

ALASKA LEGISLATURE COMMITTEE FILES, 2003-2004 8672

11056 HOUSE STATE AFFAIRS

HB

438

STATE OF ALASKA



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REPRESENTATIVE JIM HOLM DISTRICT 9

HB 438

"Move Over Laws For Drivers" Sponsor Statement

13 FEB 04

"An Act relating to motorists moving over or slowing down for emergency vehicles."

HB 438 can save lives and prevent injury.

All over the country law enforcement, emergency, and fire personnel are putting their lives in danger on the roadways. This bill is an opportunity to improve their safety and their working conditions by requiring motorists to slow down and move over.

If Emergency personnel, as defined by statute, are pulled over on the side of the road with their emergency lights on, drivers will be required to slow down to 20 mph below the posted speed limit or to 5 mph on a road less than 25 mph. On a highway with more than two lanes, the motorist will also be required to occupy the lane furthest away from the emergency personnel unless otherwise directed.

This bill is long overdue. Many other states across the nation are adopting such statutes to ensure the safety of their citizens.

FISCAL NOTE

STATE OF ALABAMA
2004 LEGISLATIVE SESSION

Fiscal Note Number: HB438-LAW-CDCO-2-13
Bill Version: HB438
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
Title "An Act relating to motorists moving over or RDU CRIMINAL
slowing down for emergency vehicles." Component Criminal Justice Litigation
Sponsor Representative Holm
Requester House Transportation Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
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						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF 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 (FY2004) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill amends AS 28.35 by adding a new section to require that drivers of vehicles overtaking parked emergency vehicle shall vacate the lane nearest the parked emergency vehicle if two or more lanes travelling in the same direction exist. Otherwise the driver of the overtaking vehicle shall slow to 20 miles an hour below the speed limit except where the speed limit is 25 mile per hour or below, in which case the driver shall slow to five miles per hour. The amendment provides that a violation of the new section is a class A misdemeanor results in personal injury, and an infraction if not.

Passage of this legislation will have no foreseeable fiscal impact on the Department of Law.

Prepared by: Kathryn A. Daughhete, Director Phone 465-3673
Division Administrative Services Date/Time 2/13/04 3:03 PM
Approved by: Kathryn Daughhete for Gregg D. Renkes, Attorney General Date 2/13/2004
Agency Department of Law

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB438-DPS-ASTD-2-11-04
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Public Safety
 Title Motorists Slowing Down for Emergency Vehs RDU Alaska State Troopers
 Component AST Detachments
 Sponsor Rep. Holm
 Requester (H) Transportation Component No. 2325

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
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 ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF 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 (FY2004) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill will amend AS 28.35.185 to require that drivers slow or move over (depending on conditions) when they approach a stationary emergency vehicle that is displaying flashing lights on a highway or roadway.

A violation of section AS 28.35.185 resulting in personal injury would be a class A misdemeanor; violations under other circumstances would constitute an infraction.

This bill will have no fiscal impact on the Alaska State Troopers.

Prepared by: Lt. Al Storey Phone 269-4532
 Division Alaska State Troopers Date/Time 2/11/04 10:23 AM
 Approved by: Commissioner William Tandeske Date 2/11/2004
 Agency Department of Public Safety

Attachment A

Official Code of Georgia Annotated
40-6-16

Official Code of Georgia Annotated

40-6-16.

(a) The operator of a motor vehicle approaching a stationary authorized emergency vehicle that is displaying flashing yellow, amber, white, red, or blue lights shall approach the authorized emergency vehicle with due caution and shall, absent any other direction by a peace officer, proceed as follows:

(1) Make a lane change into a lane not adjacent to the authorized emergency vehicle if possible in the existing safety and traffic conditions; or

(2) If a lane change under paragraph (1) of this subsection would be impossible, prohibited by law, or unsafe, reduce the speed of the motor vehicle to a reasonable and proper speed for the existing road and traffic conditions, which speed shall be less than the posted speed limit, and be prepared to stop.

(b) The operator of a motor vehicle approaching a stationary towing or recovery vehicle or a stationary highway maintenance vehicle that is displaying flashing yellow, amber, or red lights shall approach the vehicle with due caution and shall, absent any other direction by a peace officer, proceed as follows:

(1) Make a lane change into a lane not adjacent to the towing, recovery, or highway maintenance vehicle if possible in the existing safety and traffic conditions; or

(2) If a lane change under paragraph (1) of this subsection would be impossible, prohibited by law, or unsafe, reduce the speed of the motor vehicle to a reasonable and proper speed for the existing road and traffic conditions, which speed shall be less than the posted speed limit, and be prepared to stop.

(c) Violation of subsection (a) or (b) of this Code section shall be punished by a fine of \$500.00.

Attachment B

Maine Revised Statutes Annotated
29-A MRSA §2054, sub-§9 and 10

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 29-A MRSA §2054, sub-§9, as enacted by PL 2001, c. 360, §8, is repealed.

Sec. 2. 29-A MRSA §2054, sub-§10 is enacted to read:

10. Stationary authorized emergency vehicles. The following provisions govern the operator of a vehicle approaching or passing a stationary authorized emergency vehicle that is using an emergency light.

A. With due regard to the safety and traffic conditions, an operator of a vehicle approaching or passing a stationary authorized emergency vehicle that is using an emergency light shall:

(1) Reduce speed and maintain a speed throughout the incident area no greater than is reasonable and prudent under the conditions, including actual and potential hazards then existing;

(2) Vacate any lane wholly or partially blocked;

(3) Obey the directions of an authorized official directing traffic and all applicable traffic control devices; and

(4) Pass in a lane not adjacent to that of the emergency vehicle, if possible, or, if passing in a nonadjacent lane is impossible or unsafe, pass the emergency vehicle at a reasonable and prudent speed.

B. The following penalties apply to violations of this subsection.

(1) A person who violates this subsection commits a Class E crime.

(2) A person who violates this subsection and at the time of the offense has a prior conviction for violating this subsection commits a Class E crime and is subject to a mandatory 30-day driver's license suspension. Title 17-A, section 9-A governs the use of prior convictions in determining a sentence, except that for purposes of this subparagraph, the date of each prior conviction may precede the commission of the offense being enhanced by no more than 3 years.

LD 0837 (LR: 0455 item 01) Unofficial Document created 02-20-2003 -
14:41:16

C. Paragraphs A and B do not apply to authorized emergency vehicles in an incident area. Operators of emergency vehicles in an incident area shall proceed at a reasonable and prudent speed, with due regard to the safety of all persons in the incident area.

In addition to any other penalty imposed by law, if a violation of this subsection results in serious bodily injury or death to another person, the violator's driver's license must be suspended for at least 180 days and not more than 2 years.

SUMMARY

This bill adds to the safety requirements governing drivers approaching or passing a stationary authorized emergency vehicle that is using an emergency light and increases the penalties for violation. The bill also clarifies that an authorized emergency vehicle must exercise due regard to the safety of others but is exempted from the other operator requirements of the new provision.

Attachment C

Nevada Assembly Bill 299 (2003)

Assembly Bill No. 299—Assemblymen Beers, Gustavson, Christensen, Conklin, Giunchigliani, Grady, Horne, Koivisto, McClain, Pierce, Sherer and Weber

Joint Sponsors: Senators Cegavske, Amodei, Care and Schneider

CHAPTER.....

AN ACT relating to motor vehicles; establishing the duties of a driver when that driver approaches an authorized emergency vehicle which is stopped and is making use of flashing lights; providing a penalty; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 484 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Upon approaching an authorized emergency vehicle which is stopped and is making use of flashing lights meeting the requirements of subsection 3 of NRS 484.787, the driver of the approaching vehicle shall, in the absence of other direction given by a peace officer:

(a) Decrease the speed of his vehicle to a speed that is:

(1) Reasonable and proper, pursuant to the criteria set forth in subsection 1 of NRS 484.361; and

(2) Less than the posted speed limit, if a speed limit has been posted;

(b) Proceed with caution;

(c) Be prepared to stop; and

(d) If possible, drive in a lane that is not adjacent to the lane in which the emergency vehicle is stopped, unless roadway, traffic, weather or other conditions make doing so unsafe or impossible.

2. A person who violates subsection 1 is guilty of a misdemeanor.

Attachment D

Oregon House Bill 2176 (2003)

CHAPTER 42

AN ACT

HB 2176

Relating to motor vehicles.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Section 2 of this 2003 Act is added to and made a part of the Oregon Vehicle Code.

SECTION 2. (1) A person operating a motor vehicle commits the offense of failure to maintain a safe distance from an emergency vehicle or ambulance if the person approaches an emergency vehicle or ambulance that is stopped

and is displaying required warning lights and the person:

(a) On a highway having two or more lanes for traffic in a single direction, fails to:

(A) Make a lane change to a lane not adjacent to that of the emergency vehicle or ambulance; or

(B) Reduce the speed of the motor vehicle, if making a lane change is unsafe.

(b) On a two directional, two-lane highway, fails to reduce the speed of the motor vehicle.

(2) The offense described in this section, failure to maintain a safe distance from an emergency vehicle or ambulance, is a Class B traffic violation.

Approved by the Governor April 1, 2003

Filed in the office of Secretary of State April 2, 2003

Effective date January 1, 2004

Attachment E

Kentucky Revised Statutes
189.930

Kentucky Revised Statutes - Combination "Quick Clear" and "Move Over" law

189.930 Right-of-way to emergency vehicles -- Blocking or following emergency vehicles -- Driving over unprotected hoses of fire department.

- (1) Upon the approach of an emergency vehicle equipped with, and operating, one (1) or more flashing, rotating, or oscillating red or blue lights, visible under normal conditions from a distance of five hundred (500) feet to the front of such vehicle; or the driver is given audible signal by siren, exhaust whistle, or bell, the driver of every other vehicle shall yield the right-of-way, immediately drive to a position parallel to, and as close as possible to, the edge or curb of the highway clear of any intersection, and stop and remain in such position until the emergency vehicle has passed, except when otherwise directed by a police officer or firefighter.
- (2) Upon the approach of any emergency vehicle, operated in conformity with the provisions of subsection (1) of this section, the operator of every vehicle shall immediately stop clear of any intersection and shall keep such position until the emergency vehicle has passed, unless directed otherwise by a police officer or firefighter.
- (3) No operator of any vehicle, unless he is on official business, shall follow any emergency vehicle being operated in conformity with the provisions of subsection (1) of this section closer than five hundred (500) feet, nor shall he drive into, or park the vehicle into, or park the vehicle within, the block where the vehicle has stopped in answer to an emergency call or alarm unless he is directed otherwise by a police officer or firefighter.
- (4) No vehicle, train, or other equipment shall be driven over any unprotected hose of a fire department when the hose is laid down on any street, private driveway, or track for use at any fire or fire alarm unless the fire department official in command consents that the hose be driven over.
- (5) Upon approaching a stationary emergency vehicle or public safety vehicle, when the emergency vehicle or public safety vehicle is giving a signal by displaying alternately flashing yellow, red, red and white, red and blue, or blue lights, a person who drives an approaching vehicle shall, while proceeding with due caution:
 - (a) Yield the right-of-way by moving to a lane not adjacent to that of the authorized emergency vehicle, if:
 1. The person is driving on a highway having at least four (4) lanes with not fewer than two (2) lanes proceeding in the same direction as the approaching vehicle; and
 2. If it is possible to make the lane change with due regard to safety and traffic conditions; or
 - (b) Reduce the speed of the vehicle, maintaining a safe speed to road conditions, if changing lanes would be impossible or unsafe.
- (6) This section does not operate to relieve the person who drives an emergency vehicle from the duty to operate the vehicle with due regard for the safety of all persons using the highway.

