

ALASKA STATUTES

**TITLE 9. CODE OF CIVIL PROCEDURE
CHAPTER 63. OATH, ACKNOWLEDGMENT, AND OTHER PROOF
ARTICLE 1: OATHS, CERTIFICATIONS, NOTARIZATIONS
AND VERIFICATIONS**

Sec. 09.63.010. Oath, affirmation, and acknowledgment in the state.

The following persons may take an oath, affirmation, or acknowledgment in the state:

- (1) a justice, judge, or magistrate of a court of the State of Alaska or of the United States;
- (2) a clerk or deputy clerk of a court of the State of Alaska or of the United States;
- (3) a notary public;
- (4) a United States postmaster;
- (5) a commissioned officer under AS 09.63.050(4);
- (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. 09.63.020. Certification of documents.

(a) A matter required or authorized to be supported, evidenced, established, or proven by the sworn statement, declaration, verification, certificate, oath, or affidavit, in writing of the person making it (other than a deposition, an acknowledgment, an oath of office, or an oath required to be taken before a specified official other than a notary public) may be supported, evidenced, established or proven by the person certifying in writing “under penalty of perjury” that the matter is true. The certification shall state the date and place of execution, the fact that a notary public or other official empowered to administer oaths is unavailable, and the following: “I certify under penalty of perjury that the foregoing is true.”

(b) A person who makes a false sworn certification which the person does not believe to be true under penalty of perjury is guilty of perjury.

Sec. 09.63.030. Notarization.

(a) When a document is required by law to be notarized, the person who executes the document shall sign and swear to or affirm it before an officer authorized by law to take the person’s oath or affirmation and the officer shall certify on the document that it was signed and sworn to or affirmed before the officer.

(b) The certificate required by this section may be in substantially the following form:
Subscribed and sworn to or affirmed before me at _____ on _____.
(date)

_____ Signature of Officer
_____ Title of Officer

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

- (1) affix 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) comply with AS 44.50.060 - 44.50.065 and other applicable law.

Sec. 09.63.040. Verification.

(a) When a document is required by law to be verified, the person required to verify it shall certify under oath or affirmation that the person has read the document and believes its content to be true.

(b) The person who makes the verification shall sign it before a person authorized by law to take the person’s oath or affirmation.

(c) A verification made under this section may be in substantially the following form:

I _____ say on oath or affirm that I have read the foregoing (or attached) document and believe all statements made in the document are true.

_____ Signature

Subscribed and sworn to or affirmed before me at _____ on _____. (date)

_____ Signature of Officer

_____ Title of Officer

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

(1) affix 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) comply with AS 44.50.060 - 44.50.065 and other applicable law.

ARTICLE 2 UNIFORM RECOGNITION OF ACKNOWLEDGMENTS ACT

Sec. 09.63.050. Recognition of notarial acts performed outside the state.

Notarial acts may be performed outside the state for use in the state with the same effect as if performed by a notary public of the state by

(1) a notary public authorized to perform notarial acts in the place in which the act is performed;

(2) a justice, judge, magistrate, clerk, or deputy clerk of a court of record in the place in which the notarial act is performed;

(3) an officer of the foreign service of the United States, a consular agent, or a person authorized by regulation of the United States Department of State to perform notarial acts in the place in which the act is performed;

(4) a commissioned officer in active service with the armed forces of the United States or a person authorized by regulation of the armed forces to perform notarial acts if the notarial act is performed for a merchant seaman of the United States, a member of the armed forces of the United States, a person serving with or accompanying the armed forces of the United States, or their dependents; or

(5) a person authorized to perform notarial acts in the place in which the act is performed.

Sec. 09.63.060. Authentication of authority of officer.

(a) If the notarial act is performed by a person described in AS 09.63.050(1)-(4) other than a person authorized to perform notarial acts by the laws or regulations of a foreign country, the signature, rank or title and, if appropriate, the serial number of the person are sufficient proof of the authority of a person to perform the act.

(b) If the notarial act is performed by a person authorized by the laws or regulations

of a foreign country to perform the act, there is sufficient proof of the authority of that person to act if

(1) either a foreign service officer of the United States resident in the country in which the act is performed or a diplomatic or consular officer of the foreign country resident in the United States certifies that a person holding that office is authorized to perform the act;

(2) the official seal of the person performing the notarial act is affixed to the document; or

(3) the title and indication of authority to perform notarial acts of the person appear either in a digest of foreign law or in a list customarily used as a source of that information.

(c) If the notarial act is performed by a person other than a person described in this section, there is sufficient proof of the authority of the person to act if the clerk of a court of record in the place in which the notarial act is performed certifies to the official character of the person and to the person's authority to perform the notarial act.

(d) The signature and title of the person performing the act are prima facie evidence that the person has the designated title and that the signature is genuine.

Sec. 09.63.070. Certificate of person taking acknowledgment.

