

ASSEMBLY BILL NO. 99—ASSEMBLYMEN
OHRENSCHALL; AND HORNE

FEBRUARY 13, 2013

JOINT SPONSORS: SENATORS SEGERBLOM, ROBERSON,
BROWER; AND SETTELMEYER

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to notarial acts.
(BDR 19-1)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to notarial acts; revising certain provisions of the Uniform Law on Notarial Acts; revising certain provisions governing notaries public; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law contains the Uniform Law on Notarial Acts, which provides the manner in which notarial acts must be performed. (NRS 240.161-240.169) Existing law also allows the Secretary of State to appoint electronic notaries public and provides for the performance of notarial acts on electronic records by electronic notaries public. (NRS 240.181-240.206) Under existing law, to become an electronic notary public, a person must already be a notarial officer in Nevada and must successfully complete a course of study on electronic notarization, enter into a bond, pay an application fee and take an oath. (NRS 240.192)

This bill revises various provisions of the Uniform Law on Notarial Acts and maintains existing law relating to the performance of notarial acts on electronic records by electronic notaries public. **Sections 10 and 33** of this bill prohibit a notarial officer from performing a notarial act with respect to a record to which the officer or the officer's spouse or domestic partner is a party or in which either of them has a direct beneficial interest.

Under existing law, a notary public is required to maintain a journal in which he or she records certain information concerning each notarial act he or she performs. A notary public is required to have a person whose signature he or she notarizes sign the journal unless the notary public has performed a notarial act for the person within the previous 6 months and has personal knowledge of the identity



of the person. (NRS 240.120) **Section 34** of this bill adds the further conditions that the person must also be an employer or coworker of the notary public and that the notarial act must relate to a transaction performed in the ordinary course of the person's business.

Section 13 of this bill establishes a standard for determining whether a notarial officer has personal knowledge of the identity of a person appearing before the notarial officer. **Section 35.3** of this bill specifically authorizes a notarial act to be performed in this State by a person authorized to perform that specific notarial act by the law of a federally recognized Indian tribe or nation. **Section 35.5** of this bill revises provisions governing notarial acts performed within the jurisdiction of a foreign nation or a multinational or international organization.

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

Section 1. Chapter 240 of NRS is hereby amended by adding thereto the provisions set forth as sections 1.5 to 28, inclusive, of this act.

Sec. 1.5. *"Domestic partners" has the meaning ascribed to it in NRS 122A.030.*

Sec. 2. *"Notary public" means a person appointed to perform a notarial act by the Secretary of State pursuant to NRS 240.010.*

Sec. 3. (Deleted by amendment.)

Sec. 4. *"Person" means a natural person.*

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. *"State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands or any territory or insular possession subject to the jurisdiction of the United States.*

Sec. 8. (Deleted by amendment.)

Sec. 9. (Deleted by amendment.)

Sec. 10. *1. A notarial officer may perform a notarial act authorized by NRS 240.001 to 240.169, inclusive, and sections 1.5 to 28, inclusive, of this act or by law of this State other than NRS 240.001 to 240.169, inclusive, and sections 1.5 to 28, inclusive, of this act.*

2. A notarial officer other than a notary public may not perform a notarial act with respect to a document to which the officer or the officer's spouse or domestic partner is a party, or in which either of them has a direct beneficial interest. A notary public may not perform a notarial act if the notarial act is prohibited by NRS 240.001 to 240.169, inclusive, and sections 1.5 to 28, inclusive, of this act. A notarial act performed in violation of this subsection is voidable.

Sec. 11. (Deleted by amendment.)



1 **Sec. 12.** (Deleted by amendment.)

2 **Sec. 13.** *For the purposes of NRS 240.001 to 240.169,*
3 *inclusive, and sections 1.5 to 28, inclusive, of this act, a notarial*
4 *officer has personal knowledge of the identity of a person*
5 *appearing before the officer if the person is personally known to*
6 *the officer through dealings sufficient to provide reasonable*
7 *certainty that the person has the identity claimed.*

8 **Sec. 14.** (Deleted by amendment.)

9 **Sec. 15.** (Deleted by amendment.)

10 **Sec. 16.** (Deleted by amendment.)

11 **Sec. 17.** (Deleted by amendment.)