Effective: June 24, 2003

History: Amended 2003 Ky. Acts ch. 63, sec. 1, effective June 24, 2003. -- Amended 2000 Ky. Acts ch. 215, sec. 1, effective July 14, 2000. -- Amended 1980 Ky. Acts ch. 371, sec. 2, effective July 15, 1980. -- Created 1970 Ky. Acts ch. 93, sec. 3.

Attachment F

"Many Drivers Still Not Complying with 'Move Over' Law,"
WYDOT News, Wyoming Department of Transportation,
July 21, 2003

Citizen Business Government Visitor



www.state.wy.us

WYDOT > News



WYDOT News
5300 Bishop Blvd.
Cheyenne, WY 82009-3340

Many drivers still not complying with 'Move Over' law

Posted July 21, 2003

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Two years after the law went into effect, Wyoming Highway Patrol troopers report many drivers still fail to obey the requirement that they move to the lane farthest from any emergency vehicle parked with lights flashing beside an interstate or other four-lane highway.

"I'd be willing to bet every stop we make somebody violates this law," Patrol Sgt. Steve Townsend said.

Since the law went into effect on July 1, 2001, troopers have written nearly 600 citations for violations, despite the difficulties involved in catching up with offenders.

To assist with enforcement, the Patrol sometimes has troopers work in tandem so, while one trooper is dealing with a stop, the second one can monitor the traffic and cite drivers who fail to move over or slow down.

Those who are caught face a fine and court costs totaling \$110, but failing to obey the law can lead to more serious consequences. Since the law took effect, 21 Highway Patrol vehicles have been struck while parked with emergency lights flashing beside a highway.

Patrol administrator Col. John Cox said drivers cited for failing to move over or slow down give a variety of excuses ranging from ignorance of the law to traffic not allowing them to safely move over. Cox said drivers are not cited if the lane change can't be made safely, but troopers' observations at the scene and video taken from Patrol vehicles often does not support drivers' claims that traffic wouldn't allow them to move over.

"We need to keep the issue in front of the motoring public through signing, public education and enforcement, Cox said. "When clearance is given to an emergency vehicle at roadside, the safety margin is increased for not only the people at roadside, but the passing motorist and their passengers as well."

WYDOT has erected signs around the state to remind drivers of the law's requirements.

Document URL:

http://dot.state.wy.us/web/news/press_releases/2003/moveoverII/moveover.html
Last modified: - Tuesday, 30-Dec-03 11:47:40

[§ 4511.21.3] § 4511.213. Duties upon approaching stationary public safety vehicle displaying emergency light.

(A) The driver of a motor vehicle, upon approaching a stationary public safety vehicle that is displaying a flashing red light, flashing combination red and white light, oscillating or rotating red light, oscillating or rotating combination red and white light, flashing blue light, flashing combination blue and white light, oscillating or rotating blue light, or oscillating or rotating combination blue and white light, shall do either of the following:

(1) If the driver of the motor vehicle is traveling on a highway that consists of at least two lanes that carry traffic in the same direction of travel as that of the driver's motor vehicle, the driver shall proceed with due caution and, if possible and with due regard to the road, weather, and traffic conditions, shall change lanes into a lane that is not adjacent to that of the stationary public safety vehicle.

(2) If the driver is not traveling on a highway of a type described in division (A)(1) of this section, or if the driver is traveling on a highway of that type but it is not possible to change lanes or if to do so would be unsafe, the driver shall proceed with due caution, reduce the speed of the motor vehicle, and maintain a safe speed for the road, weather, and traffic conditions.

(B) This section does not relieve the driver of a public safety vehicle from the duty to drive with due regard for the safety of all persons and property upon the highway.

(C) No person shall fail to drive a motor vehicle in compliance with division (A)(1) or (2) of this section when so required by division (A) of this section.

(D) (1) Except as otherwise provided in this division, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

(2) Notwithstanding section 2929.28 of the Revised Code, upon a finding that a person operated a motor vehicle in violation of division (C) of this section, the court, in addition to all other penalties provided by law, shall impose a fine of two times the usual amount imposed for the violation.

(E) As used in this section, "public safety vehicle" has the same meaning as in section 4511.01 of the Revised Code.

HISTORY: 148 v H 86. Eff 9-28-99; 149 v. s 123, §1, eff. 1-1-04; 149 v H 490, §/4, eff. 1-1-04.

OHIO

32-31-6.1. Stop required upon approaching stopped emergency vehicle using red signals -- Requirements for approaching vehicles using amber or yellow signals -- Violation as misdemeanor. Upon approaching from any direction any stopped authorized emergency vehicle making use of red visual signals meeting the requirements of this title, the driver of every other vehicle shall come to a complete stop before reaching the stopped emergency vehicle and may, unless otherwise directed, proceed with caution only after ascertaining that it is safe to do so, and upon approaching from any direction any stopped vehicle making use of amber or yellow warning lights, the driver of every other vehicle shall:

(1) If driving on an interstate highway or other highway with two or more lanes traveling in the same direction as the vehicle, merge into the lane farthest from the vehicle and proceed with caution, unless otherwise directed; or

(2) If driving on a two lane highway, slow to a speed that is at least twenty miles per hour less than the posted speed limit or five miles per hour when the speed limit is posted at twenty miles per hour or less and proceed with caution, unless otherwise directed.

A violation of this section is a Class 2 misdemeanor.

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321.323A Approaching certain stationary vehicles.

1. The operator of a motor vehicle approaching a stationary authorized emergency vehicle that is displaying flashing yellow, amber, white, red, or red and blue lights shall approach the authorized emergency vehicle with due caution and shall proceed in one of the following manners, absent any other direction by a peace officer:

a. Make a lane change into a lane not adjacent to the authorized emergency vehicle if possible in the existing safety and traffic conditions.

b. If a lane change under paragraph "a" would be impossible, prohibited by law, or unsafe, reduce the speed of the motor vehicle to a reasonable and proper speed for the existing road and traffic conditions, which speed shall be less than the posted speed limit, and be prepared to stop.

2. The operator of a motor vehicle approaching a stationary towing or recovery vehicle, or a stationary highway maintenance vehicle, that is displaying flashing yellow, amber, or red lights shall approach the vehicle with due caution and shall proceed in one of the following manners, absent any other direction by a peace officer:

a. Make a lane change into a lane not adjacent to the towing, recovery, or highway maintenance vehicle if possible in the existing safety and traffic conditions.

b. If a lane change under paragraph "a" would be impossible, prohibited by law, or unsafe, reduce the speed of the motor vehicle to a reasonable and proper speed for the existing road and traffic conditions, which speed shall be less than the posted speed limit, and be prepared to stop.

Section History: Recent form

2002 Acts, ch 1013, §1

Footnotes

For applicable scheduled fines, see §805.8A, subsection 11, paragraph b

Previous Section [321.323](#)

Next Section [321.324](#)



**Fairbanks Police
Department**

Attn: Officer David A. Stevenson
911 Cushman Street
Fairbanks, AK 99701

February 16th, 2004

STATE OF ALASKA HOUSE OF REPRESENTATIVES
Representative Jim Holme
ATTN: Matthew Rudig, Staff to Representative Jim Holm
State Capitol Building
Juneau, AK 99801

To Whom It May Concern:

I am submitting this letter as a Statement in Support of House Bill 438.

I have been a police officer for over 17 years. I have been a police officer in Alaska since 1993. On October 8th, 2000 I was involved in an accident on the Richardson Highway just south of Fairbanks. In my accident, a driver traveling southbound on the Richardson Highway realized at the last minute that I was not merely doing a traffic stop. A wrecker was facing backwards on the highway ready to tow a vehicle. I did things to try and get the driver to slow down. My emergency overhead lights were on. She moved over, but did not slow down. She swerved suddenly and the icy road conditions threw her vehicle into a spin at 50 MPH causing her to crash into my patrol car. On this day, I did something different than I have ever done in my career. I did not get out of my patrol car and direct traffic as I usually do. It was dark. It was snowing heavily and had been raining earlier in the night, causing extremely slick road conditions. I could hardly stand on the road. If I had been out of my vehicle at the time of the accident, I would have been crushed between the patrol car and the car that struck me.

My patrol car was involved in a similar accident in 1998. Fairbanks Police Department Officer Williams using my patrol car. He was working an accident on the Richardson Highway when a driver failed to slow, drove through a large flare pattern and rear-ended my patrol car.

Sergeant Jewkes with the Fairbanks Police Department also was working an accident on the Johansen Expressway near the Peger Road overpass. A vehicle did not slow down and slid on the icy roads. He and a bystander had to jump over an embankment to avoid being crushed as the car struck the guardrail they were standing next to. We are thankful at the Fairbanks Police Department that it was only the embankment, and not the bridge itself.

In the 1980's Fairbanks Police Officer Don Lasage was struck on the Richardson Highway after he stopped to clear debris from the roadway. His emergency overhead lights were on. Officer Lasage was gravely injured and subsequently had to retire on medical retirement.

There are similar stories across the state where officers have jumped out of the way or felt the high speed brush of a mirror passing their head at 55 MPH plus. I have discovered an interesting effect through the years. Some drivers are so busy looking at the emergency overhead lights they actually drive towards them. (You drive to where you are looking.)

The point I see in this law is it will give a person an automatic response to the sight of emergency vehicles along the side of the road. We all take our foot off the accelerator when we see a police car coming the other way. I do it too. Even though we may not be speeding, it is an automatic response. We do not want a speeding ticket. With the proper advertising campaign and support in the media, this law could engrain in most driver's head that

when they seen the emergency overhead lights, they need to slow down and move over. We wili automatically think, "Oh, emergency overhead lights... I better slow down and move over." Nobody wants a ticket.

Thank you for your time and consideration in this matter. Please vote for House Bill 438. It is a simple law that could save an officer's life and save our government money in damages and medical bills.

Sincerely,

David A. Stevenson #307
Police Officer
Fairbanks Police Department

Subject: [Fwd: New Alaska Statute]

Date: Tue, 10 Feb 2004 07:04:40 -0900

From: Representative Jim Holm <Representative_Jim_Holm@Legis.state.ak.us>

Organization: Alaska State Legislature

To: Matthew Rudig <Matthew_Rudig@legis.state.ak.us>

Subject: New Alaska Statute

Date: Sat, 07 Feb 2004 01:12:33 -0900

From: Eric Jewkes <ejewkes@ci.fairbanks.ak.us>

To: Representative_Jim_Holm@legis.state.ak.us

I have read over the proposed statute AS 28.35.185 and give it my support. One, often overlooked, danger emergency service personnel frequently face is that of careless drivers. With so much of our time being spent on or near the road way, this danger is one that is difficult to defend against. Nothing we have can stop a 6000 pound car traveling at 55 plus mph.

To add a personal story relating to this: After working for the Fairbanks Police department around 2 years I responded to a traffic accident on the Johansen expressway. The vehicles involved in the accident were not able to be driven, which meant staying on the roadside, near the Peger overpass. I was aware of the dangers of passing cars and had one of the driver's, whom I was speaking with, stand with me in front of my car. While I was talking to the driver I heard a vehicle sliding on the ice. I turned around to see a Jeep, out of control, and heading right at my patrol car, and us. I had just enough time to tell the other driver to run. We both ran toward the guardrail, jumping over it and down the embankment (luckily just passed the overpass and not on the actual bridge). The Jeep struck my patrol car, at approximately 50 mph, in the middle of the driver's door, pushing my car into the area where we had just been standing.

Would this proposed law change what happened or what could have happened? Maybe not. Regardless, I believe the intent of the law represents what a driver with good sense would do anyway. Unfortunately common sense does not always parallel good sense and a legislative reminder is necessary.

Thank you for your concerns and efforts.

Eric Jewkes, Sergeant
Fairbanks Police Department

Subject: New Alaska Statute

Date: Sat, 07 Feb 2004 01:12:33 -0900

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To: Representative_Jim_Holm@legis.state.ak.us

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Thank you for your concerns and efforts.

