

HB

97

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

REPORTED OUT
 APR 28 2005
 SENATE FINANCE
 COMMITTEE

DATE: 3/23/05

FURTHER:

DATE TURNED IN TO OFFICE: 28 April 2005

Finance Committee considered CS FOR HOUSE BILL NO. 97(FIN)

HB 97 OATHS; NOTARIES PUBLIC; STATE SEAL

"An Act relating to the authority to take oaths, affirmations, and acknowledgments in the state, to notarizations, to verifications, to acknowledgments, to fees for issuing certificates with the seal of the state affixed, and to notaries public; and providing for an effective date."

and recommends:

- be replaced with 5 CS CS HB 97 (FIN)
- adopt previous _____ CS CS forthcoming (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

CS Senate Bill:
 Same Title
 New Title

SCS House Bill:
 Same Title
 Technical Title Change
 New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Ind.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Ind.	Zero	FN#
Gov	1/24/05			✓	#1 correct

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
	✓			
	✓			
	✓			
	✓			
COCHAIR:	✓			
COCHAIR:	✓			

APR 28 2005

SENATE FINANCE COMMITTEE

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1 **CORRECTED**
Bill Version: HB 97
(H) Publish Date: 1/26/05

Revision Date/Time (Note if correction): _____ Dept. Affected: GOV
Title: An Act relating to oaths RDU: Office of the Lt. Governor
affirmations, and acknowledgements ... Component: Office of the Lt. Governor
Sponsor: Governor
Requester: Rules Component No: 11

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()	8.7	8.7	8.7	8.7	8.7	8.7
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 CF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The proposed fee changes for certificates from \$2 to \$5, as set out in Section 6 of the bill, will generate anticipated 8.7 in additional unrestricted revenues.

Prepared by: Linda J. Perez, Director Phone: 465-3876
Division: Administrative Services Date/Time: 1/24/05 3:41 PM
Approved by: Lt. Governor Loren Leman Date: 1/24/2005
Agency: Office of the Lt. Governor

SENATE FINANCE
COMMITTEE

Amendment Number: #1
Bill Number: HB 97
Sponsor: Green Date: 4/27/05
Logged In By: Miody

24-GH1008V.L1
Bannister
4/11/05

adopted

AMENDMENT

Sponsored by Sen. Green

OFFERED IN THE SENATE

TO: SCS CSHB 97(STA)

1 Page 8, lines 16 - 22:

2 Delete all material and insert:

3 "(A) have had the person's notary public commission revoked
4 under AS 44.50.068(a)(2) or (4) or under the notary public laws of another
5 jurisdiction for a substantially similar reason;

6 (B) have had the person's notary public commission revoked
7 under AS 44.50.068(a)(3), unless the person has reestablished residency in this
8 state under AS 01.10.055 before the person submits the application;

9 (C) have been disciplined under AS 44.50.068 if, at the time
10 the person applies for a notary public commission under this chapter, the
11 disciplinary action prohibits the person from holding a notary public
12 commission; or

13 (D) have been disciplined under the notary public laws of
14 another jurisdiction if, at the time the person applies for a notary public
15 commission under this chapter, the disciplinary action prohibits the person
16 from holding a notary public commission; and"

17

18 Page 10, lines 25 - 27:

19 Delete all material and insert:

20 "(4) applicant's commission as a notary public has been revoked,
21 within 10 years before the commission is to take effect, in

22 (A) this state for a reason stated in

23 (i) AS 44.50.068(a)(2) or (4);

1 (ii) AS 44.50.068(a)(3), unless the person has
2 reestablished residency in this state under AS 01.10.055 before the
3 person submits the application; or

4 (B) another jurisdiction for a reason substantially similar to
5 AS 44.50.068(a)(2) or (4)."

6

7 Page 16, line 16, following "chapter;":

8 Insert a subparagraph to read:

9 "(3) failure to maintain residency in this state under AS 01.10.055;"

10

11 Page 16, line 17:

12 Delete "(3)"

13 Insert "(4)"

SENATE FINANCE COMMITTEE
4/18/2005 COMMITTEE ACTION

Bill Number	HB 97		
Amendment	#1		
Motion	adpt		
<u>Motion by</u>	Wilken		
<u>Objection by</u>	Green		
<u>Removed</u>	✓		
<u>Second Objection by</u>			
<u>Committee Member</u>	Y	<u>Vote</u>	N
Senator Hoffman			
Senator Olson			
Senator Stedman			
Senator Bunde			
Senator Dyson			
Co-Chair Wilken			
Co-Chair Green			
<u>Tally</u>			
Yea			
Nay			
Absent			
MOTION	Pass		

Proof
delivered to
Kim
4/28 @ 4PM

Proof

24-GH10081S

SENATE CS FOR CS FOR HOUSE BILL NO. 97(FIN)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:
Referred:

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the authority to take oaths, affirmations, and acknowledgments in
2 the state, to notarizations, to verifications, to acknowledgments, to fees for issuing
3 certificates with the seal of the state affixed, and to notaries public; and providing for an
4 effective date."

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

6 * Section 1. AS 09.63.010 is amended to read:

7 Sec. 09.63.010. Oath, affirmation, and acknowledgment. The following
8 persons may take an oath, affirmation, or acknowledgment in the state:

9 (1) a justice, judge, or magistrate of a court of the State of Alaska or of
10 the United States;

11 (2) a clerk or deputy clerk of a court of the State of Alaska or of the
12 United States;

13 (3) a notary public;

14 (4) a United States postmaster;

1 (5) a commissioned officer under AS 09.63.050(4); [OR]

2 (6) a municipal clerk carrying out the clerk's duties under
3 AS 29.20.380;

4 (7) the lieutenant governor when carrying out the lieutenant
5 governor's duties under AS 24.05.160;

6 (8) the presiding officer of each legislative house when carrying
7 out the officer's duties under AS 24.05.170.

8 * Sec. 2. AS 09.63.030(c) is amended to read:

9 (c) If the document is sworn to or affirmed before a notary public of the state,
10 the notary public shall

11 (1) affix [ENDORSE AFTER THE SIGNATURE OF THE NOTARY
12 PUBLIC THE DATE OF EXPIRATION OF THE NOTARY'S COMMISSION;

13 (2) PRINT OR EMBOSS THE NOTARY'S SEAL] on the document

14 the

15 (A) notary public's official signature and official seal; and

16 (B) date of expiration of the notary public's commission;

17 and

18 (2) [; (3)] comply with AS 44.50.060 - 44.50.065 and [AS 44.50.060 -
19 44.50.080 OR] other applicable law.

