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WORK SESSION

Assembly Committee on Government Affairs

PREPARED BY
RESEARCH DIVISION
LEGISLATIVE COUNSEL BUREAU
Nonpartisan Staff of the Nevada State Legislature

ASSEMBLY BILL 87

Makes various changes concerning notarial officers. (BDR 19-230)

**Sponsored by: Assembly Committee on Government Affairs
On behalf of the Secretary of State**

Date Heard: February 18, 2003

Assembly Bill 87 makes numerous revisions to the statutes regulating notaries public. The major provisions of the bill: (1) add definitions of commonly used words; (2) substitute the term "notarial officer" for notary; (3) delete provisions that overlap with other existing sections; (4) remove the provision limiting the fee charged for travel by a notary; (5) consolidate two sections to make the statutes less confusing; and (6) makes consistency changes to the formats of the notarial certificates.

Amendments: Concerns were raised by members of the Committee about the removal of the fee limitation for travel to a designated location, at the request of a customer. Current statutes restrict compensation for such services to mileage costs. In response to those concerns, the Secretary of State's office proposes an amendment with new limits on the fees that may be charged for services performed at a designated location (other than the notary's business location) at the customer's request.

A mock-up of the bill with the proposed amendments to Section 9 is attached.

Opposition: None

Fiscal Impact: Local Government: No
State Government: No

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ASSEMBLY GOVERNMENT AFFAIRS F1-12
DATE: 3/25/03 ROOM: 3143 EXHIBIT F
SUBMITTED BY: Susan Scholley

MOCK-UP

PROPOSED AMENDMENT TO
ASSEMBLY BILL NO. 87

PREPARED FOR ASSEMBLY GOVERNMENT AFFAIRS
MARCH 23, 2003

PREPARED BY THE RESEARCH DIVISION

**NOTE: THIS DOCUMENT SHOWS PROPOSED AMENDMENTS IN
CONCEPTUAL FORM. THE LANGUAGE AND ITS PLACEMENT IN THE
OFFICIAL AMENDMENT MAY DIFFER.**

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~green bold double strikethrough~~ is language proposed to be deleted in this amendment and (5) green bold dashed underlining is deleted language in the original bill that is proposed to be retained in this amendment.

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

- 1 **Section 1.** Chapter 240 of NRS is hereby amended by adding thereto
2 the provisions set forth as sections 2 and 3 of this act.
3 **Sec. 2.** "*Credible witness*" means a person who:
4 1. *Swears or affirms that the signer of a document is the person*
5 *whom he claims to be; and*
6 2. *Is known personally to the signer of the document and the*
7 *notarial officer.*
8 **Sec. 3.** "*Jurat*" means a declaration by a notarial officer that the
9 *signer of a document signed the document in the presence of the notarial*
10 *officer and swore to or affirmed that the statements in the document are*
11 *true.*
12 **Sec. 4.** NRS 240.001 is hereby amended to read as follows:
13 240.001 As used in NRS 240.001 to 240.169, inclusive, *and sections*
14 *2 and 3 of this act*, unless the context otherwise requires, the words and
15 terms defined in NRS 240.002 to ~~{240.006,}~~ *240.005*, inclusive, *and*
16 *sections 2 and 3 of this act* have the meanings ascribed to them in those
17 sections.
18 **Sec. 5.** NRS 240.004 is hereby amended to read as follows:

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PROPOSED AMENDMENT TO AB87

1 240.004 "Notarial act" means an act that a ~~notary public appointed~~
2 ~~in~~ *notarial officer* of this state is authorized to perform. The term
3 includes:

- 4 1. Taking an acknowledgment;
- 5 2. Administering an oath or affirmation;
- 6 3. ~~Taking a verification upon oath or affirmation;~~
- 7 ~~4. Certifying or attesting~~ *Certifying a copy;*
- 8 ~~5.~~ 4. Executing a jurat;
- 9 ~~6.~~ 5. Noting a protest of a negotiable instrument; and
- 10 ~~7.~~ 6. Performing such other duties as may be prescribed by a
11 specific statute.