Eric Jewkes, Sergeant
Fairbanks Police Department

HB

439

AMENDMENT	PURPOSE	LT. GOV. POSITION
"certificate" INSERT "acknowledged that"; Page 3, Line 13 after "and" INSERT "acknowledged that"	Grammar	Drafter decision
Page 3, Line 20 after "partnership," INSERT "limited partnership, or limited liability partnership"; Page 5, Line 19 after "partnership" INSERT ",limited partnership, or limited liability partnership"	Include these two new forms of partnership	Drafter decision
Page 7, Lines 10-12 DELETE [THE LIEUTENANT GOVERNOR SHALL ACCOUNT FOR THE FEES RECEIVED UNDER THIS SECTION AND SHALL PAY THEM INTO THE STATE TREASURY]	Perhaps archaic & unnecessary	Drafter decision
Page 9, Line 11 DELETE [AND] and insert "the applicant's"	Grammar - same construction is already in use at Page 8, Lines 20-21	OK
Page 9, Line 28 DELETE [STARTING] INSERT "commencing"	Lawsuit is "commenced"	Drafter decision
Page 9, Line 24 DELETE [BEGINNING WITH] INSERT "from"; DELETE [AS A NOTARY PUBLIC]	Grammar	Drafter decision
Page 9, Line 26 DELETE [TWO] INSERT "ten"	Statute of limitations for a sealed instrument AS 09.10.040	
Page 11, Line 10 DELETE [OF] INSERT "in"	Typographical error?	Drafter decision
Page 14, Line 6 DELETE [10] INSERT "30"	Give consideration of notary's ability to do this within 10 days	OK
Page 15, Line 7 to Page 16, Line 30 (AM "L")		OK/pending drafter review

P3/12

NEW Section dealing with Unauthorized Practice (AM "M"		OK, although we don't think this is a problem or an issue
NEW Section dealing with Regulations and Handbook "AM O"		OK, this codifies what we are doing now.

THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES

Bond amounts

	<u>varies by County</u>	<u>\$ 500</u>	<u>\$ 1,000</u>
<u>None</u>			
Colorado	Kentucky	New Mexico	Utah
Connecticut		Wyoming	Kansas
Delaware		Wisconsin (more for authorities)	Oklahoma
Georgia			
Iowa	<u>\$ 2000</u>	<u>\$ 3000</u>	
Maine	Dist of Columbia	Pennsylvania	
Maryland			
Massachusetts			
Minnesota	<u>\$ 5000</u>	<u>\$ 7500</u>	<u>\$ 10,000</u>
New Hampshire	Arizona	TX Arkansas (recently ^{with} increased)	Alabama
New Jersey	Illinois		Idaho
New York	Indiana	Florida	Michigan
North Carolina	Louisiana	Kansas	Missouri
Ohio	Mississippi	North Dakota	Montana (recently increased)
Oregon	South Dakota		Nebraska
Rhode Island	Utah		Nevada
South Carolina			Tennessee
Vermont			Texas
Virginia	<u>\$ 15000</u>		Washington
West Virginia	California		



United States
NOTARY
Association

March 3, 2004

The Honorable Loren Leman
Office of the Lieutenant Governor
P.O. Box 110015
Juneau, AK 99811-0015

RE: Alaska House Bill 439

Dear Mr. Leman:

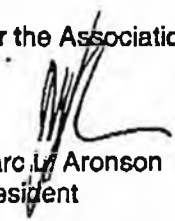
On behalf of the members of the United States Notary Association (USNA), I congratulate you and Governor Murkowski on your legislative initiative to comprehensively revise the chapter of the Alaska Statutes that governs Alaska notaries public, Title 44, Chapter 50 [AS 44.50].

USNA is strongly in favor of this notarial regulation in that it gives notaries clear and unambiguous direction for the performance of their official duties. This direction protects both the notary and the public from the serious consequences of unintended error. Since AS 44.50 has not been comprehensively revised since being enacted in 1961, USNA gives its full support to House Bill 439 because the bill intends to repeal obsolete provisions, update antiquated language and add new provisions where they are needed.

USNA urges the Alaska House of Representatives to take prompt and favorable action regarding this bill. If I can be of help to you in supporting this bill, please contact me at 800-587-2588 or usna@enotary.org.

I look forward to reporting on the successful passage of House Bill 439 in an upcoming issue of *Notary Review*.

For the Association,




Marc L. Aronson
President

About the United States Notary Association

USNA is a membership organization dedicated to the professional development of notaries public in all 50 states and the District of Columbia. USNA's goal is to provide notaries with accurate, reliable information and high quality products and services.

Notaries join USNA to learn about proper notarial procedures and the laws, current events, and common issues affecting notaries in their states and nationwide. Members can call USNA's telephone support or E-mail their questions. Members also receive a subscription to *Notary Review*, our bi-monthly publication, containing news briefs, educational articles and other information of interest to notaries.



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P.O. Box 100600

Alaska Bankers Association
Anchorage, Alaska 99510-0600

(907) 265-2920

February 17, 2004

The Honorable Loren Leman
Lieutenant Governor, State of Alaska
State Capitol, Third Floor
Juneau, Alaska 99811

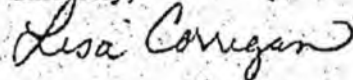
Re: HB 439

Dear Lt. Governor Leman:

The members of the Alaska Bankers Association have had the opportunity to review House Bill 439, which addresses the responsibilities of notaries public in the State of Alaska. We have no opposition to the proposed changes to existing law and are in support of the legislation.

We appreciate the opportunity to review and comment on any proposed legislation that may impact the financial services industry.

Sincerely,



Lisa J. Corrigan
President
Alaska Bankers Association

American Society of Notaries



ALL-STATES Notary Public Guide

Respectfully developed by the American Society of Notaries
for the U.S. Secretaries of State, Secretaries of the Commonwealth
and Notary Administrators.



Research and editing by Joanna L. Lilly and Jennifer Workman.

Layout by Laura Pichard-Murphy.

This information was compiled through, and is based on, notary websites and interviews with notary administration staff for each state. Any errors or omissions in data are unintentional.

Further information can be obtained by contacting the state notary administrators' office.

Contact information for each state is provided on pages 12-13.


For her interest and efforts in developing this resource for the National Association of Secretaries of State, we'd like to offer a special thanks to the Honorable Anne Petera, Virginia Secretary of the Commonwealth and Chairperson of the NASS Standing Committee on Notaries.


Notary Population by State & Electronic Applications

STATE	POPULATION	ACCEPTANCE OF E-APPLICATIONS	UCC FILINGS
ALABAMA	70,000	No	Secretary of State Office
ALASKA	11,800	Not yet	Banking and Corporations Office
ARIZONA	86,000	Not yet	Business Services
ARKANSAS	Over 100,000	No	UCC Division
CALIFORNIA	154,000	No	UCC Division
COLORADO	90,000 - 100,000	Not yet	Division of Bus. Filings UCC Section
CONNECTICUT	52,000 - 70,000	No	Commercial Recording Division
DELAWARE	10,000	No	Corporations Division
D.C.	12,000 - 15,000	No	
FLORIDA	350,000	Yes	Department of State, Division of Corporations
GEORGIA	240,000 - 250,000	No	UCC Division
HAWAII	7,000	Not yet	—
IDAHO	—	No	UCC Division
ILLINOIS	184,000	Not yet	Business Services
INDIANA	90,000	Not yet	UCC Division
IOWA	50,000	Not yet	Corporations Division
KANSAS	80,000	Not yet	UCC Division
KENTUCKY	80,000 (records kept 4 years only)	No	UCC Division
LOUISIANA	—	No	UCC Division
MAINE	—	No	UCC Division
MARYLAND	94,000	No	Assessment And Taxation Department
MASSACHUSETTS	100,027	No	Corporations Division
MICHIGAN	150,000	No	Business Licenses
MINNESOTA	83,000	No	—
MISSISSIPPI	50,948	No	UCC Division
MISSOURI	71,122	No	UCC Division
MONTANA	18,300	No	UCC Division
NEBRASKA	22,000	No	Secretary of State Office
NEVADA	27,000	Not yet	UCC Division
NEW HAMPSHIRE	25,000	No	UCC Division
NEW JERSEY	—	No, yet	Division of Revenue
NEW MEXICO	32,000	No	Secretary of State Office
NEW YORK	250,597	No	Division of Corporations UCC Unit
NORTH CAROLINA	196,000	Not yet	UCC Division of SOS Office
NORTH DAKOTA	11,574	No	Central Indexing
OHIO	85,000	No	—
OKLAHOMA	84,000	No	Through each county
OREGON	45,000	Not yet	Corporations Division
PENNSYLVANIA	91,490	Not yet	Corporations Bureau
RHODE ISLAND	47,860	No	UCC Division
SOUTH CAROLINA	150,000 - 200,000	No	UCC Division
SOUTH DAKOTA	17,000	No	UCC Division
TENNESSEE	143,069	No	Secretary of State Office
TEXAS	352,294	Not yet	UCC Division
UTAH	28,000	No	Division of Corporations & Commercial Code
VERMONT	20,000	Not yet	Division of Corporations
VIRGINIA	200,000	Not yet	State Corporation of Commercialization
WASHINGTON	75,000	No	UCC Office in the Department of Licensing at the Business and Profession Division
WEST VIRGINIA	42,000	No	UCC Division
WISCONSIN	20,000	No	Department of Financial Institutions
WYOMING	15,000	Not yet	Corporations Division

— Information not available.

Appointment Process -- Qualifications

STATE	APPOINTING OFFICER	REQUIREMENTS FOR COMMISSION
ALABAMA	Individual county judges	Varies by county — 18 years old; resident of AL and county commissioned in; must have notary bond at time of commissioning.
ALASKA	LI Governor	19 years old; resident of AK.
ARIZONA	Secretary of State	18 years old; must be an AZ resident; minimum residency requirement varies.
ARKANSAS	Secretary of State	18 years old; citizen of US and resident of AR; able to read and write English; notary commission hasn't been revoked within the last 10 years.
CALIFORNIA	Secretary of State	18 years old; legal resident of CA; successful completion of an approved notary exam.
COLORADO	Secretary of State	18 years old; citizen of US; qualified elector in CO; able to read and write English.
CONNECTICUT	Secretary of State	18 years old; residence or employment in CT.
DELAWARE	Secretary of State	18 years old; good character and reputation; a reasonable need for a notary commission; legal resident of DE.
DISTRICT of COLUMBIA	Office of the Secretary	18 years old; residence or employment in DC; letter explaining need included with application; three character references included with application.
FLORIDA	Office of the Governor	18 years old; read, write, and understand English; permanent resident of FL; if convicted of a felony must have rights restored; completion of mandatory training class.
GEORGIA	Clerk of Superior Court in each county	18 years old; able to read and write English; resident of GA.
HAWAII	Attorney General	18 years old; US citizen and resident of HI.
IDAHO	Secretary of State	18 years old; residence or employment in ID; able to read and write English; No removal from office for misconduct or no conviction of a serious crime within the last 10 years.
ILLINOIS	Secretary of State	18 years old; resident of IL; able to read and write English; no revocation of commission or felony convictions in the last 10 years.
INDIANA	Secretary of State	18 years old; resident of IN.
IOWA	Secretary of State	18 years old; residence or employment in IA; no revocation of commission or felony convictions in the last 10 years.
KANSAS	Secretary of State	18 years old; resident of KS; or resident of bordering state and employed in KS.
KENTUCKY	Secretary of State	18 years old; resident of county in which application is made; of good moral character; and capable of discharging duties imposed by law.
LOUISIANA	Secretary of State	18 years old; resident of LA, in and for the parish in which applicant lives or works, provided that the notary meets the requirements established by each parish in which the notary applies.
MAINE	Secretary of State	18 years old; resident of ME; and recommended to the office by a registered voter in ME.