20 * Sec. 3. AS 09.63.040(d) is amended to read:

21 (d) If the verification is sworn to or affirmed before a notary public of the
22 state, the notary public shall

23 (1) affix [ENDORSE AFTER THE SIGNATURE OF THE NOTARY
24 PUBLIC THE DATE OF EXPIRATION OF THE NOTARY'S COMMISSION;

25 (2) PRINT OR EMBOSS THE NOTARY'S SEAL] on the document

26 the

27 (A) notary public's official signature and official seal; and

28 (B) date of expiration of the notary public's commission;

29 and

30 (2) [; (3)] comply with AS 44.50.060 - 44.50.065 and [AS 44.50.060 -
31 44.50.080 OR] other applicable law.

1 * Sec. 4. AS 09.63.090 is amended to read:

2 **Sec. 09.63.090. Certificate of acknowledgment.** The words "acknowledged
3 before me" mean that

4 (1) the person acknowledging

5 (A) appeared before the person taking the acknowledgment;

6 (B) acknowledged that the person executed the instrument;

7 (C) in the case of

8 (i) a natural person, acknowledged that the person
9 executed the instrument for the purposes stated in it;

10 (ii) an officer or agent of a corporation, acknowledged
11 that the person held the position or title set out in the instrument and
12 certificate, acknowledged that the person signed the instrument on
13 behalf of the corporation by proper authority, and acknowledged that
14 the instrument was the act of the corporation for the purposes stated in
15 it;

16 (iii) a member or manager of a limited liability
17 company, acknowledged that the individual signed the instrument
18 on behalf of the limited liability company by proper authority and
19 executed the instrument as the act of the limited liability company
20 for the purposes stated in it;

21 (iv) a partner or agent of a partnership, limited
22 partnership, or limited liability partnership, acknowledged that the
23 person signed the instrument on behalf of the partnership by proper
24 authority and executed the instrument as the act of the partnership for
25 the purposes stated in it;

26 (v) [(iv)] a person acknowledging as a principal by an
27 attorney in fact, acknowledged that the person executed the instrument
28 by proper authority as the act of the principal for the purposes stated in
29 it;

30 (vi) [(v)] a person acknowledging as a public officer,
31 trustee, administrator, guardian, or other representative, acknowledged

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that the person signed the instrument in the capacity and for the purposes stated in it; and

(2) the person taking the acknowledgment either knew or had satisfactory evidence that the person acknowledging is the person named in the instrument or certificate.

* Sec. 5. AS 09.63.100 is amended to read:

Sec. 09.63.100. Forms of acknowledgment. (a) The forms of acknowledgment set out in this subsection may be used and are sufficient for their respective purposes under a law of the state. The authorization of the forms in this section does not preclude the use of other forms.

(1) For an individual acting in the individual's own right:

State of _____ Judicial
District (or County of _____ or Municipality
of _____)

The foregoing instrument was acknowledged before me this (date) by (name of person who acknowledged).

Signature of Person Taking

Acknowledgment

Title or Rank

Serial Number, if any

(2) For a corporation:

State of _____ Judicial
District (or County of _____ or Municipality
of _____)

The foregoing instrument was acknowledged before me this (date) by (name of officer or agent, title of officer or agent) of (name of corporation acknowledging) a (state or place of incorporation) corporation, on behalf of the corporation.

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Signature of Person Taking
Acknowledgment

Title or Rank

Serial Number, if any

(3) For a limited liability company:

State of _____ Judicial
District (or County of _____ or Municipality of
_____)

The foregoing instrument was acknowledged before me this
(date) by (name of member or manager), member (or manager) of
(name of limited liability company acknowledging) a (state or place
of organization) limited liability company, on behalf of the limited
liability company.

Signature of Person Taking
Acknowledgment

Member (or Manager)

Serial Number, if any

(4) For a partnership:

State of _____ Judicial
District (or County of _____ or Municipality
of _____)

The foregoing instrument was acknowledged before me this
(date) by (name of acknowledging partner or agent), partner (or agent)
on behalf of (name of partnership), a (partnership, limited
partnership, or limited liability partnership).

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Signature of Person Taking

Acknowledgment

Title or Rank

Serial Number, if any

(5) [(4)] For an individual acting as principal by an attorney in fact:

State of _____ Judicial

District (or County of _____ or Municipality

of _____)

The foregoing instrument was acknowledged before me this
(date) by (name of attorney in fact) as attorney in fact on behalf of
(name of principal).

Signature of Person Taking

Acknowledgment

Title or Rank

Serial Number, if any

(6) [(5)] By a public officer, trustee, or personal representative:

State of _____ Judicial

District (or County of _____ or Municipality

of _____)

The foregoing instrument was acknowledged before me this
(date) by (name and title of position).

Signature of Person Taking

Acknowledgment

Title or Rank

Serial Number, if any

(b) If a document is acknowledged before a notary public of the state, the notary public shall

(1) affix [ENDORSE AFTER THE NOTARY'S SIGNATURE THE DATE OF EXPIRATION OF THE NOTARY'S COMMISSION;

(2) PRINT OR EMBOSS THE NOTARY'S SEAL] on the document the

(A) notary public's official signature and official seal; and

(B) date of expiration of the notary public's commission;

and

(2) [; (3)] comply with AS 44.50.060 - 44.50.065 and [AS 44.50.060 - 44.50.080 OR] other law.

* Sec. 6. AS 44.19.024 is amended to read:

Sec. 44.19.024. Fees for issuing certificate. For issuing each certificate with the seal of the state affixed, the lieutenant governor shall collect a fee of \$5 for each certificate [\$2 FOR THE FIRST THREE FOLIOS OR LESS AND 20 CENTS PER FOLIO FOR EACH ADDITIONAL FOLIO. THE LIEUTENANT GOVERNOR SHALL ACCOUNT FOR THE FEES RECEIVED UNDER THIS SECTION AND SHALL PAY THEM INTO THE STATE TREASURY].

* Sec. 7. AS 44.50.010 is repealed and reenacted to read:

Sec. 44.50.010. Notary public commission; term. (a) The lieutenant governor may commission for the state

(1) notaries public without limitation, who are authorized to use the notary seal for all legal purposes; and

(2) limited governmental notaries public, who are state, municipal, or federal employees authorized to use the notary seal only for official government business.

(b) The term of a notary public commission is four years, except that the term of a limited governmental notary public commission coincides with the term of

1 government employment.

2 (c) A person who is a state, municipal, or federal employee commissioned as a
3 limited governmental notary public may also be commissioned as a notary public
4 without limitation.