12 **Sec. 6.** NRS 240.040 is hereby amended to read as follows:

13 240.040 1. ~~Except as otherwise provided in NRS 240.069, each~~
14 ~~notary public shall authenticate all his acts, including an acknowledgment,~~
15 ~~jurat, verification or other certificate, by:~~

16 ~~(a) Setting forth the following:~~

17 ~~(1) The venue.~~

18 ~~(2) His signature in ink and signed by his own hand.~~

19 ~~(3) A] The statement required by paragraph (d) of subsection 1 of~~
20 ~~NRS 240.1655 must:~~

21 ~~(a) Be imprinted in indelible, photographically reproducible ink with a~~
22 ~~rubber or other mechanical stamp [setting forth his name, the] ; and~~

23 ~~(b) Set forth:~~

24 ~~(1) The name of the notary public;~~

25 ~~(2) The phrase "Notary Public, State of Nevada [,"the] " ;~~

26 ~~(3) The date on which [his] the appointment of the notary public~~
27 ~~expires [,"the] ;~~

28 ~~(4) The number of [his] the certificate of appointment [and, if he]~~
29 ~~of the notary public;~~

30 ~~(5) If the notary public so desires, the Great Seal of the State of~~
31 ~~Nevada [,"if] ; and~~

32 ~~(6) If the notary public is a resident of an adjoining state, [the~~
33 ~~statement must also contain] the word "nonresident."~~

34 ~~[(b) Including all applicable information in the acknowledgment, jurat,~~
35 ~~verification or other certificate.]~~

36 2. After July 1, 1965, an embossed notarial seal is not required on
37 notarized documents.

38 3. The stamp required pursuant to subsection 1 must:

39 (a) Be a rectangle, not larger than 1 inch by 2 1/2 inches, and may
40 contain a border design; and

41 (b) Produce a legible imprint.

42 4. A notary public shall not affix his ~~[signature or]~~ stamp over printed
43 material.

44 5. As used in this section, "mechanical stamp" includes an imprint
45 made by a computer or other similar technology.

1 Sec. 7. NRS 240.063 is hereby amended to read as follows:
2 240.063 1. The signature of a notary public on a document shall be
3 deemed to be evidence only that the notary public knows the contents of
4 the document that constitute the signature, execution, acknowledgment,
5 oath, affirmation ~~affidavit or verification.~~ or affidavit.

6 2. When a notary public certifies that a document is a certified or true
7 copy of an original document, the certification shall not be deemed to be
8 evidence that the notary public knows the contents of the document.

9 Sec. 8. NRS 240.069 is hereby amended to read as follows:
10 240.069 A certified court reporter who receives a certificate of
11 appointment as a notary public with limited powers pursuant to subsection
12 4 of NRS 240.030, may only administer oaths and affirmations and may
13 not perform the other powers, and is not required to perform the other
14 duties, of a notary public specified in NRS ~~240.040, 240.060 and~~
15 ~~240.120.~~ 240.060, 240.120 and 240.1655.

16 Sec. 9. NRS 240.100 is hereby amended to read as follows:
17 240.100 1. Except as otherwise provided in subsection 3, a notary
18 public may charge the following fees and no more:

- 19
- 20 For taking an acknowledgment, for the first signature of
- 21 each signer \$5.00
- 22 For each additional signature of each signer..... 2.50
- 23 For administering an oath or affirmation without a
- 24 signature..... 2.50
- 25 For a certified copy 2.50
- 26 For a jurat, for each signature on the affidavit..... 5.00
- 27

28 2. All fees prescribed in this section are payable in advance, if
29 demanded.

30 3. A notary public may charge an additional fee for traveling to
31 perform a notarial act if:

- 32 (a) The person requesting the notarial act asks the notary public to
- 33 travel;
- 34 (b) The notary public explains to the person requesting the notarial act
- 35 that the fee is in addition to the fee authorized in subsection 1 and is not
- 36 required by law; and
- 37 (c) The person requesting the notarial act agrees in advance upon the
- 38 amount of the additional fee. ~~and~~
- 39 ~~(d) The additional fee does not exceed the following: standard~~
- 40 ~~mileage reimbursement rate for which a deduction is allowed for the~~
- 41 ~~purposes of federal income tax.~~

42 (1) \$10 per hour, with a two- hour minimum charge, calculated on a
43 pro-rata basis, if the person requesting the notarial act requests the
44 notary public to travel between the hours of 6:00 a.m. to 7:00 p.m.; or

Amendment adding a cap
on fees charged by
notaries public for travel.