Term of Office & Appointment Fees

TERM OF OFFICE	APPOINTMENT FEES	COMMENTS
4 years	\$11-\$15, varies by county	Notaries are appointed by county judges in county of residence.
4 years	\$40	AK specifically requires personal appearance. Postmasters may perform the functions of a notary public.
4 years	\$25 to Secretary of State; \$18 to Clerk of Superior Court in county of residence	Jurisdiction is statewide, though notaries are commissioned in the county of residence.
10 years	\$20	
4 years	\$100	
4 years	\$10 plus \$2 admin fee for change of address, name change, etc.	
5 years	\$60	
2 years (new) or 4 years	\$53 \$78	
5 years	\$50	
4 years	\$39	Notaries in FL are authorized to perform marriage ceremonies.
4 years	\$15	
4 years	\$40	
6 years	\$30	
4 years	\$10	
8 years	\$5	
3 years (resident) 1 year (non-resident)	\$30	
4 years	\$10	Notaries are <u>not</u> considered public officers.
4 years	\$10	There are two types of notaries in KY: notaries state-at-large and notaries under special commission.
Lifetime	Varies from parish to parish - up to \$1,000, includes education and examination, state fees, background checks, bonding, filing with parish, etc. LA notaries are civil law notaries with more involved duties than common law notaries. LA's requirements for notaries reflect this difference.	
7 years	\$25	Each new notary must swear an oath in front of a Dedimus Justice before acting as a notary. Notaries in ME are authorized to perform marriage ceremonies.

Appointment Process – Qualifications

STATE	APPOINTING OFFICER	REQUIREMENTS FOR COMMISSION
MARYLAND	Secretary of State	18 years old; of good character, integrity and abilities; live or work in MD
MASSACHUSETTS	Governor	18 years old
MICHIGAN	Secretary of State	18 years old; residence or employment in MI; resident of the county where requesting a commission; in the case of nonresidents, applicants must work in the county in which commission is requested.
MINNESOTA	Governor	18 years old; resident of MN.
MISSISSIPPI	Governor	18 years old; registered voter in MS.
MISSOURI	Secretary of State	18 years old; registered voter of county of residence; able to read and write English; no commission revoked during past 10 years.
MONTANA	Secretary of State	18 years old; minimum residency of 1 year.
NEBRASKA	Governor	19 years old; application is accompanied by petition signed by at least 25 voters in county of residence.
NEVADA	Secretary of State	18 years old; resident of NV, US citizen or resident alien; possession of civil rights
NEW HAMPSHIRE	Governor and Ex. Council	18 years old; resident of NH; 2 notaries and 1 registered voter must endorse application; must complete State Police Records Check Form; cannot be a convicted felon.
NEW JERSEY	Secretary of State	18 years old; resident of NJ or resident of adjoining state who works in NJ; not convicted of a felony above the second degree.
NEW MEXICO	Governor	18 years old; resident of NM; able to read and write English; no revocation of commission or felony convictions in the past 5 years.
NEW YORK	Secretary of State	18 years old; residence or employment in NY; must pass written exam; and must provide verification of good moral character.
NORTH CAROLINA	Secretary of State	18 years old; resident of NC or employed in NC; recommended by publicly elected official; completion of notary course approved by SOS.
NORTH DAKOTA	Secretary of State	A notary applicant must have the same qualifications as an elector with regard to age and residence or must reside in a county that borders ND in a state that extends reciprocity to a notary public in a border county.
OHIO	Governor	18 years old; citizen of OH; or attorney of another state who is admitted to the practice of law in OH.
OKLAHOMA	Secretary of State	18 years old; citizen of the US; legal residence or employment in OK.
OREGON	Secretary of State	18 years old; residence or employment in OR; able to read and write English; be of good moral character; have no notary commission revoked in the preceding 5 years; no felony conviction within the last 10 years.
PENNSYLVANIA	Sec. of the Commonwealth	18 years old; registered voter; resident of PA for at least 1 year prior to commission application; be of known character, integrity, and ability.
RHODE ISLAND	Governor	Any qualified elector/resident of RI.
SOUTH CAROLINA	Governor	18 years old; must be a registered voter in SC; application must be endorsed by county delegates.
SOUTH DAKOTA	Secretary of State	18 years old; citizen of US; no felony convictions.
TENNESSEE	Governor	18 years old; citizen of US and resident of TN; no felony convictions; elected by county legislative body of county of residence.

Term of Office & Appointment Fees

TERM OF OFFICE	APPOINTMENT FEES	COMMENTS
4 years	\$10	
7 years	\$25	
4 years	\$5	
5 years	\$40	Dept of Commerce oversees notary commissions.
4 years	\$25	Notaries are <u>not</u> considered public officers.
4 years	\$25	Non-residents can be notaries in MO if they work in MO.
4 years	\$20	
4 years	\$30	
4 years	\$35	
5 years	\$50	
5 years	\$25	
4 years	\$10	
First commission-2 yrs 4 years after July 18, 2001	\$30 (\$60 after July 18, 2001)	
5 years	\$30	
6 years	\$25	
5 years	\$5-6	Notaries apply in the counties they reside in through the local bar association.
4 years	\$25	
4 years	\$20	
4 years	\$25	
4 years	\$80	
10 years	\$25	SC notaries are authorized to perform marriage ceremonies.
6 years	\$10	
4 years	\$12	\$7 for the County Court Clerk and \$5 for the Secretary of State.

Appointment Process – Qualifications

STATE	APPOINTING OFFICER	REQUIREMENTS FOR COMMISSION
TEXAS	Secretary of State	18 years old; resident of TX.
UTAH	Dir. of the Div. of Corporations and Commercial Code	18 years old; live in the state at least 30 days prior to applying; must be able to read, write, and understand English; must submit a complete application; must be a UT resident; must be endorsed by two state residents who are over 18.
VERMONT	Superior Court Assistant Judges	18 years old; resident of the state or a nonresident who commutes for work.
VIRGINIA	Governor	18 years old; resident of the state or a nonresident who commutes for work; must have the endorsement of two state officials and two voters.
WASHINGTON	Dept. of Licensing Dir.	18 years old; resident of the state or an adjoining state and be regularly employed in or conduct business in Washington; read and write English; submission of complete application; must submit a \$10,000 surety bond and application fee.
WEST VIRGINIA	Governor	18 years old; citizen of the United States; must be able to read and write English; must never have been convicted of a felony, or must have been pardoned. Nonresidents are eligible if they are regularly employed in the state and need the commission for employment.
WISCONSIN	Governor	18 years old; resident of the state.
WYOMING	Secretary of State	18 years old; resident of the state, or nonresident who commutes in the state for work.

Term of Office & Appointment Fees

TERM OF OFFICE	APPOINTMENT FEES	COMMENTS
4 years	\$21	
4 years	\$20	
4 years	\$20 payable to county	
4 years	\$25	
4 years	\$20	
4 years	\$25	
4 years	\$20	
4 years	\$30	

Notary Exam & Class Requirements

STATE	EXAM REQ'D	CLASS REQ'D	COMMENTS	STATE TRAINING
ALABAMA			No education or exam required.	
ALASKA	X		Exam in Alaska handbook.	
ARIZONA			No education or exam required.	
ARKANSAS			No education or exam required.	
CALIFORNIA	X		Exam required for new and renewing notaries.	
COLORADO			No education or exam required.	X
CONNECTICUT	X		Exam is part of application.	X
DELAWARE			No education or exam required.	
D.C.	X		Exam is oral and open-book test.	X
FLORIDA		X	Class required for new notaries.	X
GEORGIA			No education or exam required.	X
HAWAII	X		Exam is closed-book test.	
IDAHO			No education or exam required.	
ILLINOIS			No education or exam required.	
INDIANA			No education or exam required.	
IOWA			No education or exam required.	X
KANSAS			No education or exam required.	X
KENTUCKY			No education or exam required.	
LOUISIANA	X		Training suggested.	
MAINE	X		Open book exam part of application.	X
MARYLAND			No education or exam required.	
MASSACHUSETTS			No education or exam required.	
MICHIGAN			No education or exam required.	
MINNESOTA			No education or exam required.	
MISSISSIPPI			No education or exam required.	
MISSOURI			No education or exam required.	X
MONTANA			No education or exam required.	
NEBRASKA			No education or exam required.	
NEVADA			No education or exam required.	X
NEW HAMPSHIRE			No education or exam required.	
NEW JERSEY			No education or exam required.	
NEW MEXICO			No education or exam required.	
NEW YORK	X		Exam is closed-book test.	
NORTH CAROLINA	X	X	Training and exam are required prior to commission.	X
NORTH DAKOTA			No education or exam required.	
OHIO	X		Tests are administered by the county. All exams are different and not every county issues an exam.	
OKLAHOMA			No education or exam required.	
OREGON	X		Exam is open-book test and part of application.	X
PENNSYLVANIA			No education or exam required.	
RHODE ISLAND			No education or exam required.	
SOUTH CAROLINA			No education or exam required.	
SOUTH DAKOTA			No education or exam required.	
TENNESSEE			No education or exam required.	
TEXAS			No education or exam required.	
UTAH	X		Training is encouraged, but not required.	X
VERMONT			No education or exam required.	X
VIRGINIA			No education or exam required.	
WASHINGTON			No education or exam required.	
WEST VIRGINIA			No education or exam required.	
WISCONSIN			No education or exam required.	
WYOMING	X		Test in back of WY notary book is not mandatory, but is recommended.	

Stamp/Embosser Requirements & Fees

STATE	STAMP/EMBOSSER	ALLOWABLE FEES/NOTARY CAN CHARGE*
ALABAMA	Embosser	Maximum fee is \$1.50 depending upon act performed.
ALASKA	Stamp/Embosser	Fees are left to the notary's discretion. State employed notaries cannot charge fees.
ARIZONA	Stamp	\$2 is maximum fee.
ARKANSAS	Stamp/Embosser	\$5 is maximum fee.
CALIFORNIA	Stamp	Maximum fee is \$20 depending upon act performed.
COLORADO	Stamp/Embosser	\$5 is maximum fee.
CONNECTICUT	—	\$5 is maximum fee.
DELAWARE	Stamp/Embosser	\$5 is maximum fee.
D. C.	Embosser	\$2 is maximum fee. Government employed notaries cannot charge fees.
FLORIDA	Stamp	\$10 is maximum fee per signature.
GEORGIA	Stamp/Embosser	\$4 is maximum fee.
HAWAII	Stamp/Embosser	Maximum fee is \$5 depending upon act performed.
IDAHO	Stamp/Embosser	\$2 is maximum fee.
ILLINOIS	Stamp	\$1 is maximum fee.
INDIANA	Stamp/Embosser	\$2 is maximum fee. Public official notaries cannot charge fees.
IOWA	Stamp/Embosser	The statutory schedule of fees for notarial acts was repealed in 1989.
KANSAS	Stamp/Embosser	Not specified by law.
KENTUCKY	—	Maximum fee is 50 cents depending upon act performed.
LOUISIANA	—	Not specified by law.
MAINE	—	Other than \$1.50 for each protest of a bill or note, fees are left to notary's discretion.
MARYLAND	Stamp/Embosser	\$2 is maximum fee.
MASSACHUSETTS	—	\$2 is maximum fee for protests. All other fees are left to the notary's discretion.
MICHIGAN	—	\$2 is maximum fee.
MINNESOTA	Stamp	\$1 is maximum fee.
MISSISSIPPI	Stamp/Embosser	Fee range is \$2 to \$5.
MISSOURI	Stamp/Embosser	Maximum fee is \$2 depending upon act performed.
MONTANA	Stamp/Embosser	Maximum fee is \$3.50 depending upon act performed.
NEBRASKA	Stamp	Maximum fee is \$5 depending upon act performed. State employed notaries cannot charge fees.
NEVADA	Stamp	Maximum fee is \$5 depending upon act performed.
N. HAMPSHIRE	Stamp/Embosser	\$5 is maximum fee.
N. JERSEY	—	Maximum fee is \$2 depending upon act performed.
NEW MEXICO	Stamp/Embosser	Maximum fee is \$2 depending upon act performed.
NEW YORK	—	Maximum fee is \$2 depending upon act performed.
N. CAROLINA	Stamp/Embosser	\$3 is maximum fee.
N. DAKOTA	Stamp/Embosser	\$5 is maximum fee.
OHIO	Stamp/Embosser	Maximum fee is \$2 depending upon act performed.
OKLAHOMA	Stamp/Embosser	Maximum fee is 50 cents depending upon act performed.
OREGON	Stamp	Maximum fee is \$5 depending upon act performed.
PENNSYLVANIA	Stamp/Embosser	Maximum fee is \$2 depending upon act performed.
RHODE ISLAND	—	Maximum fee is \$1.50 depending upon act performed.
S. CAROLINA	—	Maximum fee is \$1 depending upon act performed.
S. DAKOTA	Stamp/Embosser	\$10 is maximum fee.
TENNESSEE	Stamp/Embosser	Maximum fee is \$1.50 depending upon act performed.
TEXAS	Stamp/Embosser	Maximum fee is \$6 depending upon act performed.
UTAH	Stamp/Embosser	\$5 is maximum fee.
VERMONT	—	Maximum fee is \$2 depending upon act performed.
VIRGINIA	—	Maximum fee is \$2 depending upon act performed.
WASHINGTON	Stamp/Embosser	Maximum fee is \$5 depending upon act performed.
WEST VIRGINIA	Stamp/Embosser	\$2 is maximum fee.
WISCONSIN	Stamp/Embosser	Maximum fee is \$1 depending upon act performed.
WYOMING	Stamp/Embosser	\$2 is maximum fee.