5 * Sec. 8. AS 44.50.020 is repealed and reenacted to read:

6 Sec. 44.50.020. Qualifications. To be commissioned as a notary public, a
7 person

8 (1) shall submit an application under AS 44.50.032;

9 (2) shall be at least 18 years of age;

10 (3) shall have established residency in this state under AS 01.10.055;

11 (4) shall reside legally in the United States;

12 (5) may not, within 10 years before the commission takes effect, have
13 been convicted of a felony or incarcerated in a correctional facility for a felony
14 conviction;

15 (6) may not, within 10 years before the commission takes effect,

16 (A) have had the person's notary public commission revoked
17 under AS 44.50.068(a)(2) or (4) or under the notary public laws of another
18 jurisdiction for a substantially similar reason;

19 (B) have had the person's notary public commission revoked
20 under AS 44.50.068(a)(3), unless the person has reestablished residency in this
21 state under AS 01.10.055 before the person submits the application;

22 (C) have been disciplined under AS 44.50.068 if, at the time
23 the person applies for a notary public commission under this chapter, the
24 disciplinary action prohibits the person from holding a notary public
25 commission; or

26 (D) have been disciplined under the notary public laws of
27 another jurisdiction if, at the time the person applies for a notary public
28 commission under this chapter, the disciplinary action prohibits the person
29 from holding a notary public commission; and

30 (7) shall meet the other requirements in this chapter to be
31 commissioned as a notary public.

Amend
#1

1 * Sec. 9. AS 44.50 is amended by adding new sections to read:

2 Sec. 44.50.032. Application. (a) A person applying for a commission as a
3 notary public shall submit a completed application as required by this section, using
4 the forms or format required by the lieutenant governor.

5 (b) A completed application for a commission under AS 44.50.010(a)(1) must
6 include

7 (1) an affirmation that the applicant meets the qualifications set out in
8 AS 44.50.020(2) - (6);

9 (2) the applicant's mailing and physical addresses; the applicant's
10 telephone number, if any; the applicant's employer or business; the physical address
11 and telephone number of the applicant's employer or business at the location where the
12 applicant works; and an electronic mailing address, if any, where the applicant can be
13 contacted;

14 (3) information concerning any denial, suspension, revocation, or
15 restriction of the applicant's commission as a notary public in this state or another
16 jurisdiction; that information must include

17 (A) identification of the jurisdiction;

18 (B) the date the jurisdiction issued the denial, suspension,
19 revocation, or restriction;

20 (C) the reasons for the denial, suspension, revocation, or
21 restriction; and

22 (D) information concerning final resolution of the matter;

23 (4) the applicant's notarized signature on the portion of the application
24 that contains the oath or affirmation required by AS 44.50.035;

25 (5) the fee required by AS 44.50.033; and

26 (6) the bond required by AS 44.50.034.

27 (c) A completed application for a commission under AS 44.50.010(a)(2) must
28 include

29 (1) a signed statement by the applicant's government employer that the
30 commission is needed for the purpose of conducting official government business;

31 (2) the applicant's mailing and physical addresses; the applicant's

1 telephone number, if any; the applicant's employer; the name, address, and telephone
 2 number for the employer where the applicant works; and an electronic mailing
 3 address, if any, where the applicant can be contacted:

4 (3) the affirmation, information, and signature required by (b)(1), (3),
 5 and (4) of this section; and

6 (4) the fee required by AS 44.50.033.

7 **Sec. 44.50.033. Application fee.** A person applying for a commission as a
 8 notary public shall pay a nonrefundable application fee of \$40. However, an applicant
 9 for a limited governmental notary public commission under AS 44.50.010(a)(2) who is
 10 employed by the state may not be required to pay an application fee.

11 **Sec. 44.50.034. Bond.** (a) A person applying for a commission as a notary
 12 public without limitation under AS 44.50.010(a)(1) shall execute an official bond of
 13 \$1,000 and submit the bond with the application under AS 44.50.032. The bond must
 14 be for a term of four years from the date of commission.

15 (b) The lieutenant governor shall keep a bond submitted under this section for
 16 two years after the end of the term of the commission for which the bond was issued.
 17 Disposition of the bond after the end of the commission does not affect the time for
 18 commencing an action on the bond.

19 **Sec. 44.50.035. Oath.** The application required by the lieutenant governor
 20 under AS 44.50.032 must contain an oath or affirmation, in the form set out in
 21 AS 39.05.045, to be signed by the applicant. A signed oath or affirmation submitted
 22 in an application under AS 44.50.032 takes effect on the date of the applicant's
 23 commission as a notary public under this chapter.

24 **Sec. 44.50.036. Denial of applications.** The lieutenant governor shall deny
 25 an application for a notary public commission if the

26 (1) applicant does not meet the requirements of this chapter;

27 (2) application is not complete or contains a material misstatement or
 28 omission of fact relating to the requirements for a commission under this chapter;

29 (3) applicant has, within 10 years before the commission is to take
 30 effect, been convicted of a felony or incarcerated in a correctional facility for a felony
 31 conviction; or

1 (4) applicant's commission as a notary public has been revoked, within
2 10 years before the commission is to take effect, in

3 (A) this state for a reason stated in

4 (i) AS 44.50.068(a)(2) or (4);

5 (ii) AS 44.50.068(a)(3), unless the person has
6 reestablished residency in this state under AS 01.10.055 before the
7 person submits the application; or

8 (B) another jurisdiction for a reason substantially similar to
9 AS 44.50.068(a)(2) or (4).

10 **Sec. 44.50.037. Certificate of commission.** Upon commission of a notary
11 public under this chapter, the lieutenant governor shall provide to the notary public a
12 certificate of commission indicating the commission and the dates of the term of the
13 commission.

14 **Sec. 44.50.038. Subsequent commissions.** A notary public whose term of
15 commission is ending may apply for a new notary public commission by submitting a
16 new application under AS 44.50.032 and complying with the requirements of this
17 chapter. The lieutenant governor's approval of a new application for a commission for
18 a notary public without limitation under AS 44.50.010(a)(1) terminates an applicant's
19 existing commission under that paragraph.

20 **Sec. 44.50.039. Limited governmental notaries public.** A state, municipal,
21 or federal employee commissioned as a notary public under AS 44.50.010(a)(2)

22 (1) is designated a limited governmental notary public;

23 (2) may perform notarial acts only in the conduct of official
24 government business; and

25 (3) may not charge or receive a fee or other consideration for notarial
26 services provided under this chapter.