12 **Sec. 18.** (Deleted by amendment.)

13 **Sec. 19.** (Deleted by amendment.)

14 **Sec. 20.** (Deleted by amendment.)

15 **Sec. 21.** (Deleted by amendment.)

16 **Sec. 22.** (Deleted by amendment.)

17 **Sec. 23.** (Deleted by amendment.)

18 **Sec. 24.** (Deleted by amendment.)

19 **Sec. 25.** (Deleted by amendment.)

20 **Sec. 26.** (Deleted by amendment.)

21 **Sec. 27.** (Deleted by amendment.)

22 **Sec. 28.** (Deleted by amendment.)

23 **Sec. 29.** NRS 240.001 is hereby amended to read as follows:

24 240.001 As used in NRS 240.001 to 240.206, inclusive, *and*
25 *sections 1.5 to 28, inclusive, of this act,* unless the context
26 otherwise requires, the words and terms defined in NRS 240.002 to
27 240.0055, inclusive, *and sections 1.5, 2, 4 and 7 of this act* have the
28 meanings ascribed to them in those sections.

29 **Sec. 30.** (Deleted by amendment.)

30 **Sec. 31.** (Deleted by amendment.)

31 **Sec. 32.** (Deleted by amendment.)

32 **Sec. 33.** NRS 240.065 is hereby amended to read as follows:

33 240.065 1. A notary public may not perform a notarial act if:

34 (a) The notary public executed or is named in the instrument
35 acknowledged, ~~to~~ sworn to ~~to~~ *or witnessed or attested;*

36 (b) Except as otherwise provided in subsection 2, the notary
37 public has or will receive directly from a transaction relating to the
38 instrument or pleading a commission, fee, advantage, right, title,
39 interest, property or other consideration in excess of the fee
40 authorized pursuant to NRS 240.100 for the notarial act; ~~to~~

41 (c) The *notary public and the* person whose signature is to be
42 acknowledged, ~~to~~ sworn to *or witnessed or attested are domestic*
43 *partners; or*

44 (d) *The person whose signature is to be acknowledged, sworn*
45 *to or witnessed or attested is a relative of the domestic partner of*



1 *the notary public or a relative* of the notary public by marriage or
2 consanguinity.

3 2. A notary public who is an attorney licensed to practice law
4 in this State may perform a notarial act on an instrument or pleading
5 if the notary public has or will receive directly from a transaction
6 relating to the instrument or pleading a fee for providing legal
7 services in excess of the fee authorized pursuant to NRS 240.100 for
8 the notarial act.

9 3. As used in this section, "relative" includes, without
10 limitation:

11 (a) A spouse ~~H~~ *or domestic partner*, parent, grandparent or
12 stepparent;

13 (b) A natural born child, stepchild or adopted child;

14 (c) A grandchild, brother, sister, half brother, half sister,
15 stepbrother or stepsister;

16 (d) A grandparent, parent, brother, sister, half brother, half
17 sister, stepbrother or stepsister of the spouse *or domestic partner* of
18 the notary public; and

19 (e) A natural born child, stepchild or adopted child of a sibling
20 or half sibling of the notary public or of a sibling or half sibling of
21 the spouse *or domestic partner* of the notary public.

22 **Sec. 34.** NRS 240.120 is hereby amended to read as follows:

23 240.120 1. Except as otherwise provided in subsection 2,
24 each notary public shall keep a journal in his or her office in which
25 the notary public shall enter for each notarial act performed, at the
26 time the act is performed:

27 (a) The fees charged, if any;

28 (b) The title of the document;

29 (c) The date on which the notary public performed the ~~service;~~
30 *act;*

31 (d) Except as otherwise provided in subsection 3, the name and
32 signature of the person whose signature is being notarized;

33 (e) Subject to the provisions of subsection 4, a description of the
34 evidence used by the notary public to verify the identification of the
35 person whose signature is being notarized;

36 (f) An indication of whether the notary public administered an
37 oath; and

38 (g) The type of certificate used to evidence the notarial act, as
39 required pursuant to NRS 240.1655.

40 2. A notary public may make one entry in the journal which
41 documents more than one notarial act if the notarial acts
42 documented are performed:

43 (a) For the same person and at the same time; and

44 (b) On one document or on similar documents.