1 (2)\$25 per hour, with a two-hour minimum charge, calculated on a
2 pro-rata basis, if the person requests the notary public to travel between
3 the hours of 7:01 p.m. to 5:59 a.m.

4 (e) The notary public records in his journal the fees charged for travel
5 and the time of day or evening such travel occurred.

6 4. With respect to the fees described in subsection 3(d) of this section,
7 once a notary public has begun the requested travel, a notary public may
8 collect such fees even if the person requesting the notary to travel or the
9 document signer cancels the service or refuses to sign.

10 5. A person who employs a notary public may prohibit the notary
11 public from charging a fee for a notarial act that the notary public performs
12 within the scope of his employment. Such a person shall not require the
13 notary public whom he employs to surrender to him all or part of a fee
14 charged by the notary public for a notarial act performed outside the scope
15 of his employment.

16 **Sec. 10.** NRS 240.1655 is hereby amended to read as follows:

17 240.1655 1. A notarial act must be evidenced by a certificate that:

18 (a) Identifies the county, including, without limitation, Carson City,
19 in this state in which the notarial act was performed in substantially the
20 following form:

21
22 State of Nevada
23 County of _____
24

25 (b) Except as otherwise provided in this paragraph, includes the
26 name of the person whose signature is being notarized. If the certificate
27 is for certifying a copy of a document, the certificate must include the
28 name of the person presenting the document. If the certificate is for the
29 jurat of a subscribing witness, the certificate must include the name of
30 the subscribing witness.

31 (c) Is signed and dated in ink by ~~{a}~~ the notarial officer ~~{.~~ The
32 certificate must include identification of the jurisdiction in which the
33 notarial act is performed and ~~}~~ performing the notarial act.

34 (d) If the notarial officer performing the notarial act is a notary
35 public, includes the statement imprinted with the stamp of the notary
36 public, as described in NRS 240.040.

37 (e) If the notarial officer performing the notarial act is not a notary
38 public, includes the title of the office of the notarial officer and may
39 include the official stamp or seal of that office. If the officer is a
40 commissioned officer on active duty in the military service of the United
41 States, ~~{it}~~ the certificate must also include the officer's rank.

42 2. A notarial officer shall:

43 (a) In taking an acknowledgment, determine, from personal
44 knowledge or satisfactory evidence, that the person making
45 the acknowledgment is the person whose signature is on the document.

1 The person who signed the document shall present the document to the
2 notarial officer in person.

3 (b) In administering an oath or affirmation, determine, from
4 personal knowledge or satisfactory evidence, the identity of the person
5 taking the oath or affirmation.

6 (c) In certifying a copy of a document, photocopy the entire
7 document and certify that the photocopy is a true and correct copy of the
8 document that was presented to the notarial officer.

9 (d) In making or noting a protest of a negotiable instrument, verify
10 compliance with the provisions of subsection 2 of
11 NRS 104.3505.

12 (e) In executing a jurat, administer an oath or affirmation to the
13 affiant and determine, from personal knowledge or satisfactory evidence,
14 that the affiant is the person named in the document. The affiant shall
15 sign the document in the presence of the notarial officer. The notarial
16 officer shall administer the oath or affirmation required pursuant to this
17 paragraph in substantially the following form:

18 Do you (solemnly swear, or affirm) that the statements in this
19 document are true, (so help you God)?

20 3. A certificate of a notarial act is sufficient if it meets the
21 requirements of ~~subsection~~ subsections 1 and 2 and it:

- 22 (a) Is in the short form set forth in NRS 240.166 to 240.169, inclusive;
- 23 (b) Is in a form otherwise prescribed by the law of this state;
- 24 (c) Is in a form prescribed by the laws or regulations applicable in the
25 place in which the notarial act was performed; or
- 26 (d) Sets forth the actions of the notarial officer and those are sufficient
27 to meet the requirements of the designated notarial act.

28 ~~3-~~ 4. For the purposes of paragraphs (a), (b) and (e) of subsection
29 2, a notarial officer has satisfactory evidence that a person is the person
30 whose signature is on a document if he:

- 31 (a) Is personally known to the notarial officer;
- 32 (b) Is identified upon the oath or affirmation of a credible witness;
- 33 (c) Is identified on the basis of an identifying document which
34 contains a signature and a photograph;
- 35 (d) Is identified upon an oath or affirmation of a subscribing witness
36 who is personally known to the notarial officer; or
- 37 (e) In the case of a person who is 65 years of age or older and cannot
38 satisfy the requirements of paragraphs (a) to (d), inclusive, is identified
39 upon the basis of an identification card issued by a governmental agency
40 or a senior citizen center.