27 * **Sec. 10.** AS 44.50.060 is amended to read:

28 **Sec. 44.50.060. Duties.** A notary public may [SHALL]

29 (1) administer oaths and affirmations [WHEN REQUESTED,
30 DEMAND ACCEPTANCE AND PAYMENT OF FOREIGN AND INLAND BILLS
31 OF EXCHANGE, OR PROMISSORY NOTES, PROTEST THEM FOR

Amend
#1

1 NONACCEPTANCE AND NONPAYMENT, AND EXERCISE THE OTHER
 2 POWERS AND DUTIES THAT BY THE LAW OF NATIONS AND ACCORDING
 3 TO COMMERCIAL USAGES, OR BY THE LAWS OF ANY OTHER STATE,
 4 GOVERNMENT, OR COUNTRY, MAY BE PERFORMED BY NOTARIES];

5 (2) take the acknowledgment of or proof of execution of [POWERS
 6 OF ATTORNEY, MORTGAGES, DEEDS, GRANTS, TRANSFERS, AND OTHER]
 7 instruments in [OF] writing, and give a notarial certificate of the proof or
 8 acknowledgment, included in [ENDORSED ON] or attached to the instrument; the
 9 notarial certificate shall be signed by the notary public in the notary public's
 10 [NOTARY'S] own handwriting or by electronic means as authorized by
 11 regulations adopted by the lieutenant governor [;

12 (3) TAKE DEPOSITIONS AND AFFIDAVITS, AND ADMINISTER
 13 OATHS AND AFFIRMATIONS, IN ALL MATTERS INCIDENT TO THE DUTIES
 14 OF THE OFFICE, OR TO BE USED BEFORE A COURT, JUDGE, OFFICER, OR
 15 BOARD IN THE STATE; A DEPOSITION, AFFIDAVIT, OATH, OR
 16 AFFIRMATION SHALL BE SIGNED BY THE NOTARY IN THE NOTARY'S
 17 OWN HANDWRITING, AND THE NOTARY SHALL ENDORSE AFTER THE
 18 SIGNATURE THE DATE OF EXPIRATION OF THE NOTARY'S COMMISSION].

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

20 Sec. 44.50.061. **Unauthorized practice.** (a) A notary public who is not an
 21 attorney may complete but may not select notarial certificates, and may not assist
 22 another person in drafting, completing, selecting, or understanding a document or
 23 transaction requiring a notarial act.

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

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

29 Sec. 44.50.062. **Prohibited acts.** A notary public may not

30 (1) violate state or federal law in the performance of acts authorized by
 31 this chapter;

1 (2) influence a person to enter into or avoid a transaction involving a
2 notarial act by the notary public;

3 (3) affix the notary public's signature or seal on a notarial certificate
4 that is incomplete;

5 (4) charge a fee for a notarial act unless a fee schedule has been
6 provided to the signer before the performance of the notarial act;

7 (5) affix the notary public's official seal to a document unless the
8 person who is to sign the document

9 (A) appears and signs the document before the notary public or,
10 for an acknowledgment, appears and indicates to the notary public that the
11 person voluntarily affixed the person's signature on the document for the
12 purposes stated within the document;

13 (B) gives an oath or affirmation if required under law or if the
14 notarial certificate states that the document was signed under oath or
15 affirmation; and

16 (C) is personally known to the notary public, produces
17 government-issued identification containing the photograph and signature of
18 the person signing, or produces

19 (i) government-issued identification containing the
20 signature of the person signing, but without a photograph; and

21 (ii) another valid identification containing the
22 photograph and signature of the person signing;

23 (6) perform a notarial act if the notary public

24 (A) is a signer of or named in the document that is to be
25 notarized; or

26 (B) will receive directly from a transaction connected with the
27 notarial act a commission, fee, advantage, right, title, interest, cash, property,
28 or other consideration exceeding in value the normal fee charged by the notary
29 for the notarial act.

30 **Sec. 44.50.063. Official signature.** (a) When performing a notarization, a
31 notary public shall

1 (1) sign in the notary public's own handwriting, on the notarial
 2 certificate, exactly and only the name indicated on the notary public's commission
 3 certificate, or sign an electronic document by electronic means as authorized by
 4 regulations adopted by the lieutenant governor; and

5 (2) affix the official signature only at the time the notarial act is
 6 performed.

7 (b) A notary public shall comply in a timely manner with a request by the
 8 lieutenant governor to supply a current sample of the notary public's official
 9 handwritten signature and information regarding the notary public's electronic
 10 signature.

11 (c) Within 10 days after the security of a notary public's electronic signature
 12 has been compromised, the notary public shall provide the lieutenant governor with
 13 written notification that the signature has been compromised. After the notary public
 14 has provided the lieutenant governor with the notification, the notary public shall
 15 provide the lieutenant governor with any additional information that the lieutenant
 16 governor requests about the compromise of the signature.

17 **Sec. 44.50.064. Official seal.** (a) A notary public shall keep an official seal,
 18 which is the exclusive property of the notary public, and shall ensure that another
 19 person does not possess or use the official seal.

20 (b) A notary public's official seal

21 (1) must contain

22 (A) the notary public's name exactly as indicated on the notary
 23 public's commission certificate;

24 (B) the words "Notary Public" and "State of Alaska"; and

25 (2) may be a circular form not over two inches in diameter, may be a
 26 rectangular form not more than one inch in width by two and one-half inches in
 27 length, or may be an electronic form as authorized by regulations adopted by the
 28 lieutenant governor.

29 (c) When not in use, a notary public's official seal shall be kept secure and
 30 under the exclusive control of the notary public.

31 (d) Within 10 days after a notary public's official seal is stolen or lost, or the

1 security of the notary public's official electronic seal is compromised, the notary
 2 public shall provide the lieutenant governor with written notification of the theft, loss,
 3 or compromised security. After the notary public has provided the lieutenant governor
 4 with the notification, the notary public shall provide the lieutenant governor with any
 5 additional information that the lieutenant governor requests about the compromise of
 6 the seal.

7 (e) In order to avoid misuse, a notary public's official seal shall be destroyed
 8 or defaced

9 (1) upon the notary public's resignation or death;

10 (2) upon the revocation or termination by the lieutenant governor of
 11 the notary public's commission; or

12 (3) when the notary public's term of commission ends if the notary
 13 public has not received a new commission under this chapter.

14 **Sec. 44.50.065. Seal impression or depiction.** (a) With regard to each paper
 15 document being notarized, a sharp, legible, photographically reproducible impression
 16 or depiction of a notary public's official seal shall be affixed

17 (1) on the notarial certificate near the notary public's official signature;
 18 and

19 (2) only at the time the notarial act is performed.

20 (b) For a notarized paper document, illegible information within a seal
 21 impression or depiction may be typed or printed legibly by the notary public adjacent
 22 to, but not within, the impression or depiction.

