and ALR references. — 1 Am. Jur., Acknowledgments, § 110 et seq. Showing in certificate as to officer's knowledge of identity, 29 ALR 1006; 72 ALR 1300.

Quoted in *Rolando v. Zesch*, 7 Alaska 437 (1926).

Sec. 34.15.210. Proof by subscribing witness. (a) Proof of the execution of a conveyance may be made before an officer authorized to take acknowledgment of conveyances, and shall be made by a subscribing witness, who shall state his own place of residence and that he knows the person described in and executing the conveyance.

(b) This proof may not be taken unless the officer is personally acquainted with the subscribing witness or has satisfactory evidence that he is the same person who is a subscribing witness to the instrument. (§ 22-3-16 ACLA 1949; am § 5 ch 12 SLA 1966)

Notary must certify as to identity of subscribing witness. — Where there is no certificate by the notary that he is acquainted with subscribing witness or that he had any evidence that such person was the subscribing witness, the recordation of the instrument is not authorized. *Nelson v. Lord*, 4 Alaska 174 (1919). Cited in *Morency v. Floyd*, 2 Alaska 194 (1904).

Am. Jur. reference. — 16 Am. Jur., Deeds, § 101 et seq.

Sec. 34.15.220. Proof of conveyance by handwriting. When a grantor is dead, out of the state, or refuses to acknowledge his

conveyance also dead before the death of a grantor and of a grantee. (SLA 1966)

Sec. 34.15.220. an acknowledgment requiring the presence of an officer requiring an officer require a person setting out (1) the person whose conveyance is being acknowledged (2) a person regarding (3) the person who is the witness.

Sec. 34.15.220. served with a copy of the reasonable grounds for refusing to acknowledge the conveyance until the conveyance is recorded. (ACLA 1966)

Sec. 34.15.220. proof of himself in chapter 34.15.220 of the Alaska Statutes as a witness to the subscribing witness.

Certificate of knowledge of witness. the notary public shall certify in this section

Section 34.15.220. 260. Recording of conveyances. 270. Conveyances by deed. 280. Certificate of acknowledgment. 290. Invalidity of conveyances. 300. Recording of evidence.

Chapter 10. Uniform Foreign Acknowledgment Act.

Section
10. Officers before whom deeds or other instruments acknowledged
20. Certificate of acknowledgement
30. Certificate in form required for acknowledgment inside state

Section
40. Construction of chapter
50. Short title

Sec. 40.10.010. Officers before whom deeds or other instruments acknowledged. All deeds or other instruments requiring acknowledgment, if acknowledged without the United States, shall be acknowledged before an ambassador, minister, envoy or charge d'affaires of the United States, in the country to which he is accredited, or before one of the following officers commissioned or accredited to act at the place where the acknowledgment is taken, and having an official seal, viz: any consular officer of the United States, a notary public, or a commissioner or other agent of this state having power to take acknowledgments to deeds. (§ 23-2-1 ACLA 1949)

Cross reference. — For sections dealing with inspection of public records and their use as evidence, see AS 09.25.110 and AS 09.25.120.

Am. Jur. reference. — 1 Am. Jur., Acknowledgments, § 64 et seq.

Sec. 40.10.020. Certificate of acknowledgment. (a) Every certificate of acknowledgment made outside the United States shall contain the name or names of the person or persons making the acknowledgment, the date when and place where made, a statement of the fact that the person or persons making the acknowledgment knew the contents of the instrument and acknowledged the same to be his, her or their act; the certificate shall also contain the name of the person before whom made, his official title, and be sealed with his official seal and may be substantially in the following form:

..... (Name of Country)
..... (Name of City, Province or other political subdivision)

Before the undersigned (naming the officer and designating his official title) duly commissioned (or appointed) and qualified, this day personally appeared at the place above named (naming the person or persons acknowledging) who declared that he (she or they) knew the contents of the foregoing instrument, and acknowledged the same to be his (her or their) act.