* A B 9 9 R 2 *

3. When ~~taking an acknowledgment~~ *performing a notarial act* for a person, a notary public need not require the person to sign the journal if ~~the~~ :

(a) *The* notary public has performed a notarial act for the person within the previous 6 months ~~and the~~ ;

(b) *The* notary public has personal knowledge of the identity of the person ~~+~~ ; and

(c) *The person is an employer or coworker of the notary public and the notarial act relates to a transaction performed in the ordinary course of the person's business.*

4. If, pursuant to subsection 3, a notary public does not require a person to sign the journal, the notary public shall enter "known personally" as the description required to be entered into the journal pursuant to paragraph (e) of subsection 1.

5. If the notary verifies the identification of the person whose signature is being notarized on the basis of a credible witness, the notary public shall:

(a) Require the witness to sign the journal in the space provided for the description of the evidence used; and

(b) Make a notation in the journal that the witness is a credible witness.

6. The journal must:

(a) Be open to public inspection.

(b) Be in a bound volume with preprinted page numbers.

7. A notary public shall, upon request and payment of the fee set forth in NRS 240.100, provide a certified copy of an entry in his or her journal.

8. A notary public shall keep his or her journal in a secure location during any period in which the notary public is not making an entry or notation in the journal pursuant to this section.

9. A notary public shall retain each journal that the notary public has kept pursuant to this section until 7 years after the date on which he or she ceases to be a notary public.

10. A notary public shall file a report with the Secretary of State and the appropriate law enforcement agency if the journal of the notary public is lost or stolen.

11. The provisions of this section do not apply to a person who is authorized to perform a notarial act pursuant to paragraph (b), (c) , ~~for~~ (d) *or (e)* of subsection 1 of NRS 240.1635.

Sec. 35. (Deleted by amendment.)

Sec. 35.3. NRS 240.1635 is hereby amended to read as follows:

240.1635 1. A notarial act may be performed within this State by the following persons:

(a) A notary public of this State;



- 1 (b) A judge, clerk or deputy clerk of any court of this State;
- 2 (c) A justice of the peace; ~~for~~
- 3 (d) Any other person authorized to perform the specific act by
- 4 the law of this State ~~for~~; or

5 *(e) A person authorized to perform the specific act by the law*
6 *of a federally recognized Indian tribe or nation.*

7 2. Notarial acts performed within this State under federal
8 authority as provided in NRS 240.1645 have the same effect as if
9 performed by a notarial officer of this State.

10 3. The signature and title of a person performing a notarial act
11 are prima facie evidence that the signature is genuine and that the
12 person holds the designated title.

13 **Sec. 35.5.** NRS 240.165 is hereby amended to read as follows:

14 240.165 1. A notarial act has the same effect under the law of
15 this State as if performed by a notarial officer of this State if
16 performed within the jurisdiction of and under authority of a foreign
17 nation or its constituent units or a multinational or international
18 organization by the following persons:

- 19 (a) A notary public;
- 20 (b) A judge, clerk or deputy clerk of a court of record; ~~for~~
- 21 (c) A person authorized by the law of that jurisdiction to
- 22 perform notarial acts ~~for~~;

23 *(d) A person authorized by federal law to perform notarial*
24 *acts; or*

25 *(e) A person authorized by the law of a federally recognized*
26 *Indian tribe or nation to perform notarial acts.*

27 2. A certificate by an officer of the foreign service or consular
28 officer of the United States stationed in the nation under the
29 jurisdiction of which the notarial act was performed, or a certificate
30 by an officer of the foreign service or consular officer of that nation
31 stationed in the United States, conclusively establishes a matter
32 relating to the authenticity or validity of the notarial act set forth in
33 the certificate.

34 3. An official stamp or seal of the person performing the
35 notarial act is prima facie evidence that the signature is genuine and
36 that the person holds the indicated title.

37 4. An official stamp or seal of an officer listed in paragraph (a)
38 or (b) of subsection 1 is prima facie evidence that a person with the
39 indicated title has authority to perform notarial acts.

40 5. If the title of office and indication of authority to perform
41 notarial acts appears either in a digest of foreign law or in a list
42 customarily used as a source for that information, the authority of an
43 officer with that title to perform notarial acts is conclusively
44 established.



