

HOUSE BILL NO. 69
INTRODUCED BY F. SMITH
BY REQUEST OF THE SECRETARY OF STATE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATING TO NOTARY PUBLIC PROCESSES AND FORMS; AND AMENDING SECTIONS 1-5-405, 1-5-416, AND 1-5-610, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 1-5-405, MCA, is amended to read:

"1-5-405. Bond and commission -- dates -- fees and documents. (1) Each notary public shall submit an application, a signed oath of office, and an official bond in the amount of \$10,000 for each 4-year term of office. The application and bond must be approved by the secretary of state. Upon the approval of the application and the bond, the payment of fees, and the filing in the office of the secretary of state of the official oath of the notary public, the secretary of state may issue a commission.

(2) The effective date of the surety bond and the notary commission must be the same.

(3) All required fees and required and properly completed documents must be submitted to the office of the secretary of state within 30 days before or by within 30 days after the effective date of the surety bond."

Section 2. Section 1-5-416, MCA, is amended to read:

"1-5-416. Powers and duties. (1) A notary public shall:

(a) subject to subsection (2), take the acknowledgment or proof of any power of attorney, mortgage, deed, grant, transfer, or other instrument executed by any person and give a certificate of the proof or acknowledgment, endorsed on or attached to the instrument;

(b) take depositions and affidavits, if the notary is knowledgeable of the applicable legal requirements, and administer oaths and affirmations in all matters incident to the duties of the notary public's office or to be used before any court, judge, officer, or board in this state;

(c) whenever requested and upon payment of the required fees, make and give a certified copy of any record kept or that originated in the notary public's place of employment;

(d) provide and keep an official crimper-type or ink stamp seal, upon which must be engraved the name of the state of Montana and the words "Notarial Seal", with the name of the notary public exactly as that name

appears on the notary's certificate of commission issued by the secretary of state;

(e) authenticate with the notary public's official seal, and the notary's original signature as it appears on the notary's certificate of commission, all official acts. Whenever the notary public signs officially as a notary public, the notary public shall add to the signature the words "Notary Public for the State of Montana, residing at.... (stating the name of the town or city of the notary public's post office)" and shall endorse upon the instrument the date, showing the month, day, and four-digit year, of the expiration of the notary public's commission.

(f) on every document on which the notary's seal of office is used, type, stamp, or legibly print the notary's name, as shown on the notary's certificate of commission, after or below the original signature of the notary.

(2) A notary public may not:

(a) notarize the notary's own signature;

(b) notarize a document in which the notary is individually named or has an interest from which the notary will directly benefit by a transaction involving the document; or

(c) certify a document issued by a public entity, such as a birth, death, or marriage certificate, unless the notary is employed by the entity issuing or holding the original version of that document."

Section 3. Section 1-5-610, MCA, is amended to read:

"1-5-610. Short forms. The following short-form certificates of notarial acts are sufficient for the purposes indicated if they are completed with the information required by 1-5-416 and 1-5-609(1):

(1) For an acknowledgment in an individual capacity:

State of _____

(County) of _____

This instrument was acknowledged before me on (date) by (name(s) of person(s)) _____

(Signature of notarial officer)

(Seal, if any)

.....
(Name - typed, stamped, or printed)

Title (and Rank)

(Residing at)

[My commission expires: _____]

(2) For an acknowledgment in a representative capacity:

State of _____

(County) of _____

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

(Signature of notarial officer)

(Seal, if any)

.....
(Name - typed, stamped, or printed)

Title (and Rank)

(Residing at)

[My commission expires: _____]

(3) For a verification upon oath or affirmation:

State of _____

(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)

.....
(Name - typed, stamped, or printed)

Title (and Rank)

(Residing at)

[My commission expires: _____]

(4) For witnessing or attesting a signature:

State of _____

(County) of _____

Signed or attested before me on (date) by (name(s) of person(s))

(Signature of notarial officer)

(Seal, if any)

.....

(Name - typed, stamped, or printed)

Title (and Rank)

(Residing at)

[My commission expires: _____]

(5) For attestation of a copy of a document:

State of _____

(County) of _____

I certify that this is a true and correct copy of a document in the possession of _____.

Dated _____

(Signature of notarial officer)

(Seal, if any)

.....

(Name - typed, stamped, or printed)

Title (and Rank)

(Residing at)

[My commission expires: _____]"

- END -