23 (c) An embossed seal impression that is not photographically reproducible
 24 may be used in addition to, but not in place of, the seal impression or depiction
 25 required by (a) of this section.

26 (d) A notary public may use a seal in electronic form on electronic documents
 27 notarized by the notary public as authorized by regulations adopted by the lieutenant
 28 governor. The seal shall be affixed only at the time the notarial act is performed.

29 **Sec. 44.50.066. Notary public's status notification.** (a) Within 30 days after
 30 change of a notary public's name, mailing address, or physical address, the notary
 31 public shall, on a form provided by the lieutenant governor, submit written notification

1 of the change, signed by the notary public.

2 (b) The lieutenant governor may require limited governmental notaries public
3 commissioned under AS 44.50.010(a)(2) who change departmental or agency
4 employers to submit written notification of the change on a form provided by the
5 lieutenant governor.

6 (c) A notary public commissioned under AS 44.50.010(a)(1) reporting a name
7 change shall submit to the lieutenant governor payment of the fee under AS 44.19.024
8 for the issuance of a replacement certificate of commission.

9 (d) A notary public reporting a name change under (a) and (c) of this section
10 shall use the person's former name for the performance of notarial acts until the person
11 has

12 (1) provided written notification of the name change to the surety for
13 any bond required under AS 44.50.034;

14 (2) received a replacement certificate of commission reflecting the
15 name change from the lieutenant governor; and

16 (3) obtained a new seal reflecting the name change.

17 (e) The lieutenant governor may require a notary public to update the
18 information required under AS 44.50.032, including the notary public's current
19 notarized signature and information regarding the notary public's electronic signature.

20 **Sec. 44.50.067. Resignation.** (a) To resign a commission, a notary public
21 shall notify the lieutenant governor in writing of the resignation and the date that it is
22 effective. The notary public shall sign the notification.

23 (b) A notary public who does not any longer meet the requirements of this
24 chapter to be a notary public shall immediately resign the commission.

25 **Sec. 44.50.068. Disciplinary action; complaint; appeal; hearing;**
26 **delegation.** (a) The lieutenant governor may suspend or revoke a notary public's
27 commission or reprimand a notary public for good cause shown, including

28 (1) a ground on which an application for a commission may be denied;

29 (2) failure to comply with this chapter;

30 (3) failure to maintain residency in this state under AS 01.10.055; and

31 (4) incompetence or malfeasance in carrying out the notary public's

Amend #1

1 duties under this chapter.

2 (b) A person harmed by the actions of a notary public may file a complaint
3 with the lieutenant governor. The complaint shall be filed on a form prescribed by the
4 lieutenant governor and shall be signed and verified by the person alleging misconduct
5 by the notary public.

6 (c) If the lieutenant governor determines that the allegations in the complaint
7 do not warrant formal disciplinary action, the lieutenant governor may decline to act
8 on the complaint or may advise the notary public of the appropriate conduct and the
9 applicable statutes and regulations governing the conduct. The lieutenant governor
10 shall notify the notary public and the complainant of the determination in writing.

11 (d) If the lieutenant governor determines that the complaint alleges sufficient
12 facts to constitute good cause for disciplinary action, the lieutenant governor shall
13 serve the notary public with a copy of the complaint as provided in Rule 4, Alaska
14 Rules of Civil Procedure. The notary public may file a written response to the
15 complaint with the lieutenant governor within 20 days after receipt of the complaint.
16 The lieutenant governor may extend the time for the notary public's response. The
17 lieutenant governor shall provide a copy of the notary public's response to the
18 complainant.

19 (e) The lieutenant governor shall review the complaint and the response to
20 determine whether formal disciplinary action may be warranted. The lieutenant
21 governor may determine that the allegations in the complaint do not warrant formal
22 disciplinary action, in which case the lieutenant governor may determine not to take
23 further action on the complaint or may determine to advise the notary public of the
24 appropriate conduct and the applicable statutes and regulations governing the conduct.
25 If the lieutenant governor determines that formal disciplinary action is not warranted,
26 the lieutenant governor shall provide the complainant and the notary public with a
27 written statement of the basis for the determination.

28 (f) If the lieutenant governor finds that formal disciplinary action may be
29 warranted, the lieutenant governor may suspend or revoke a notary public's
30 commission or reprimand a notary public. If the lieutenant governor suspends or
31 revokes the commission or issues a reprimand, the lieutenant governor shall provide,

1 by certified mail, the notary public with a written statement of the lieutenant
2 governor's decision, including a written statement of the basis for the determination.

3 (g) A person who is issued a reprimand, suspension, or revocation under (f) of
4 this section may appeal the reprimand, suspension, or revocation by requesting a
5 hearing within 15 days after receiving the statement provided under (f) of this section.
6 If a hearing is requested, the lieutenant governor shall deny or grant the request under
7 AS 44.64.060(b) and refer the matter to the office of administrative hearings under
8 AS 44.64.060(b).

9 (h) The lieutenant governor may delegate the powers under this section.

10 * Sec. 12. AS 44.50 is amended by adding new sections to read:

11 **Sec. 44.50.071. Confidentiality.** (a) An address, telephone number, and
12 electronic mail address of a notary public or an applicant that is submitted under
13 AS 44.50.032 or 44.50.038 and that is designated by the notary public or applicant as
14 confidential shall be kept confidential. However, a notary public shall provide a
15 nonconfidential address and telephone number at which the notary public can be
16 contacted.

17 (b) Compilations and data bases of those addresses, telephone numbers, and
18 electronic mail addresses of notaries public that are confidential under (a) of this
19 section shall be kept confidential, except that the lieutenant governor may disclose
20 compilations and data bases if the lieutenant governor determines that disclosure is in
21 the public interest.

22 (c) A complaint filed under AS 44.50.068 shall be kept confidential unless the
23 lieutenant governor determines under AS 44.50.068(d) that the complaint alleges
24 sufficient facts to constitute good cause for disciplinary action.

25 **Sec. 44.50.072. Regulations.** The lieutenant governor may adopt regulations
26 under AS 44.62 (Administrative Procedure Act) to carry out the purposes of this
27 chapter.

28 **Sec. 44.50.073. Published summary.** The lieutenant governor may publish
29 by electronic means for commissioned notaries public a summary of the provisions of
30 this chapter and the regulations adopted under this chapter. The lieutenant governor
31 shall, upon request, distribute the summary to each person who is commissioned a

1 notary public under this chapter.