The person taking an acknowledgment shall certify that

(1) the person acknowledging appeared before the person taking the acknowledgment and acknowledged that the person executed the instrument; and

(2) the person acknowledging was known to the person taking the acknowledgment or the person taking the acknowledgment had satisfactory evidence that the person acknowledging was the person described in and who executed the instrument.

Sec. 09.63.080. Recognition of certificate of acknowledgment.

The form of a certificate of acknowledgment used by a person whose authority is recognized under AS 09.63.010 or 09.63.050 shall be accepted in the state if

(1) the certificate is in a form prescribed by the laws or regulations of the state;

(2) the certificate is in a form prescribed by the laws or regulations applicable in the place in which the acknowledgment is taken; or

(3) the certificate contains the words "acknowledged before me" or their substantial equivalent.

Sec. 09.63.090. Certificate of acknowledgment.

The words "acknowledged before me" mean that

(1) the person acknowledging

(A) appeared before the person taking the acknowledgment;

(B) acknowledged that the person executed the instrument;

(C) in the case of

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

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

(iii) a member or manager of a limited liability company, acknowledged that the individual signed the instrument on behalf of the limited liability company by proper authority and executed the instrument as the act of the limited liability company for the

purposes stated in it;

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

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

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

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

Sec. 09.63.100. Forms of acknowledgment.

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

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

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

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

_____ Signature of Person Taking Acknowledgment
Title or Rank
Serial Number, if any

(2) For a corporation:

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

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

_____ Signature of Person Taking Acknowledgment
Title or Rank
Serial Number, if any

(3) For a limited liability company:

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

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

_____ Signature of Person Taking Acknowledgment
Title or Rank
Serial Number, if any

(4) For a partnership:

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

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

Signature of Person Taking Acknowledgment

Title or Rank

Serial Number, if any

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

State of _____

Judicial District (or County of _____)

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

Signature of Person Taking Acknowledgment

Title or Rank

Serial Number, if any

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

State of _____

Judicial District (or County of _____)

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

Signature of Person Taking Acknowledgment

Title or Rank

Serial Number, if any

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

(1) affix 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) comply with AS 44.50.060 - 44.50.065 and other law.

Sec. 09.63.110. Uniformity of interpretation.

AS 09.63.050-09.63.110 shall be interpreted as to make uniform the laws of those states which enact them.

Sec. 09.63.120. Definition.

In AS 09.63.010-09.63.130, "notarial act" means acts that the laws and regulations of the state authorize notaries public of the state to perform, including the administering of oaths and affirmation, taking proof of execution and acknowledgment of instruments, and attesting documents.

Sec. 09.63.130. Title.

AS 09.63.059-09.63.100 may be cited as the Uniform Recognition of Acknowledgment Acts.

**TITLE 09. CODE OF CIVIL PROCEDURE
CHAPTER 09.80. UNIFORM ELECTRONIC TRANSACTIONS ACT**

Sec. 09.80.080. Notarization and acknowledgment.

If a law requires a signature or record to be notarized, acknowledged, verified, or made under oath, the requirement is satisfied if the electronic signature of the person authorized

to perform those acts, together with all other information required to be included by other applicable law, is attached to or logically associated with the signature or record.

TITLE 44. STATE GOVERNMENT CHAPTER 50. NOTARIES PUBLIC

Sec. 44.50.010. Notary public commission; term.

- (a) The lieutenant governor may commission for the state
 - (1) notaries public without limitation, who are authorized to use the notary seal for all legal purposes; and
 - (2) limited governmental notaries public, who are state, municipal, or federal employees authorized to use the notary seal only for official government business.
- (b) The term of a notary public commission is four years, except that the term of a limited governmental notary public commission coincides with the term of government employment.
- (c) A person who is a state, municipal, or federal employee commissioned as a limited governmental notary public may also be commissioned as a notary public without limitation.

Sec. 44.50.020. Qualifications.

To be commissioned as a notary public, a person

- (1) shall submit an application under AS 44.50.032;
- (2) shall be at least 18 years of age;
- (3) shall have established residency in this state under AS 01.10.055;
- (4) shall reside legally in the United States;
- (5) may not, within 10 years before the commission takes effect, have been convicted of a felony or incarcerated in a correctional facility for a felony conviction;
- (6) may not, within 10 years before the commission takes effect,
 - (A) have had the person's notary public commission revoked under AS 44.50.068(a)(2) or (4) or under the notary public laws of another jurisdiction for a substantially similar reason;
 - (B) have had the person's notary public commission revoked under AS 44.50.068(a)(3), unless the person has reestablished residency in this state under AS 01.10.055 before the person submits the application;
 - (C) have been disciplined under AS 44.50.068 if, at the time the person applies for a notary public commission under this chapter, the disciplinary action prohibits the person from holding a notary public commission; or
 - (D) have been disciplined under the notary public laws of another jurisdiction if, at the time the person applies for a notary public commission under this chapter, the disciplinary action prohibits the person from holding a notary public commission; and
- (7) shall meet the other requirements in this chapter to be commissioned as a notary public.