41 5. An oath or affirmation administered pursuant to paragraph (b) of
42 subsection 4 must be in substantially the following form:

43 Do you (solemnly swear, or affirm) that you personally know
44(name of person who signed the document)....., (so help
45 you God)?

1 6. A notarial officer shall not affix his signature over printed
2 material.

3 7. By executing a certificate of a notarial act, the notarial officer
4 certifies that the notarial officer has ~~made the determinations required by~~
5 ~~NRS 240.163.~~ *complied with all the requirements of this section.*

6 Sec. 11. NRS 240.166 is hereby amended to read as follows:

7 240.166 ~~{The}~~ *Upon compliance with the requirements of NRS*
8 *240.1655, the following certificate is sufficient for an acknowledgment in*
9 *an individual capacity:*

10 State of ~~{.....}~~ *Nevada*
11 County of.....

12 This instrument was acknowledged before me on(date)..... by
13(name(s) of person(s)).....

14
15
16
17
18 (Signature of notarial officer)

19 (Seal, if any)

20
21
22 (Title and rank (optional))

23 Sec. 12. NRS 240.1663 is hereby amended to read as follows:

24 240.1663 ~~{The}~~ *Upon compliance with the requirements of NRS*
25 *240.1655, the following certificate is sufficient for administering an oath*
26 *or affirmation of office:*
27

28 State of ~~{.....}~~ *Nevada*
29 County of.....

30 I,(name of person taking oath or affirmation of office).....,
31 do solemnly swear (or affirm) that I will support, protect and defend the
32 Constitution and Government of the United States and the constitution and
33 government of the State of Nevada against all enemies, whether domestic
34 or foreign, and that I will bear true faith, allegiance and loyalty to the
35 same, any ordinance, resolution or law of any state notwithstanding, and
36 that I will well and faithfully perform all the duties of the office of
37(title of office)....., on which I am about to enter; (if an oath) so help
38 me God; (if an affirmation) under the pains and penalties of perjury.

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42 (Signature of person taking oath
43 or affirmation of office)

44

1 Signed and sworn to (or affirmed) before me on(date)..... by
2(name of person taking oath or affirmation of office).....
3

4
5 (Signature of notarial officer)

6 (Seal, if any)

7
8
9 (Title and rank (optional))

10
11 **Sec. 13.** NRS 240.1665 is hereby amended to read as follows:

12 240.1665 ~~The~~ Upon compliance with the requirements of NRS
13 240.1655, the following certificate is sufficient for an acknowledgment in
14 a representative capacity:
15

16 State of ~~.....~~ Nevada
17 County of.....
18

19 This instrument was acknowledged before me on(date)..... by
20(name(s) of person(s))..... as(type of
21 authority, e.g., officer, trustee, etc.)..... of(name of
22 party on behalf of whom instrument was executed).....
23

24
25 (Signature of notarial officer)

26 (Seal, if any)

27
28 (Title and rank (optional))
29

30 **Sec. 14.** NRS 240.1667 is hereby amended to read as follows:

31 240.1667 ~~The~~ Upon compliance with the requirements of NRS
32 240.1655, the following certificate is sufficient for an acknowledgment
33 that contains a power of attorney:
34

35 State of ~~.....~~ Nevada
36 County of.....
37

38 This instrument was acknowledged before me on
39(date)..... by.....(name of person holding power
40 of attorney)..... as attorney in fact for.....(name of
41 principal/person whose name is in the document).....
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43
44 (Signature of notarial officer)

45 (Seal, if any)

(Title and rank (optional))

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Sec. 15. NRS 240.167 is hereby amended to read as follows:
240.167 ~~{The}~~ Upon compliance with the requirements of NRS
240.1655, the following certificate is sufficient for ~~{a verification upon~~
~~eath or affirmation:}~~ *executing a jurat:*

State of ~~{.....}~~ Nevada
County of.....

Signed and sworn to (or affirmed) before me on(date)..... by
.....(name(s) of person(s) making statement).....