* New legislation enacted requiring use of stamp or seal.

Bond & Recordbook Requirements/Penalties for Wrongdoing

STATE	RECORDBOOK	BOND	PENALTIES/ACTION
ALABAMA	X	\$10,000	— Discipline done through probate office/local DA office.
ALASKA	Recommended	\$1,000	X Complaint required in writing and verified by Attorney General. An administrative hearing can be followed by the suspension or revocation of commission.
ARIZONA	X	\$5,000	X Attorney General determines whether commission is revoked or renewal is denied.
ARKANSAS	Recommended	\$7,500*	X The complaint must be in writing to the staff attorney who has the power to revoke the commission if necessary.
CALIFORNIA	X	\$15,000	X Commission can be suspended or revoked, or application for commission can be denied.
COLORADO	X	None	X Secretary of State has the option to revoke commission.
CONNECTICUT	Recommended	None	X A disciplinary hearing is followed by reprimand, suspension, or revocation of commission.
DELAWARE	—	None	X Complaints referred to Attorney General. Commission can be revoked.
D. C.	X	\$2,000	X A written complaint must be filed with the Notary Commission Section Chief who decides what action to take. The most severe action is revocation of commission.
FLORIDA	Recommended	\$7,500	X Notary commissions can be suspended or revoked and the notary can be subject to fines and/or criminal penalties.
GEORGIA	—	None	Each county handles disciplinary action.
HAWAII	X	\$1,000	X Issues are solved verbally. State has the ability to revoke a commission but never has.
IDAHO	—	\$10,000	—
ILLINOIS	—	\$5,000	—
INDIANA	—	\$5,000	— There is a complaint form, but no official disciplinary procedure.
IOWA	Recommended	None	X State code encourages informal settling of disciplinary issues. If that is not possible, the commission is revoked.
KANSAS	—	\$7,500	X After review by an attorney, revocation of the commission is the ultimate penalty.
KENTUCKY	Recommended	Varies per county	—
LOUISIANA	X (Ordinary Parish only)	\$5,000	— Notaries are not governed by the state. No bond required for attorneys.
MAINE	Recommended (Required for mortgages only)	None	— Complaints are made to and handled by the Attorney General.
MARYLAND	X	None	— The notary receives a letter of reprimand for the first act of wrongdoing. In the event of a second act of wrongdoing, the commission is revoked.
MASSACHUSETTS	Recommended	None	— Complaints are referred to the Governor's council.
MICHIGAN	Recommended	\$10,000	X There is a hearing and possible revocation of commission.
MINNESOTA	—	None	X The Enforcement Division investigates. Penalties can include warnings, fines, suspension, or revocation of commission.
MISSISSIPPI	X	\$5,000	— Complaints are referred to Governor's office.
MISSOURI	X	\$10,000	— Revocation must be done through Attorney General's office.
MONTANA	Recommended	\$10,000**	— Complaints are referred to county attorney.
NEBRASKA	Recommended	\$10,000	X The commission can be revoked or in extreme cases there are court hearings.
NEVADA	X	\$10,000	X Complaints must be in writing. If wrongdoing is found, penalties are issued.
N. HAMPSHIRE	X	None	X Commission can be revoked.
N. JERSEY	X	None	— The state isn't involved in notary discipline. If a notary case goes through the court system, the state will be notified to revoke the commission.
NEW MEXICO	X (For Notices of Protest only)	\$500	Secretary of State has no authority to discipline notaries.

* Recent legislation passed increasing bond from \$4,000 to \$7,500.

** Recent legislation passed increasing bond from \$5,000 to \$10,000.

Bond & Recordbook Requirements/Penalties for Wrongdoing

STATE	RECORDBOOK	BOND	PENALTY	ACTION
NEW YORK	—	None	X	If a notary is accused of wrongdoing, he/she has the right to an administrative hearing before an administrative law judge.
N. CAROLINA	—	None	X	Complaints must be received in writing. If wrongdoing is found, the notary's commission can be suspended or revoked, depending on the severity of the wrongful act.
N. DAKOTA	Recommended	\$7,500	X	A letter is written to the Attorney General who can then revoke the commission, reprimand the notary, or assess a fee. <small>(Rec'd for Votes of Protest only)</small>
OHIO	X	None	—	Discipline/complaints are handled individually by each county.
OKLAHOMA	X	\$1,000	—	Complaints go through the court system.
OREGON	X	None	X	Discipline alternatives include a letter of advice, a warning, suspension, or revocation of the commission.
PENNSYLVANIA	X	\$3,000	—	Complaints are sent to the state prosecution office.
RHODE ISLAND	—	None	—	Complaints are referred to the local police.
S. CAROLINA	—	None	—	There is no policy unless the notary has done a false certification. In that case, the notary can be tried through the county and the commission can be revoked.
S. DAKOTA	Recommended	\$5,000	—	Complaints are kept on file and commissions are revoked with a court order.
TENNESSEE	X	\$10,000	—	—
TEXAS	X	\$10,000	—	Handled through the legal office.
UTAH	—	\$5,000	X	Notary administrator and commissioning office have the authority to revoke, suspend, or deny a commission with cause. There is an administrative hearing process in place if a notary wishes to appeal a decision.
VERMONT	—	None	—	Secretary of State has no jurisdiction over notary discipline. Complaints must be made to assistant judge of the superior court.
VIRGINIA	—	None	X	Notaries are penalized through reprimand, suspension, and revocation of their commissions.
WASHINGTON	—	\$10,000	X	Complaints are investigated and if wrongdoing is found the commission can be revoked.
WEST VIRGINIA	—	None	—	Due to change in staff this process is being revised.
WISCONSIN	—	\$500 (none for attorneys)	—	Complaints are forwarded to the Governor's office.
WYOMING	Recommended	\$500	—	Discipline is handled at the county level.

X Is required or applicable

— Information not available or on record

Contact Information

STATE	CONTACT PERSON	OFFICE/ADDRESS
ALABAMA	Jane Ryals, Notary Registrar	Office of the Secretary of State, PO Box 5616, Montgomery, AL 36103-5616
ALASKA	Scott Clark, Notary Administrator	Office of the Lieutenant Governor, PO Box 110015, Juneau, AK 99811-0015
ARIZONA	Connie Copeland, Director	Notary Section, 1700 West Washington, 7 th Floor, State Capitol Executive Tower, Phoenix, AZ 85007
ARKANSAS	Claudia Coombs, Business Services Manager	Office of the Secretary of State, Corporations Division, State Capitol, Little Rock, AR 72201-1094
CALIFORNIA	Alicia Stewart, Manager	Notary Public Section, PO Box 942877, Sacramento, CA 94277-0001
COLORADO	Geri Andrews, Notary Public Clerk	Office of the Secretary of State, 1560 Broadway, Suite 200, Denver, CO 80202
CONNECTICUT	Peter J. Bartucca	Notary Public Unit, 30 Trinity Street, Hartford, CT 06106
DELAWARE	Veronica Holmes, Notary Administrator	Office of the Secretary of State, 401 Federal Street, Suite 3, Dover, DE 19901
D. C.	Rosshyn Brown, Section Chief	Notary Commission & Authentication Section, 441 4 th St., Room 1C-090, Washington, DC 20001
FLORIDA	Jennifer Bertsch, Notary Education Coordinator Charles Canary	Office of the Governor, Notary Section, The Capitol, Rm 2009, Tallahassee, FL 32399-0001 Notary Commissions and Certifications Section, Dept. of State, State Capitol, Rm 1801, Tallahassee, FL 32399-0001
GEORGIA	Mike Smith, Communications Director	Georgia Superior Court, Clerks' Cooperative Authority, 1875 Century Blvd., Suite 100, Atlanta, GA 30345
HAWAII	Ann Yuuki, Legal Assistant	Department of Attorney General, 425 Queen Street, Honolulu, HI 96813
IDAHO	Debbie Farnsworth, Administrative Secretary	Office of the Secretary of State, Box 83720, Boise, ID 83720-0080
ILLINOIS	Christine Works, Notary Division Supervisor	Index Department, 111 East Monroe Street, Springfield, IL 62756
INDIANA	Pam Neff, Notary Public Deputy	Notary Department, State House, Rm 201, Indianapolis, IN 46204
IOWA	Rob Bernisen, Director of Business Services	Corporations Division, Lucas Office Building, 1 st Floor, Des Moines, IA 50319
KANSAS	Georgia Lott, Notary Administrator	Office of the Secretary of State, First Floor Memorial Hall, 120 SW 10 th Ave., Topeka, KS 66612-1594
KENTUCKY	Kim Bagwell, Administrative Specialist Principal	The Notary Public Division, Office of the Secretary of State, PO Box 821, Frankfort, KY 40602-0821
LOUISIANA	Cynthia Cotten, Administrative Specialist	Notary Division, PO Box 94124, Baton Rouge, LA 70804
MAINE	Timothy R. Poulin, Notary Public Officer	Bureau of Corporations, Elections & Commissions, 101 State House Station, Augusta, ME 04333-0101
MARYLAND	Debbie Elliott, Notary Public Officer	Notary Division, Office of the Secretary of State, State House, Annapolis, MD 21401
MASSACHUSETTS	Frances Gould, Director	Notary Section, Office of the Secretary of the Commonwealth, One Ashburton Place, Rm 1719, Boston, MA 02108
MICHIGAN	Elena Beasley, Manager	Office of the Great Seal, 717 West Allegan St., Lansing, MI 48918
MINNESOTA	Julie Leithaiser, Licensing Analyst	Licensing Division, 85 7 th Place East, Suite 600, St. Paul, MN 55101-3165
MISSISSIPPI	Nan Alnsworth, Records Analyst	Enforcement/Regulation Notaries, PO Box 136, Jackson, MS 39205 or 202 N. Congress St., Jackson, MS 39201
MISSOURI	Brenda Rieke, Division Director	Commissions Division, PO Box 784, Jefferson City, MO 65102-0784
MONTANA	Lisa Thompson, Notary Compliance Specialist	Office of the Secretary of State, State Capitol, PO Box 20281, Helena, MT 59620
NEBRASKA	Debbie Pester, UCC/Notary Administrator	Notary Division, PO Box 95104, Lincoln, NE 68509
NEVADA	Laura "Bru" Ehrldge, Notary Division Officer	Office of the Secretary of State, 101 N. Carson Street, Suite 3, Carson City, NV 89701
N. HAMPSHIRE	Notary Division	Office of the Secretary of State, State House, Rm 204, 107 North Main Street, Concord, NH 03301
N. JERSEY	Monica Jakovitz, Notary Supervisor	Division of Revenue, Notary Public Unit, PO Box 452, Trenton, NJ 08625
NEW MEXICO	Peter C. Garcia, Director	Office of the Sec. of State, State Capitol, Suite 420, Santa Fe, NM 87503
NEW YORK	Daniel E. Shapiro, Assistant Director	Licensing and Services Division, Department of State, 84 Holland Ave., Albany, NY 12208-3490
N. CAROLINA	Gayle P. Holder, Administrator	The Notary Public Section, Dept. of the Sec. of State, PO Box 29622, Raleigh, NC 27626-0622
N. DAKOTA	Mary Feist, Supervisor	Admin. & Lic. Div., Office of the Secretary of State, 600 East Boulevard Ave., Dept. 108, Bismark, ND 58505-0500
OHIO	Sandra Costa, Commission Clerk	Office of the Governor, 77 S. High Street, 19 th Floor, Columbus, OH 43215
OKLAHOMA	Mary Anne Wats, Notary Supervisor	Notary Public Department, 2300 N. Lincoln Blvd., Suite 101, Oklahoma City, OK 73105
OREGON	Tom Wrosch, Notary Public Supervisor	Office of the Secretary of State, 255 Capitol St. NE, Suite 151, Salem, OR 97310-1327
PENNSYLVANIA	Robin Cole, Notary Administrator	Bureau of Commissions, Elections & Legislation, 303 N. Office Building, Harrisburg, PA 17120
RHODE ISLAND	Justine Santoro Almeida, Notary Supervisor	Notary Division, 109 North Main Street, Providence, RI 02903-1335
S. CAROLINA	J. Spencer Hewitt, Notary Clerk	Notary Public Division, PO Box 11350, Columbia, SC 29211
S. DAKOTA	Eva Warme, Notary Clerk	Notary Public Division, 500 East Capitol Rm 204, Pierre, SD 57501-5077
TENNESSEE	Darlene Lawrence, Notary Supervisor	Office of the Secretary of State, 312 Eighth Ave. North, 6 th Floor, William R. Snodgrass Tower, Nashville, TN 37243
TEXAS	Charlene Kramer, Supervisor	Notary Public Unit, Secretary of State, PO Box 13315, Austin, TX 78711-3375
UTAH	Fran Fish, Notary Public Administrator	Div. of Corporations and Commercial Code, 160 E. 300 South, Salt Lake City, UT 84114
VERMONT	Kathren Walters, Notary Supervisor	Office of the Secretary of State, 26 Terrace Street, Drawer 09, Montpelier, VT 05609-1101
VIRGINIA	Michelle Ford, Notary Specialist	Notary Public Division, PO Box 1795, Richmond, VA 23218-1795
WASHINGTON	Jon Donnellan, Management Service Manager Linda Mead, Program Manager	Dept. of Licensing, PO Box 9027, Olympia, WA 98507
WEST VIRGINIA	Catherine Frerotte, Executive Assistant	Office of the Secretary of State, State Capitol, Suite 157-K, Charleston, WV 25305-0775
WISCONSIN	Marjorie Utman, Administrator	Gov't Records Division, Office of Sec. of State, Notary Records, PO Box 7848, Madison, WI 53707
WYOMING	Jeri Melsness, Documents Registrar	Office of the Secretary of State, State Capitol, Cheyenne, WY 82002