1 **Sec. 35.7.** NRS 240.1655 is hereby amended to read as
2 follows:

3 240.1655 1. A notarial act must be evidenced by a certificate
4 that:

5 (a) Identifies the county, including, without limitation, Carson
6 City, in this State in which the notarial act was performed in
7 substantially the following form:

8
9 State of Nevada

10 County of

11
12 (b) Except as otherwise provided in this paragraph, includes the
13 name of the person whose signature is being notarized. If the
14 certificate is for certifying a copy of a document, the certificate must
15 include the name of the person presenting the document. If the
16 certificate is for the jurat of a subscribing witness, the certificate
17 must include the name of the subscribing witness.

18 (c) Is signed and dated in ink by the notarial officer performing
19 the notarial act. *The certificate must be signed in the same manner*
20 *as the signature of the notarial officer that is on file with the*
21 *Secretary of State.*

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

25 (e) If the notarial officer performing the notarial act is not a
26 notary public, includes the title of the office of the notarial officer
27 and may include the official stamp or seal of that office. If the
28 officer is a commissioned officer on active duty in the military
29 service of the United States, the certificate must also include the
30 officer's rank.

31 2. ~~1A~~ *Except as otherwise provided in subsection 8, a* notarial
32 officer shall:

33 (a) In taking an acknowledgment, determine, from personal
34 knowledge or satisfactory evidence, that the person making the
35 acknowledgment is the person whose signature is on the document.
36 The person who signed the document shall present the document to
37 the notarial officer in person.

38 (b) In administering an oath or affirmation, determine, from
39 personal knowledge or satisfactory evidence, the identity of the
40 person taking the oath or affirmation.

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



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

(e) In executing a jurat, administer an oath or affirmation to the affiant and determine, from personal knowledge or 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 paragraph in substantially the following form:

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

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

(a) Is in the short form set forth in NRS 240.166 to 240.169, inclusive;

(b) Is in a form otherwise prescribed by the law of this State;

(c) Is in a form prescribed by the laws or regulations applicable in the place in which the notarial act was performed; or

(d) Sets forth the actions of the notarial officer and those are sufficient to meet the requirements of the designated notarial act.

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

(a) Is personally known to the notarial officer;

(b) Is identified upon the oath or affirmation of a credible witness ~~to~~ *who personally appears before the notarial officer;*

(c) Is identified on the basis of an identifying document which contains a signature and a photograph;

(d) Is identified on the basis of a consular identification card;

(e) Is identified upon an oath or affirmation of a subscribing witness who is personally known to the notarial officer; or

(f) In the case of a person who is 65 years of age or older and cannot satisfy the requirements of paragraphs (a) to (e), inclusive, is identified upon the basis of an identification card issued by a governmental agency or a senior citizen center.

5. An oath or affirmation administered pursuant to paragraph (b) of subsection 4 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)?



6. A notarial officer shall not affix his or her signature over printed material.

7. By executing a certificate of a notarial act, the notarial officer certifies that the notarial officer has complied with all the requirements of this section.

8. *If a person is physically unable to sign a document that is presented to a notarial officer pursuant to this section, the person may direct a person other than the notarial officer to sign the person's name on the document. The notarial officer shall insert "Signature affixed by (insert name of other person) at the direction of (insert name of person)" or words of similar import.*

9. As used in this section, unless the context otherwise requires, "consular identification card" means an identification card issued by a consulate of a foreign government, which consulate is located within the State of Nevada.

Sec. 36. (Deleted by amendment.)

Sec. 37. (Deleted by amendment.)

Sec. 38. (Deleted by amendment.)

Sec. 39. (Deleted by amendment.)

Sec. 40. (Deleted by amendment.)

Sec. 41. (Deleted by amendment.)

Sec. 42. (Deleted by amendment.)

Sec. 43. (Deleted by amendment.)

Sec. 44. (Deleted by amendment.)

Sec. 45. (Deleted by amendment.)

Sec. 46. (Deleted by amendment.)

Sec. 47. (Deleted by amendment.)

Sec. 48. The amendatory provisions of this act apply to a notarial act performed on or after January 1, 2014.

Sec. 49. This act becomes effective on January 1, 2014.