.....
(Signature of notarial officer)

(Seal, if any)

.....
(Title and rank (optional))

Sec. 16. NRS 240.168 is hereby amended to read as follows:
240.168 ~~{The}~~ Upon compliance with the requirements of NRS
240.1655, the following certificate is sufficient for ~~{attesting}~~ *certifying* a
copy of a document:

State of ~~{.....}~~ Nevada
County of.....

I certify that this is a true and correct copy of a document in the
possession of.....(name of person who presents the
document).....

Dated.....

.....
(Signature of notarial officer)

(Seal, if any)

.....
(Title and rank (optional))

Sec. 17. NRS 240.1685 is hereby amended to read as follows:
240.1685 ~~{The}~~ Upon compliance with the requirements of NRS
240.1655, the following certificate is sufficient for a jurat of a subscribing
witness:

State of ~~{.....}~~ Nevada
County of.....

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1
2 On(date).....,(subscribing witness)..... personally
3 appeared before me, whom I know to be the person who signed this jurat
4 of a subscribing witness while under oath, and swears that he or she was
5 present and witnessed(signer of the document)..... sign his or her
6 name to the above document.

7
8
9 (Signature of subscribing witness)

10 Signed and sworn before me on(date)..... by
11(subscribing witness).....
12

13
14 (Signature of notarial officer)

15
16 (Seal, if any)

17
18 (Title and rank (optional))
19

20 Sec. 18. NRS 240.169 is hereby amended to read as follows:
21 240.169 ~~{The}~~ Upon compliance with the requirements of NRS
22 240.1655, the following certificate is sufficient for an acknowledgment of
23 a credible witness:
24

25 State of ~~{.....}~~ Nevada
26 County of.....
27

28 This instrument was acknowledged before me on (date)
29 by (name of person) who personally appeared before me
30 and whose identity I verified upon the oath of (name of
31 credible witness), a credible witness personally known to me ~~{}~~
32 and to the person who acknowledged this instrument before me.
33

34
35 (Signature of notarial officer)

36 (Seal, if any)

37
38 (Title and rank (optional))
39

40 Sec. 19. NRS 240.006 and 240.163 are hereby repealed.

TEXT OF REPEALED SECTIONS

240.006 "Verification upon oath or affirmation" defined.
"Verification upon oath or affirmation" means a declaration that a statement is true made by a person upon oath or affirmation.

240.163 Notarial acts.

1. In taking an acknowledgment, a notarial officer shall determine, from personal knowledge or from other satisfactory evidence, that the person making the acknowledgment is the person whose signature is on the instrument. The person who signed the document shall present the document to the notarial officer in person.

2. In taking a verification upon oath or affirmation, a notarial officer shall determine, from personal knowledge or from other satisfactory evidence, that the person making the verification is the person whose signature is on the verified statement.

3. In certifying or attesting a copy of a document or other item, a notarial officer shall determine that the proffered copy is a complete, accurate and authentic transcription or reproduction of that which was copied.

4. In making or noting a protest of a negotiable instrument, a notarial officer shall verify compliance with the provisions of subsection 2 of NRS 104.3505.

5. In executing a jurat, a notarial officer shall administer an oath or affirmation to the affiant and shall determine, from personal knowledge or other satisfactory evidence, that the affiant is the person named in the document. The affiant shall sign the document in the presence of the notarial officer. The notarial officer shall administer the oath or affirmation required pursuant to this subsection in substantially the following form:

Do you (solemnly swear, or affirm) that the statements in this document are true, (so help you God)?

6. A notarial officer has satisfactory evidence that a person is the person whose signature is on a document if he:

- (a) Is personally known to the notarial officer;
- (b) Is identified upon the oath or affirmation of a credible witness personally known to the notarial officer;
- (c) Is identified on the basis of an identifying document which contains a signature and a photograph or physical description;
- (d) Is identified upon an oath or affirmation of a subscribing witness who is personally known to the notarial officer; or
- (e) In the case of a person who is 65 years of age or older and cannot satisfy the requirements of paragraphs (a) to (d), inclusive, is identified

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upon the basis of an identification card issued by a governmental agency or a senior citizen center.

7. An oath or affirmation administered pursuant to subsection 6 must be in substantially the following form:

Do you (solemnly swear, or affirm) that you personally know(name of person who signed the document)....., (so help you God)?

H