PHONE NUMBER	EMAIL	WEBSITE
(334) 242-7205	—	www.sos.state.al.us/notary/index.htm
(907) 465-3509	notary@gov.state.ak.us	www.gov.state.ak.us/lgov/notarynews/Index2.html
(602) 542-4758	notary@mail.sosaz.com www.sosaz.com/notary/	www.sosaz.com/notary/
(501) 682-3409	business@sosmail.state.ar.us	www.sosweb.state.ar.us/business.html
(916) 653-3595	notaries@ss.ca.gov	www.ss.ca.gov/business/notary/notary.htm
(303) 894-2680	—	www.sos.state.co.us/pubs/info_center/contact.html
(860) 509-6230	peter.bartucca@po.state.ct.us	www.sots.state.ct.us/RecordsLegislativeServices/RLSIndex.html#Notary
(302) 739-4111	—	www.state.de.us/sos/nphome.htm
(202) 727-3117	—	os.dc.gov/info/notary/notary.shtm
(850) 922-6400	fl_gov_notary@eog.state.fl.us	www.myflorida.com/myflorida/government/learn/notary/index.html
(850) 488-7521	—	—
(404) 327-6023	mike.smith@gsocca.org	www.gsocca.org
(808) 586-1218	—	www.state.hi.us/ag/notary/content.htm
(208) 332-2810	dfarswo@idsos.state.id.us	www.idsos.state.id.us/notary/npindex.htm
(217) 782-7017	—	www.sos.state.il.us/departments/index/division.html
(317) 232-6542	—	www.state.in.us/sos/bus_service/notary/
(515) 281-5204	robertsen@sos.state.ia.us	www.sos.state.ia.us/
(785) 296-2239	kssos@kssos.org	www.kssos.org/
(502) 564-3490 ext. 413	lhaagwell@mail.state.ky.us	www.sos.state.ky.us/ADMIN/NOTARY/NOTARY.HTM
(225) 342-4981	notaries@sec.state.la.us	www.notaries@sec.state.la.us.htm
(207) 287-4181	cec_notaries@state.me.us	www.state.me.us/sos/cec/cec/notary/not.htm
(410) 974-5520	notaries@sos.state.md.us	www.sos.state.md.us/sos/admin2/html/notary.html
(617) 727-2836	pre@sec.state.ma.us	www.state.ma.us/sec/pre/prenov/nothow.htm
(517) 373-2531	notary@sos.state.mi.us	www.sos.state.mi.us/grease/notaries/notaries.html
(651) 296-6319	Licensing.Commerce@state.mn.us	www.commerce.state.mn.us/pages/NotaryMain.htm
(601) 359-1615	notarymail@sos.state.ms.us or nainsworth@sos.state.ms.us	www.sos.state.ms.us/busserv/notaries/notaries.html
(573) 751-4756	riekel@sosmail.state.mo.us	mosl.sos.state.mo.us/bus-ser/soscom.html
(406) 444-5379	sos@state.mt.us	www.state.mt.us/sos/Notaries/Instructions/instructions.html
(402) 471-2558	sos07@nol.org	www.nol.org/80/home/SOS/Notary/notary_r.htm
(775) 684-5708	mnotary@govmail.state.nv.us or bethrid@govmail.state.nv.us	www.sos.state.nv.us/notary/notary_info.htm
(603) 271-3242	elections@sos.state.nh.us	www.state.nh.us/sos/notary.htm
(609) 633-8257	—	www.state.nj.us/treasury/revenue/dcr/programs/notary.html
(505) 827-3600/800-477-3632	stpetery@state.nm.us	www.sos.state.nm.us/notary-open.htm
(518) 473-2728	licensing@dos.state.ny.us	www.dos.state.ny.us/cms/notary1.html
(919) 807-2131	notaries@mail.sec.state.nc.us	www.secretary.state.nc.us/notary
(701) 328-2000	sosadlic@state.nd.us	www.state.nd.us/sec/Notary/notarymnu.htm
(614) 644-4559	—	—
(405) 521-2516	mary.a.watts@sos.state.ok.us	www.sos.state.ok.us/notary/notary_welcome.htm
(503) 986-2200	oregon.notary@state.or.us	www.sos.state.or.us/corporation/notary/notary.htm
(717) 787-5280	—	www.dos.state.pa.us/bcel/notaries/
(401) 222-1487	notaries@sec.state.ri.us	www.corps.state.ri.us/notaries/notaries.htm
(803) 734-2119	—	www.scsos.com/notaryduties.htm
(605) 773-5666	ke2.warne@state.sd.us	www.state.sd.us/sos/Notaries/notarycover.htm
(615) 741-3699	—	www.state.tn.us/sos/service.htm#notary
(512) 463-5705	clramer@sos.state.tx.us	www.sos.state.tx.us/statdoc/index.shtml
(801) 530-4849	ffish@br.state.ut.us	www.commerce.state.ut.us/corpora/notarypublic.htm
(802) 828-2308	kwalters@sec.state.vt.us	vermont-archives.org/notaryinfo.html
(804) 786-2441	mford@gov.state.va.us	www.soc.state.va.us/notary.htm
(360) 664-1550	intnotarle@dol.wa.gov	www.wa.gov/dol/bpd/notifront.htm
(304) 558-6000	cferrotte@secretary.state.wv.us	www.state.wv.us/sos/notary/default.htm
(608) 266-5594	—	badger.state.wi.us/agencies/sos/notary.htm
(307) 777-5407	jmelsn@state.wy.us	soswy.state.wy.us/notary/notary.htm

SECTIONAL ANALYSIS
CS HB 439 (STA) Version H

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. Conforms 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.

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.

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 (H) STA Version H

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.

Provides opportunities for Lieutenant Governor to deny applications if:

- a) application is incomplete
- b) applicant has been convicted of and incarcerated for a felony less than 10 years previous to application (H) STA Version H
- 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.

Section 11. Sets out what a notary public cannot do, 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 (see Page 12, Lines 16-22) (H) STA Version H

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. (H) STA Version H

New sections (Secs. 44.50.067-.068) give 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 elevate the complaint to a formal disciplinary hearing which could end with revocation of the notary public's commission.

Section 12. Describes the information gathered from notaries public on the application which will be public information.

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 44.50.061)
- AS 44.50.080 (Seal, now covered in new 44.50.063)
- 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 44.50.067)
- 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, 44.50.131 (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) **(H) STA Version H**
- 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 incarceration. **(H) STA Version H**
- 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 44.50.031 (Section 9).

Sections 16 & 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, 2004 to allow time for revision of website, online handbook and forms.

Frequently Asked Questions – CS HB 439 (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.
- 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 replacement commission certificates is being raised from \$2.00 to \$5.00. The fee for Lieutenant Governor Certificates (for authentication and bond sales) is being raised from \$2.00 to \$5.00.

Notary Statute Comparison – CS HB 439 (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 be convicted/incarcerated felons within 10 years of application.</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.</p>
Commission Types	Current	Proposed
	<p>Notaries Public who serve four year commissions.</p> <p>Limited Governmental Notaries Public commissions available for State employees only.</p>	<p>Notaries Public who serve four year commissions.</p> <p>Limited Governmental Notaries Public commissions – Expanded to include Municipal and Federal employees in addition to State employees.</p>
Commission Revocation	Current	Proposed
	<p>Via Administrative Procedure Act. Act must be invoked to review all complaints against notaries, no matter how trivial.</p>	<p>By Lieutenant Governor for good cause via a formal disciplinary procedure. Appeals via the Administrative Procedure Act.</p>

Notary Data	Current	Proposed
	Each notary's name, mailing address, surety information and commission dates are available to the public.	<p>The notary information currently available remains unchanged. The notary's name, mailing address, surety information and commission dates continue to be publicly available.</p> <p>To facilitate training and communication the Lieutenant Governor may collect additional information from applicants and notaries that will not be available to the public.</p>
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.

LEGAL SERVICES

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LEGISLATIVE AFFAIRS AGENCY
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MEMORANDUM

March 6, 2004

SUBJECT: CSHB 439() relating to persons who take oaths, affirmations, and acknowledgments (Work Order No. 23-GH2022\D)

TO: Representative Bruce Weyhrauch
Attn: Ginny

FROM: *TLS*
Theresa L. Bannister
Legislative Counsel

This memo accompanies a draft of the committee substitute described above. At your request, we have made changes throughout the bill to make it consistent with the Legislature's drafting style.