Witness my hand and official seal this day of 19.....
(seal) (Name of Officer)
..... (Official Title)

(b) When the seal affixed contains the name of the official style of the officer, any error in stating or failing to state otherwise the name of the official style of the officer shall not render the certificate defective. (§ 23-2-2 ACLA 1949)

Sec. 40.10.030. Certificate in form required for acknowledgment inside state. A certificate of acknowledgment of a deed or other instrument acknowledged outside the United States before any officer mentioned in § 10 of this chapter shall be valid if in the same form as now is or hereafter may be required by law for an acknowledgment within the state. (§ 23-2-3 ACLA 1949)

Sec. 40.10.040. Construction of chapter. This chapter shall be interpreted and construed as to effect its general purpose to make uniform the laws of those states and territories which enact it. (§ 23-2-4 ACLA 1949)

Sec. 40.10.050. Short title. This chapter may be cited as the Uniform Foreign Acknowledgment Act. (§ 23-2-5 ACLA 1949)

Chapter 15. Subdivisions and Dedications.

Article
1. Recording of Plats (§§ 40.15.010—40.15.060)
2. Control of Plats, Subdivisions and Dedications (§§ 40.15.070—40.15.130)
3. Vacation and Change of Plats and Streets (§§ 40.15.140—40.15.180)
4. General Provisions (§ 40.15.190)

Article 1. Recording of Plats.

Section	Section
10. Approval and recording of subdivisions	30. Dedication of streets, alleys and thoroughfares
20. Plats to be acknowledged and contain certificate that taxes and assessments are paid	40. Certified copy of plat is evidence
	50. Recorded plats legalized
	60. Missing plats

Sec. 40.15.010. Approval and recording of subdivisions. Before the lots or tracts of any subdivision or dedication may be sold or offered for sale, the subdivision or dedication shall be submitted for approval to the authority having jurisdiction, as prescribed in this chapter. The regular approval of the authority shall be shown on it or attached to it and the subdivision or dedication shall be filed for record in the office of the recorder. The recorder shall not accept a subdivision or dedication for filing unless it shows this approval. If no platting authority exists as provided in §§ 70—130 of this chapter, lands may be sold without approval. (§ 1 (ch 1) ch 115 SLA 1953; am § 1 ch 95 SLA 1955; am § 67 ch 69 SLA 1970)

Cross reference. — For sections dealing with inspection of public records and their use as evidence, see AS 09.25.110 and AS 09.25.120.

Effect of amendment. — The 1970 amendment deleted "platting board or" preceding "platting authority" in the last sentence.

Legislative committee report. — For report on ch. 69, SLA 1970 (1970 554), see 1970 House Journal Supplement No. 2, p. 7.

Approved plat must be filed for recording. — This section and AS 40.15.020 are sufficient authority to require the recorder to file for recording a plat when properly approved. *Tolliver v.*

(c) The postmaster may charge and receive the same fees as a notary for similar services. (§ 13 ch 99 SLA 1961)

Sec. 44.50.190. Savings clause. This chapter shall not be construed as to effect the release or extinguishment of a liability or forfeiture incurred or right accruing under a previous law regulating notaries. All commissions presently in effect continue until they expire or are terminated by death, disqualification, resignation, removal from the state, or until the notary is removed from office by the lieutenant governor under the Administrative Procedure Act (AS 44.62). (§ 14 ch 99 SLA 1961)

Chapter 53. Foreign Commissioners for Acknowledgments.

Section

10. Appointment, term of office, and powers
20. Qualifying for office

Sec. 44.53.010. Appointment, term of office, and powers. The governor may appoint as many commissioners in each state, territory, and district of the United States as he considers expedient. Each commissioner holds office for four years. Within the state, territory, or district for which appointed, each commissioner may take and certify

(1) the proof or acknowledgment of a conveyance of real property within the district or of any other written instrument to be used or operated in it;

(2) the acknowledgment of satisfaction of a judgment of a court of this district;

(3) an affidavit or deposition to be used in a court or before a judicial officer of the district. (§ 10-6-1 ACLA 1949)

Am. Jur. 2d reference. — 1 *Am. Jur.* 2d, Acknowledgments, §§ 13, 26, 58, 78

Sec. 44.53.020. Qualifying for office. Before exercising his powers, a commissioner appointed under AS 44.53.010 shall have a seal of office, and take an oath before a judicial officer in the county, city, or town where he resides, that he will faithfully perform the duties of the office. The commissioner shall file the oath and an impression of the seal in the office of the Department of Administration. The Depart-

ment of Administration shall collect \$5 for each certificate of appointment and shall account for and deposit the amounts received in the state treasury. (§ 10-6-2 ACLA 1949)

(Continued in next pamphlet)