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

3 Sec. 44.50.200. Definitions. In this chapter, unless the context otherwise
4 requires,

5 (1) "convicted" or "conviction" means that the person has entered a
6 plea of guilty, guilty but mentally ill, or nolo contendere, or has been found guilty or
7 guilty but mentally ill by a court or jury;

8 (2) "notarial act" means an act that is identified as a notarial act under
9 AS 09.63.120 and an act that a notary public is directed to perform under
10 AS 44.50.060;

11 (3) "notary public" means a person commissioned to perform notarial
12 acts under this chapter.

13 * Sec. 14. AS 44.50.030, 44.50.040, 44.50.070, 44.50.080, 44.50.090, 44.50.100,
14 44.50.110, 44.50.120, 44.50.130, 44.50.140, 44.50.170, 44.50.180(c), and 44.50.190 are
15 repealed.

16 * Sec. 15. The uncodified law of the State of Alaska is amended by adding a new section to
17 read:

18 APPLICABILITY. (a) AS 44.50.010, repealed and reenacted by sec. 7 of this Act,
19 and AS 44.50.032, 44.50.033, 44.50.035, 44.50.036, 44.50.037, and 44.50.039, enacted by
20 sec. 9 of this Act, do not apply to a notary public whose commission is in effect on the day
21 before the effective date of secs. 1 - 14 of this Act until the notary public's term of office
22 expires under former AS 44.50.030, the notary public resigns under AS 44.50.067, enacted by
23 sec. 11 of this Act, or the notary public's commission is revoked under AS 44.50.068, enacted
24 by sec. 11 of this Act.

25 (b) Notwithstanding (a) of this section, if a notary public whose commission is in
26 effect on the day before the effective date of secs. 1 - 14 of this Act has been, within 10 years
27 before the notary public's term of office expires under former AS 44.50.030, convicted of a
28 felony or incarcerated in a correctional facility for a felony conviction, the lieutenant governor
29 may take an action under AS 44.50.068, enacted by sec. 11 of the Act, against the notary
30 public. In this subsection, "convicted" and "conviction" have the meanings given in
31 AS 44.50.200.

1 * Sec. 16. The uncodified law of the State of Alaska is amended by adding a new section to
2 read:

3 TRANSITION: REGULATIONS. The lieutenant governor may proceed to adopt
4 regulations necessary to implement the changes made by this Act. The regulations take effect
5 under AS 44.62 (Administrative Procedure Act), but not before the effective date of the
6 respective statutory change.

7 * Sec. 17. Section 16 of this Act takes effect immediately under AS 01.10.070(c).

8 * Sec. 18. Except as provided in sec. 17 of this Act, this Act takes effect July 1, 2005.



Official Business

Alaska State Senate

Senate Finance Committee

Mail Stop 3100
State Capitol
Juneau, Alaska 99801-1182

FAX COVER SHEET

DATE: 28 April 2005 TIME: 10:25 am

TO: Legal Services

NUMBER OF PAGES, INCLUDING COVER SHEET: 1

FROM: MINDY ROWLAND
SENATE FINANCE COMMITTEE SECRETARY
PHONE: 465-4935
FAX: 465-2187

NOTES: Final Please
SCS CS HB 97 (FIN) 24-GH1008/L
plus 1 amendment: L.1

Thanks

Mindy


State Capitol
Juneau, Alaska 99801
907.465.3520 465.5400FAX
www.lgov.state.ak.us

550 West 7th Ave, Suite 1700
Anchorage, Alaska 99501
907.269.7460 269.0263FAX
Lt_Governor@gov.state.ak.us

Lieutenant Governor Loren Leman

MEMO

TO: Senator Lyda Green, Co-Chairman
Senator Gary Wilken, Co-Chairman
Senate Finance Committee

FROM: Lieutenant Governor Loren Leman 

DATE: March 23, 2005

RE: Senate Finance Committee hearing on
SCS CSIB 97(STA): Oaths, Notaries Public, State Seal

Please schedule a hearing on SCS CSIB 97(STA) at your earliest possible convenience. SCS CSIB 97(STA) updates the notary statutes. These statutes have not been comprehensively revised since 1961. Notarial practices and terms have changed in the interim. The bill also increases the notarial fee from \$2 per folio to \$5 per certificate.

Attached are a copy of Governor Murkowski's transmittal letter, a sectional analysis and some additional backup material to assist your review of this legislation.

Please contact my Chief of Staff, Annette Kreitzer at extension 4081 if you have further questions or need additional information beyond the attached material.

The Governor's transmittal letter dated January 20, 2005, follows:

"Dear Speaker Harris:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the authority to take oaths, affirmations, and acknowledgments in the state, to notarizations, verifications, and acknowledgements, to notaries public, and to fees for issuing certificates with the seal of the state affixed.

The primary purpose of the bill is to comprehensively update AS 44.50, the chapter that governs notaries public, which includes among its provisions the qualifications to become a notary public, duties of notaries public, and liability in the event of misconduct or neglect. AS 44.50 has not been comprehensively revised since it was enacted in 1961. These changes will allow the Lieutenant Governor to: focus attention on web-based education for notaries, allow businesses which employ large groups of notaries to keep track of their terms of office, lay a foundation for e-signatures for the future, and continue to provide information to notaries without internet access. Sections 7-14 of the bill would repeal obsolete provisions in AS 44.50, update antiquated language, and add new provisions as needed.

Sections 1-5 of the bill would update statutes in AS 09, the Alaska civil code, relating to the taking of oaths, affirmations, and acknowledgements and to notaries' responsibilities when notarizing, verifying, and acknowledging signed instruments. Section 6 of the bill would change the fee for the lieutenant governor's issuance of a certificate with the seal of the state affixed. Sections 15 and 16 of the bill contain applicability and transition provisions, respectively.

A more detailed description of the bill is found in a sectional analysis of the bill available from the office of the lieutenant governor.

I urge your prompt and favorable action on this measure.

Sincerely yours,

/s/

Frank H. Murkowski
Governor"

Frequently Asked Questions – SCS CSHB 97(STA)

Q: Why is this bill necessary?

A: There has not been a comprehensive update to the notary statutes since 1961.

Q: What changes are being proposed?

A: The bill:

- Lowers the minimum age requirement from 19 to 18 years of age.
- Prohibits felons from applying as notaries public until 10 years post incarceration/conviction.
- Removes impediments for notarizations by electronic means
- Establishes disciplinary procedures for commission suspensions and revocations.
- Separates publicly available notary information from private notary information.
- Updates and expands the current State Employee notary commission system to include Municipal and Federal government employees.

Q: I'm a notary now, how does this bill affect me?

A: This bill will not impact current notaries unless they are felons.

Q: What is not changing?