New sec. 44.50.075. This section contains the substance of the definition of "acknowledgment" found in HB 439. Because the definition contained substantive requirements for an acknowledgement, it was not appropriate as a definition. Under the Legislature's drafting style, substantive provisions of the law may not be located in definitions.

This section is very similar to the treatment of an acknowledgment under AS 09.63.090. AS 09.63.090 is the general treatment of acknowledgments in the Uniform Recognition of Acknowledgments Act in AS 09.63.050 - 09.63.130. Although technically harmonized in the bill by our addition of a section amending AS 09.63.090, it may be confusing to have the specific notary provision as well as the general provision. You may want to consider amending the general provision to make whatever changes are needed or wanted (e.g., to add the provision about limited liability companies) and to cross-reference the amended AS 09.63.090 in the new notary provisions.

If I can be of further assistance, please advise.

TLB:lmb
04-064.lmb

Enclosure

CS FOR HOUSE BILL NO. 439()

**IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - SECOND SESSION**

BY

**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;

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

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

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

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

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

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

(1) affix [ENDORSE AFTER THE SIGNATURE OF THE NOTARY PUBLIC 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 - 44.50.064 and [AS 44.50.060 - 44.50.080 OR] other applicable law.

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

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

(1) affix [ENDORSE AFTER THE SIGNATURE OF THE NOTARY PUBLIC 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 - 44.50.064 and [AS 44.50.060 - 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.** Except as required under
3 AS 44.50.075 for an acknowledgment by a notary public, the [THE] words
4 "acknowledged before me" mean that

5 (1) the person acknowledging

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

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

8 (C) in the case of

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

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

16 (iii) a partner or agent of a partnership, acknowledged
17 that the person signed the instrument on behalf of the partnership by
18 proper authority and executed the instrument as the act of the
19 partnership for the purposes stated in it;

20 (iv) a person acknowledging as a principal by an
21 attorney in fact, acknowledged that the person executed the instrument
22 by proper authority as the act of the principal for the purposes stated in
23 it;

24 (v) a person acknowledging as a public officer, trustee,
25 administrator, guardian, or other representative, acknowledged that the
26 person signed the instrument in the capacity and for the purposes stated
27 in it; and

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

31 * Sec. 5. AS 09.63.100(b) is amended to read:

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

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

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

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

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

9 and

10 (2) [; (3)] comply with AS 44.50.060 - 44.50.064 and [AS 44.50.060 -
11 44.50.080 OR] other law.

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

13 **Sec. 44.19.024. Fees for issuing certificate.** For issuing each certificate with
14 the seal of the state affixed, the lieutenant governor shall collect a fee of \$5 for each
15 certificate [\$2 FOR THE FIRST THREE FOLIOS OR LESS AND 20 CENTS PER
16 FOLIO FOR EACH ADDITIONAL FOLIO]. The lieutenant governor shall account
17 for the fees received under this section and shall deposit [PAY] them into the state
18 treasury.

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

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

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

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

27 (b) The term of a notary public commission is four years, except that the term
28 of a limited governmental notary public commission coincides with the term of
29 government employment.

30 (c) A person who is a state, municipal, or federal employee commissioned as a
31 limited governmental notary public may also be commissioned as a notary public

1 without limitation.

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

3 **Sec. 44.50.020. Qualifications.** To be commissioned as a notary public a
4 person

5 (1) shall submit an application under AS 44.50.031;

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

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

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

9 (5) may not have been convicted of a felony in this state or another
10 jurisdiction;

11 (6) may not have had a notary public commission revoked in t. .s state
12 or another jurisdiction;

13 (7) may not have committed acts for which a notary public
14 commission may be denied or revoked under this chapter; and

15 (8) shall meet the other requirements in this chapter to be
16 commissioned as a notary public.

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

18 **Sec. 44.50.031. Application.** (a) A person applying for a commission as a
19 notary public shall submit a completed application as required by this section, using
20 the forms or format required by the lieutenant governor.

21 (b) A completed application for a commission under AS 44.50.010(a)(1) must
22 include

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

25 (2) the applicant's mailing and physical addresses, the applicant's
26 telephone number, if any, the applicant's employer or business, the physical address
27 and telephone number of the applicant's employer or business at the location where the
28 applicant works, and an electronic mailing address, if any, where the applicant can be
29 contacted;

30 (3) information concerning any denial, suspension, revocation, or
31 restriction of the applicant's commission as a notary public in this state or another

1 jurisdiction; that information must include

2 (A) identification of the jurisdiction;

3 (B) the date the jurisdiction issued the denial, suspension,
4 revocation, or restriction;

5 (C) the reasons for the denial, suspension, revocation, or
6 restriction; and

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

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

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

11 (6) the bond required by AS 44.50.034.

12 (c) A completed application for a commission under AS 44.50.010(a)(2) must
13 include

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

16 (2) the applicant's mailing and physical addresses, the applicant's
17 telephone number, if any, and employer, the name, address, and telephone number for
18 the employer where the applicant works, and an electronic mailing address, if any,
19 where the applicant can be contacted;

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

22 (4) the fee required by AS 44.50.033.

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

27 **Sec. 44.50.034. Bond.** (a) A person applying for a commission as a notary
28 public without limitation under AS 44.50.010(a)(1) shall execute an official bond of
29 \$1,000 and submit the bond with the application under AS 44.50.031. The bond must
30 be for a term of four years beginning with the date of commission as a notary public.

31 (b) The lieutenant governor shall keep a bond submitted under this section for

1 two years after the end of the term of the commission for which the bond was issued.
2 Disposition of the bond after the end of the commission does not affect the time for
3 starting an action on the bond.

4 **Sec. 44.50.035. Oath.** The application required by the lieutenant governor
5 under AS 44.50.031 must contain an oath or affirmation, in the form set out in
6 AS 39.05.045, to be signed by the applicant. A signed oath or affirmation submitted
7 in an application under AS 44.50.031 takes effect on the date of the applicant's
8 commission as a notary public under this chapter.

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

- 11 (1) applicant does not meet the requirements of this chapter;
12 (2) application is not complete or contains a material misstatement or
13 omission of fact relating to the requirements for a commission under this chapter;
14 (3) applicant has been convicted of a felony in this state or another
15 jurisdiction; or
16 (4) applicant's commission as a notary public has been revoked in this
17 state for a reason set out in AS 44.50.067, or in another jurisdiction for a substantially
18 similar reason.

19 **Sec. 44.50.037. Certificate of commission.** Upon commission of a notary
20 public under this chapter, the lieutenant governor shall provide to the notary public a
21 certificate of commission indicating the commission and the dates of the term of the
22 commission.

23 **Sec. 44.50.038. Subsequent commissions.** A notary public whose term of
24 commission is ending may apply for a new notary public commission by submitting a
25 new application under AS 44.50.031 and complying with the requirements of this
26 chapter. The lieutenant governor's approval of a new application for a commission for
27 a notary public without limitation under AS 44.50.010(a)(1) terminates an applicant's
28 existing commission under that paragraph.

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

- 31 (1) is designated a limited governmental notary public;

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

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

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

6 **Sec. 44.50.060. Duties.** A notary public shall

7 (1) administer oaths and affirmations [WHEN REQUESTED,
8 DEMAND ACCEPTANCE AND PAYMENT OF FOREIGN AND INLAND BILLS
9 OF EXCHANGE, OR PROMISSORY NOTES, PROTEST THEM FOR
10 NONACCEPTANCE AND NONPAYMENT, AND EXERCISE THE OTHER
11 POWERS AND DUTIES THAT BY THE LAW OF NATIONS AND ACCORDING
12 TO COMMERCIAL USAGES, OR BY THE LAWS OF ANY OTHER STATE,
13 GOVERNMENT, OR COUNTRY, MAY BE PERFORMED BY NOTARIES];

14 (2) take the acknowledgment of or proof of execution of [POWERS
15 OF ATTORNEY, MORTGAGES, DEEDS, GRANTS, TRANSFERS, AND OTHER]
16 instruments of writing, and give a notarial certificate of the proof or acknowledgment,
17 included in [ENDORSED ON] or attached to the instrument; the notarial certificate
18 shall be signed by the notary public in the notary public's [NOTARY'S] own
19 handwriting [;

20 (3) TAKE DEPOSITIONS AND AFFIDAVITS, AND ADMINISTER
21 OATHS AND AFFIRMATIONS, IN ALL MATTERS INCIDENT TO THE DUTIES
22 OF THE OFFICE, OR TO BE USED BEFORE A COURT, JUDGE, OFFICER, OR
23 BOARD IN THE STATE; A DEPOSITION, AFFIDAVIT, OATH, OR
24 AFFIRMATION SHALL BE SIGNED BY THE NOTARY IN THE NOTARY'S
25 OWN HANDWRITING, AND THE NOTARY SHALL ENDORSE AFTER THE
26 SIGNATURE THE DATE OF EXPIRATION OF THE NOTARY'S COMMISSION].

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

28 **Sec. 44.50.061. Prohibited acts.** A notary public may not

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

31 (2) influence a person to enter into or avoid a transaction involving a

1 notarial act by the notary public;

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

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

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

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

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

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

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

20 (ii) another valid identification containing the
21 photograph and signature of the person signing.

22 **Sec. 44.50.062. Official signature.** (a) When performing a notarization, a
23 notary public shall

24 (1) sign in the notary public's own handwriting, on the notarial
25 certificate, exactly and only the name indicated on the notary public's commission
26 certificate; a notary public may not sign through the use of a facsimile stamp or an
27 electronic or graphic printing method; and

28 (2) affix the official signature only at the time the notarial act is
29 performed.

30 (b) A notary public shall comply in a timely manner with a request by the
31 lieutenant governor to supply a current sample of the notary public's official signature.

1 **Sec. 44.50.063. Official seal.** (a) A notary public shall keep an official seal,
2 which is the exclusive property of the notary public, and shall ensure that another
3 person does not possess or use the official seal.

4 (b) A notary public's official seal

5 (1) must contain

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

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

9 (2) may be a circular form not over two inches in diameter or may be a
10 rectangular form not more than one inch in width by two and one-half inches in
11 length.

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

14 (d) Within 10 days after a notary public's official seal is stolen or lost, the
15 notary public shall provide the lieutenant governor with written notification of the
16 theft or loss.

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

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

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

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

24 **Sec. 44.50.064. Seal impression or depiction.** (a) A sharp, legible,
25 photographically reproducible impression or depiction of a notary public's official seal
26 shall be affixed

27 (1) on the notarial certificate of each paper document notarized, near
28 the notary public's official signature; and

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

30 (b) Illegible information within a seal impression or depiction may be typed or
31 printed legibly by the notary public adjacent to, but not within, the impression or

1 depiction.

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

5 **Sec. 44.50.065. Notary public's status notification.** (a) Within 10 days after
6 change of a notary public's name, mailing address, or physical address, the notary
7 public shall, on a form provided by the lieutenant governor, submit written notification
8 of the change, signed by the notary public.

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

13 (c) A notary public commissioned under AS 44.50.010(a)(1) reporting a name
14 change shall submit to the lieutenant governor payment of a \$5 name change fee for
15 the issuance of a replacement certificate of commission.

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

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

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

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

24 (e) The lieutenant governor may require a notary public to update the
25 information required under AS 44.50.031, including the notary public's current
26 notarized signature.

27 **Sec. 44.50.066. Resignation.** (a) To resign a commission, a notary public
28 shall notify the lieutenant governor in writing of the resignation and the date that it is
29 effective. The notary public shall sign the notification.

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

1 **Sec. 44.50.067. Disciplinary action.** The lieutenant governor may suspend or
2 revoke a notary public's commission or reprimand a notary public for good cause
3 shown, including

- 4 (1) a ground on which an application for a commission may be denied;
5 (2) failure to comply with this chapter; and
6 (3) incompetence or misfeasance in carrying out the notary public's
7 duties under this chapter.

8 **Sec. 44.50.068. Complaint; hearing; appeal.** (a) A person harmed by the
9 actions of a notary public may file a complaint with the lieutenant governor. The
10 complaint shall be filed on a form prescribed by the lieutenant governor and shall be
11 signed and verified by the person alleging misconduct on the part of the notary public.

12 (b) If the lieutenant governor determines that the allegations in the complaint
13 do not warrant formal disciplinary action, the lieutenant governor may decline to act
14 on the complaint or may advise the notary public of the appropriate conduct and the
15 applicable statutes and regulations governing the conduct. The lieutenant governor
16 shall notify the complainant of the determination.

17 (c) If the lieutenant governor determines that the complaint alleges sufficient
18 facts to constitute good cause for disciplinary action, the lieutenant governor shall
19 notify the notary public of the filing of the complaint and send a copy of the complaint
20 to the notary public. The notary public shall submit a written response to the
21 complaint to the lieutenant governor within 20 days after the lieutenant governor sends
22 the complaint. The lieutenant governor may extend the time for a notary public's
23 response by up to 20 additional days. The lieutenant governor shall provide a copy of
24 the notary public's response to the complainant.

25 (d) The lieutenant governor shall review the complaint and the response to
26 determine whether formal disciplinary action may be warranted. The lieutenant
27 governor may determine that the allegations in the complaint do not warrant formal
28 disciplinary action, in which case the lieutenant governor may determine not to take
29 further action on the complaint or may determine to advise the notary public of the
30 appropriate conduct and the applicable statutes and regulations governing the conduct.
31 If the lieutenant governor determines that formal disciplinary action is not warranted,

1 the lieutenant governor shall provide the complainant and the notary public with a
2 written statement of the basis for the determination.

3 (e) If the lieutenant governor finds that formal disciplinary action may be
4 warranted, the lieutenant governor shall appoint an independent hearing officer to
5 consider the complaint and the response, to provide the complainant and the notary
6 public with an opportunity for a telephonic or in-person hearing before the hearing
7 officer within a reasonable time after a hearing is requested, and to provide to the
8 lieutenant governor a proposed decision, including proposed disciplinary action. The
9 lieutenant governor may

10 (1) adopt the hearing officer's proposed decision in its entirety;

11 (2) adopt portions of the proposed decision and modify the proposed
12 disciplinary action; and

13 (3) decide the case upon the record generated from the hearing; or

14 (4) refer the case to the same or another hearing officer to take
15 additional evidence and decide the case upon the record generated from the hearing
16 and the additional evidence.

17 (f) The lieutenant governor may delegate the powers under AS 44.50.067 and
18 this section.

19 (g) An appeal from a decision of the lieutenant governor under this section
20 shall be in accordance with the procedures set out in AS 44.62 (Administrative
21 Procedure Act).

22 **Sec. 44.50.069. Regulations.** The lieutenant governor may adopt regulations
23 under AS 44.62 (Administrative Procedure Act) to carry out the purposes of this
24 chapter.

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

26 **Sec. 44.50.071. Confidentiality.** (a) An address, telephone number, and
27 electronic mail address of a notary public or an applicant that is submitted under
28 AS 44.50.031 or 44.50.038 and that is designated by the notary public or applicant as
29 personal and confidential shall be kept confidential. However, a notary public shall
30 provide a nonconfidential address and telephone number at which the notary public
31 can be contacted.

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

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

9 **Sec. 44.50.075. Acknowledgments.** When a notary public takes an
10 acknowledgment, the individual signing the document shall at a single time and place

11 (1) appear in person before the notary public and present a document;

12 (2) be personally known to the notary public or identified as required
13 by AS 44.50.061(5)(C); and

14 (3) in the case of

15 (A) a natural person, acknowledge that the individual executed
16 the instrument for the purposes stated in it;

17 (B) an officer or agent of a corporation, acknowledge that the
18 individual held the position or title set out in the instrument and certificate, the
19 individual signed the instrument on behalf of the corporation by proper
20 authority, and the instrument was the act of the corporation for the purposes
21 stated in it;

22 (C) a partner or agent of a partnership, acknowledge that the
23 individual signed the instrument on behalf of the partnership by proper
24 authority and executed the instrument as the act of the partnership for the
25 purposes stated in it;

26 (D) a member or agent of a limited liability company,
27 acknowledge that the individual signed the instrument on behalf of the limited
28 liability company by proper authority and executed the instrument as the act of
29 the limited liability company for the purposes stated in it;

30 (E) an individual acknowledging as a principal by an attorney
31 in fact, acknowledge that the individual executed the instrument by proper

1 authority as the act of the principal for the purposes stated in it; or

2 (F) an individual acknowledging in the capacity of a public
3 officer, trustee, administrator, guardian, or other representative, acknowledge
4 that the individual signed the instrument in the capacity and for the purposes
5 stated in it.

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

7 **Sec. 44.50.200. Definitions.** In this chapter, unless the context otherwise
8 requires,

9 (1) "notarial act" means any act that a notary public is authorized to
10 perform under AS 09.63.120 or AS 44.50.060;

11 (2) "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, and 44.50.190 are repealed.

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

17 **APPLICABILITY.** (a) AS 44.50.010, repealed and reenacted by sec. 7 of this Act,
18 and AS 44.50.031, 44.50.033, 44.50.035, 44.50.036, 44.50.037, and 44.50.039, enacted by
19 sec. 9 of this Act, do not apply to a notary public whose commission is in effect on the day
20 before the effective date of secs. 1 - 14 of this Act until the notary public's term of office
21 expires under former AS 44.50.030, the notary public resigns under AS 44.50.066, enacted by
22 sec. 11 of this Act, or the notary public's commission is revoked under AS 44.50.067, enacted
23 by sec. 11 of this Act.

24 (b) Notwithstanding (a) of this section, if a notary public whose commission is in
25 effect on the day before the effective date of secs. 1 - 14 of this Act is or has been convicted,
26 before the notary public's term of office expires under former AS 44.50.030, of a crime for
27 which the lieutenant governor may deny an application under AS 44.50.036(3), enacted by
28 sec. 9 of this Act, the lieutenant governor may take an action under AS 44.50.067, enacted by
29 sec. 11 of the Act, against the notary public.

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

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

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

6 * **Sec. 18.** Except as provided in sec. 17 of this Act, this Act takes effect July 1, 2004.

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: HB 439
 (H) Publish Date: 2/5/04

Revision Date/Time (Note if correction): _____ Dept. Affected: GOV
 Title An Act relating to oaths, affirmations RDU _____
 and acknowledgments _____ 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 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
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 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviat.)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2005 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 5 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 1/29/04 2:40 PM
 Approved by: Lt. Governor Loren Leman Date 1/29/2004
 Agency Office of the Lt. Governor

HB439



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STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 4, 2004

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

Dear Speaker Kott:

Under the authority of article III, section 18, of the Alaska Constitution, I am transmitting a bill relating to the authority to take oaths, affirmations, and acknowledgements in the state 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 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. Sections 6-13 of the bill would repeal obsolete provisions, update antiquated language, and add new provisions where needed. Similarly, sections 2-4 of the bill would update statutes in AS 09, the Alaska civil code, relating to notaries' responsibilities when notarizing, verifying, and acknowledging signed instruments.

In addition, section 1 of the bill would conform the oath, affirmation, and acknowledgement statute at AS 09.63.010 to existing law. Section 5 of the bill would update a statute authorizing the Lieutenant Governor to collect fees for the issuance of certificates with the seal of the state affixed, increasing the fee to \$5 per certificate. Section 14 of the bill provides applicability provisions.

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

SECTIONAL ANALYSIS

HB 439

An Act relating to authority to take oaths, affirmations, and acknowledgments in the state; relating to notaries public; relating to fees for issuing certificates with the seal of the state affixed; 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, 3 and 4. Conforms sections of Alaska Civil Procedure concerning notarial acts to the updated language in Sec. 44.50.061 (5).

Section 5. 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.

Section 6. 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 7. 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.
- cannot be convicted felon or have had a commission revoked

Section 8. 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.

Provides opportunities for Lieutenant Governor to deny applications if:

- a) application is incomplete
- b) applicant has been convicted of a felony
- c) applicant's commission has been revoked

Clarifies current law as to when a new commission begins.

Section 9. 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.

Section 10. Sets out what a notary public cannot do, 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.

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 sections (Secs. 44.50.067-.068) give 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 elevate the complaint to a formal disciplinary hearing which could end with revocation of the notary public's commission.

Section 11. Describes the information gathered from notaries public on the application which will be public information.

Section 12. Defines terms used in this Chapter.

Section 13. 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 44.50.061)
- AS 44.50.080 (Seal, now covered in new 44.50.063)
- 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 44.50.067)
- 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, 44.50.131 (c) and 44.50.039)
- AS 44.50.190 (Savings clause, a transitional measure from 1961 that is no longer necessary and can be repealed).

Section 14. Applicability

- Current commissions continue in effect until term of office expires, except if the commissioned is a felon.
- 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 44.50.031 (Section 9).

Sections 15 & 16. Transition

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

Section 17. Effective Date

Effective date is July 1, 2004 to allow time for revision of website, online handbook and forms.

Frequently Asked Questions – HB 439

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 serving as notaries public in Alaska.
- 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 replacement commission certificates is being raised from \$2.00 to \$5.00. The fee for Lieutenant Governor Certificates (for authentication and bond sales) is being raised from \$2.00 to \$5.00.

Notary Statute Comparison – HB 439

	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 be convicted felons.</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.</p>
Commission Types	Current	Proposed
	<p>Notaries Public who serve four year commissions.</p> <p>Limited Governmental Notaries Public commissions available for State employees only.</p>	<p>Notaries Public who serve four year commissions.</p> <p>Limited Governmental Notaries Public commissions – Expanded to include Municipal and Federal employees in addition to State employees.</p>
Commission Revocation	Current	Proposed
	<p>Via Administrative Procedure Act. Act must be invoked to review all complaints against notaries, no matter how trivial.</p>	<p>By Lieutenant Governor for good cause via a formal disciplinary procedure. Appeals via the Administrative Procedure Act.</p>

Notary Data	Current	Proposed
	Each notary's name, mailing address, surety information and commission dates are available to the public.	<p>The notary information currently available remains unchanged. The notary's name, mailing address, surety information and commission dates continue to be publicly available.</p> <p>To facilitate training and communication the Lieutenant Governor may collect additional information from applicants and notaries that will not be available to the public.</p>
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.

HB

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STATE OF ALASKA

DEPARTMENT OF LAW
OFFICE OF THE ATTORNEY GENERAL

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GOVERNOR

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February 23, 2004

Honorable Bruce Weyhrauch, Chair
House State Affairs Committee
State Capital, Room 102
Juneau, AK 99811

Re: HB 447 -- (2004 Revisor's Bill)

Dear Representative Weyhrauch:

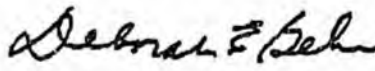
The Department of Law has reviewed HB 447 (2004 revisor of statutes bill). The bill makes technical changes to improve Alaska statutes.

We appreciate the revisor's excellent efforts in preparing this necessary bill. We request that the committee consider one minor amendment on page 7, line 6 to delete "and restoration." This amendment would avoid public confusion about the habitat restoration programs administered by the Department of Fish and Game.

We appreciate your consideration of this request.

Sincerely,

GREGG D. RENKES
ATTORNEY GENERAL

By: 
Deborah E. Behr
Assistant Attorney General

DEB:pvp

cc: Pam Finley
Revisor of Statutes