A:

- The notary information that is currently publicly available remains publicly available.
- Notary testing remains voluntary.
- The notary bond amount remains unchanged.
- The application fee remains unchanged.

Q: What about fees?

A: The \$40.00 application fee for notary commissions will remain unchanged. The fee for certificates is being raised from \$2.00 to \$5.00.

Notary Statute Comparison – SCS CSHB 97(STA)

	Current	Proposed
Qualifications	<p>Applicants must be a resident of the state at least 19 years of age.</p> <p>Resident defined to mean a person who maintains a permanent place of abode in the state, and is in fact living in the state.</p>	<p>Minimum age lowered to 18 years.</p> <p>Residency requirements made consistent with general residency statute AS 01.10.055, rather than separate definition.</p> <p>Applicant must reside legally in the United States.</p> <p>Applicants may not, within 10 years before the commission takes effect, have been convicted of a felony or incarcerated for a felony conviction.</p>
Term	Current	Proposed
	<p>Four years.</p> <p>Automatic revocation of commissions of State employee notaries who terminate employment prior to the commission expiration date.</p>	<p>Notaries Public will continue to serve a term of four years.</p> <p>Limited Governmental Notaries Public commissions will be open-ended with automatic revocation upon termination of government employment.</p>
Fees	Current	Proposed
	<p>\$40 application fee for non-state employee notaries.</p> <p>\$2 per Lieutenant Governor certificate.</p>	<p>\$40 application fee for non-state employee notaries (No change).</p> <p>\$5 per Lieutenant Governor certificate (\$3 increase).</p>
Bond	Current	Proposed
	<p>\$1,000 Notary Bond is required of all applicants.</p>	<p>\$1,000 Notary Bond required of all applicants except Limited Governmental Notaries. Lt. Gov. required to keep for 2 years.</p>

Commission Types	Current	Proposed
	Notaries Public who serve four-year commissions. Limited Governmental Notaries Public commissions available for State employees only.	Notaries Public who serve four-year commissions. Limited Governmental Notaries Public commissions – Expanded to include Municipal and Federal employees in addition to State employees.
Commission Revocation	Current	Proposed
	Via Administrative Procedure Act. Act must be invoked to review all complaints against notaries, no matter how trivial.	By Lieutenant Governor for good cause via a formal disciplinary procedure using administrative hearing office.
Notary Data	Current	Proposed
	Each notary's name, mailing address, surety information and commission dates are available to the public.	The notary information currently available remains unchanged. The notary's name, mailing address, surety information and commission dates continue to be publicly available. To facilitate training and communication the Lieutenant Governor may collect additional information from applicants and notaries that will not be available to the public.
Non-Commissioned Notaries	Current	Proposed
	Justices, Judges, Magistrates, Clerks or Deputy Clerks of Court, United States Postmasters, and Commissioned Military Officers are authorized to take oaths, affirmations or acknowledgments.	No change.
Electronic Notarization	Current	Proposed
	Does not address this issue.	Removes impediments for notarizations by electronic means.

SECTIONAL ANALYSIS
SCS CSHB 97(STA)

An Act relating to the authority to take oaths, affirmations, and acknowledgments in the state; to notarizations, to verifications, to acknowledgments, to fees for issuing certificates with the seal of the state affixed, and to notaries public; and providing for an effective date.

Section 1. Adds presiding officers of each house of the Legislature and the Lieutenant Governor to the list of persons permitted to administer oaths. This permission is limited to the administration of the oath of office to new legislators (AS 24.05.160) and to the presiding officers for the same purpose during second and special sessions (AS 24.05.170).

Sections 2 and 3. Conform sections of Alaska Civil Procedure concerning notarial acts to the updated language in Sec. 44.50.061 (5). These sections apply to court system employees, U.S. Postmasters, U.S. military personnel and municipal clerks.

Sections 4 and 5. Update 09.63 to include reference to limited liability companies, limited partnerships, and limited liability partnerships. In Section 5, (H) STA added "or Municipality of" on the forms of acknowledgment in recognition of Alaska not having counties.

Section 6. Increases fee per notarial certificate from \$2/three folios to \$5/certificate. "Folio" is an outdated term not used in current practice. The increase reflects the State's cost to process the certificates. Deletes territorial language re: accounting for fees.

Section 7. Two categories of notaries:

- a) notary public without limitation
 - terms are for 4 years
 - can charge fees for service
- b) limited governmental notary public (state, municipal and federal employees)
 - conduct only official government business
 - terms are for the length of government employment
 - cannot charge fees for service (new Sec. 44.50.039)

Can have concurrent commissions as a notary public without limitation and as a limited governmental notary public, as long as the activities are separated.

Section 8. Changes Qualifications to be commissioned notary public:

- Lowers the age from 19 to 18.
- Must have established Alaska residency. The definition of "residency" is updated to a more widely used and more current definition (AS 01.10.055) than current statute (AS 44.50.020).
- Notary public must reside legally in the U.S.
- 10 years between felony conviction/incarceration and ability to apply as notary.

Section 9. Sets out the application requirements for notary public commission whether notary public without limitation or limited governmental notary public.

Restates the current \$40 fee per application along with the current requirement that State limited governmental notaries public are exempt from the fee.

Restates current bonding requirement of \$1,000 with term of four years for notaries public without limitation.

Requires Lieutenant Governor to keep the bond for two years following the notary's term of commission.

Provides opportunities for Lieutenant Governor to deny applications if:

- a) application is incomplete
- b) applicant has been convicted of or incarcerated for a felony less than 10 years previous to application
- c) applicant's commission has been revoked

Clarifies current law as to when a new commission begins.

Section 10. Much of AS 44.50.060 is antiquated language. The changes here acknowledge that the duties of a notary public can be encompassed in the broader language of administering oaths and affirmations, taking acknowledgment of or proof of instruments of writing and giving notarial certificates. (H) JUD added language from this section on which removes impediments to providing electronic notarizations. The language is broad enough to allow for necessary flexibility in what is rapidly changing technology.

Section 11. Defines scope of practice and makes clear that a notary public who is not an attorney may not perform functions that require the practice of law.

Also, sets out what a notary public cannot do (Sec. 44.50.062), the specifications of the official seal, and its care and keeping, what constitutes a "seal impression", changes in notary status and disciplinary actions. It also specifies at (5) (A) – (C) the elements that must be present for a notary public to notarize a document:

- Person must appear and sign the document before the notary public.
- Person must produce identification unless personally known to the notary public.
- The notary must sign in his/her own handwriting the name on his/her commission certificate.
- Notary cannot notarize documents which benefit the notary

This section reorders and clarifies current law defining the notary's seal, and defining the seal impression. The \$5 name change fee is not in addition to the cost of a new certificate under Sec. 44.19.024.

New section 44.50.068 gives the Lieutenant Governor the latitude to suspend or revoke a notary public's commission or to reprimand a notary public for good cause. The Lieutenant Governor may delegate his authority. With regard to a complaint, the Lieutenant Governor may find no merit to the complaint or may refer the complaint to the office of administrative hearings for a formal disciplinary hearing which could end with revocation of the notary public's commission. In all instances the notary public may appeal the Lieutenant Governor's decision to the office of administrative hearings (rewritten by (H) FIN).

Section 12. Describes the information gathered from notaries public on the application which will be public information. House State Affairs Committee added language allowing the Lt. Governor to publish a summary of this chapter and regulations that can be distributed by electronic means. Provides for the Lieutenant Governor to adopt regulations.

Section 13. Defines terms used in this Chapter.

Section 14. Repealers:

- AS 44.50.030 (Term of office, now covered in new 44.50.010)
- AS 44.50.040 (Fees, now covered in new 44.50.033)
- AS 44.50.070 (Presence and ID, now covered in new 44.50.062)
- AS 44.50.080 (Seal, now covered in new 44.50.064)
- AS 44.50.090 (Protest of bill or note. Notaries don't do this, antiquated language, repealed and not replaced)
- AS 44.50.100 (Return of papers. There are no papers to return. Repealed and not replaced)
- AS 44.50.110 (APA procedure for disciplinary actions, replaced by more comprehensive 44.50.068)
- AS 44.50.120 (Bond requirements, now covered in new 44.50.034)
- AS 44.50.130 (Filing oath and bond, now covered in new 44.50.035)
- AS 44.50.140 (Disposition of bond, now covered in new 44.50.034)
- AS 44.50.170 (State employees as notaries, now covered in 44.50.010, 44.50.031 (c) and 44.50.039)
- AS 44.50.180(c) (Federal law prohibits postmasters from charging fees. Alaska law is inconsistent and this subsection must be repealed)
- AS 44.50.190 (Savings clause, a transitional measure from 1961 that is no longer necessary and can be repealed).

Section 15. Applicability

- Current commissions continue in effect until term of office expires, except if the commissioned is a felon and 10 years have not elapsed since conviction or incarceration.
- Bonds, seals, liabilities in effect continue through the notary public's term of office.
- All notaries with current commissions or who are commissioned following the effective date of the legislation must follow the notarial procedures encompassed in the legislation.
- When commissions expire, notaries public will apply for new commissions under the new AS 44.50.032 (Section 9).

Sections 16 and 17. Transition

Allows the Lieutenant Governor to immediately proceed to adopt regulations with an effective date following the effective date of the legislation.

Section 18. Effective Date

Effective date is July 1, 2005 to allow time for revision of website, online handbook and forms.

HB 97



FRANK H. MURKOWSKI
GOVERNOR
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STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 20, 2005

The Honorable John Harris
Speaker of the House
Alaska State Legislature
State Capitol, Room 208
Juneau, AK 99801-1182

Dear Speaker Harris:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the authority to take oaths, affirmations, and acknowledgments in the state, to notarizations, verifications, and acknowledgements, to notaries public, and to fees for issuing certificates with the seal of the state affixed.

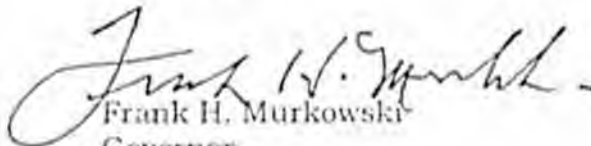
The primary purpose of the bill is to comprehensively update AS 44.50, the chapter that governs notaries public, which includes among its provisions the qualifications to become a notary public, duties of notaries public, and liability in the event of misconduct or neglect. AS 44.50 has not been comprehensively revised since it was enacted in 1961. These changes will allow the Lieutenant Governor to focus attention on web-based education for notaries, allow businesses which employ large groups of notaries to keep track of their terms of office, lay a foundation for e-signatures for the future, and continue to provide information to notaries without internet access. Sections 7-14 of the bill would repeal obsolete provisions in AS 44.50, update antiquated language, and add new provisions as needed.

Sections 1-5 of the bill would update statutes in AS 09, the Alaska civil code, relating to the taking of oaths, affirmations, and acknowledgements and to notaries' responsibilities when notarizing, verifying, and acknowledging signed instruments. Section 6 of the bill would change the fee for the lieutenant governor's issuance of a certificate with the seal of the state affixed. Sections 15 and 16 of the bill contain applicability and transition provisions, respectively.

A more detailed description of the bill is found in a sectional analysis of the bill available from the office of the lieutenant governor.

I urge your prompt and favorable action on this measure.

Sincerely yours,


Frank H. Murkowski
Governor

Enclosure

SENATE COMMITTEE REPORT

DATE: 3/18/05

FURTHER: Finance

DATE TURNED
IN TO OFFICE: 3/23/05

State Affairs Committee considered CS FOR HOUSE BILL NO. 97(FIN)

HB 97 OATHS; NOTARIES PUBLIC; STATE SEAL

"An Act relating to the authority to take oaths, affirmations, and acknowledgments in the state, to notarizations, to verifications, to acknowledgments, to fees for issuing certificates with the seal of the state affixed, and to notaries public; and providing for an effective date."

and recommends:

- be replaced with SCS CS HB 97 (STPA)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

CS Senate Bill:

- Same Title
- New Title

SCS House Bill:

- Same Title
- Technical Title Change
- New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
Govt	1/24/05	✓			1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>[Signature]</i>			✓	
<i>[Signature]</i>			✓	
<i>[Signature]</i>			✓	
<i>[Signature]</i>			✓	
CHAIR: <i>[Signature]</i>			✓	

Altan
 Warriner
 Higgins
 Lewis
 Prominent

SENATE FINANCE COMMITTEE

SIGN-IN

HB 97: OATHS, NOTARIES PUBLIC, STATE S&AC
SB 153-INTERNATIONAL AIRPORTS REVENUE BONDS

NAME: Brian Westfall Subject/Bill No: HB 97
Co./Dept./Title: Lt. Gov. Legation's Office Phone: 465-3520
Address: Capital ~~Building~~ Zip: _____
Do you wish to testify? Yes No Respond To Questions

NAME: Annette Kreitzer Subject/Bill No: HB 97
Co./Dept./Title: Lt. Gov. Legation's Office / The 1st Staff Phone: 465-3520
Address: _____ Zip: _____
Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____
Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____
Do you wish to testify? Yes No Respond To Questions