Sec. 44.50.030. Term of office. [Repealed, Sec. 14 ch 60 SLA 2005].

Sec. 44.50.032. Application.

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

(b) A completed application for a commission under AS 44.50.010(a)(1) must include
(1) an affirmation that the applicant meets the qualifications set out in AS 44.50.020
(2) - (6);

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

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

(A) identification of the jurisdiction;

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

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

(D) information concerning final resolution of the matter;

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

(5) the fee required by AS 44.50.033; and

(6) the bond required by AS 44.50.034.

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

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

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

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

(4) the fee required by AS 44.50.033.

Sec. 44.50.033. Application fee.

A person applying for a commission as a notary public shall pay a nonrefundable application fee. The lieutenant governor shall set the amount of the fee by regulation. However, an applicant for a limited governmental notary public commission under AS 44.50.010(a)(2) who is employed by the state may not be required to pay an application fee.

Sec. 44.50.034. Bond.

(a) A person applying for a commission as a notary public without limitation under AS 44.50.010(a)(1) shall execute an official bond of \$2,500 and submit the bond with the application under AS 44.50.032. The bond must be for a term of four years from the date of commission.

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

Sec. 44.50.035. Oath.

The application required by the lieutenant governor under AS 44.50.032 must contain an oath or affirmation, in the form set out in AS 39.05.045, to be signed by the applicant. A

signed oath or affirmation submitted in an application under AS 44.50.032 takes effect on the date of the applicant's commission as a notary public under this chapter.

Sec. 44.50.036. Denial of applications.

The lieutenant governor shall deny an application for a notary public commission if the

- (1) applicant does not meet the requirements of this chapter;
- (2) application is not complete or contains a material misstatement or omission of fact relating to the requirements for a commission under this chapter;
- (3) applicant has, within 10 years before the commission is to take effect, been convicted of a felony or incarcerated in a correctional facility for a felony conviction; or
- (4) applicant's commission as a notary public has been revoked, within 10 years before the commission is to take effect, in
 - (A) this state for a reason stated in
 - (i) AS 44.50.068(a)(2) or (4);
 - (ii) AS 44.50.068(a)(3), unless the person has reestablished residency in this state under AS 01.10.055 before the person submits the application; or
 - (B) another jurisdiction for a reason substantially similar to AS 44.50.068(a)(2) or (4).

Sec. 44.50.037. Certificate of commission.

Upon commission of a notary public under this chapter, the lieutenant governor shall provide to the notary public a certificate of commission indicating the commission and the dates of the term of the commission.

Sec. 44.50.038. Subsequent commissions.

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

Sec. 44.50.039. Limited governmental notaries public.

A state, municipal, or federal employee commissioned as a notary public under AS 44.50.010 (a)(2)

- (1) is designated a limited governmental notary public;
- (2) may perform notarial acts only in the conduct of official government business; and
- (3) may not charge or receive a fee or other consideration for notarial services provided under this chapter.

Sec. 44.50.040. Fees. [Repealed, Sec. 14 ch 60 SLA 2005].

Sec. 44.50.050. [Renumbered as AS 44.50.180(d)].

Sec. 44.50.060. Duties.

A notary public may

- (1) administer oaths and affirmations;
- (2) take the acknowledgment of or proof of execution of instruments in writing, and give a notarial certificate of the proof or acknowledgment, included in or attached to the instrument; the notarial certificate shall be signed by the notary public in the notary

public's own handwriting or by electronic means as authorized by regulations adopted by the lieutenant governor;

(3) give a notarial certificate stating that a tangible copy of an electronic record is an accurate copy of the electronic record.

Sec. 44.50.061. Unauthorized practice.

(a) A notary public who is not an attorney may complete but may not select notarial certificates, and may not assist another person in drafting, completing, selecting, or understanding a document or transaction requiring a notarial act.

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

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

Sec. 44.50.062. Prohibited acts.

A notary public may not

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

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

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

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

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

(A) except as provided by AS 44.50.075, appears and signs the document before the notary public or, for an acknowledgment, appears and indicates to the notary public that the person voluntarily affixed the person's signature on the document for the purposes stated within the document;

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

(C) in the case of a notarial act performed in the physical presence of the notary public, is personally known to the notary public, produces government-issued identification containing the photograph and signature of the person signing, or produces

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

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

(D) in the case of a notarial act performed for a remotely located individual, satisfies the requirements of AS 44.50.075;

(6) perform a notarial act if the notary public

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

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

Sec. 44.50.063. Official signature.

(a) When performing a notarization, a notary public shall

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

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

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

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

Sec. 44.50.064. Official seal.

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

(b) A notary public's official seal

(1) must contain

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

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

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

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

(d) Within 10 days after a notary public's official seal is stolen or lost, or the security of the notary public's official electronic seal is compromised, the notary public shall provide the lieutenant governor with written notification of the theft, loss, or compromised security. After the notary public has provided the lieutenant governor with the notification, the notary public shall provide the lieutenant governor with any additional information that the lieutenant governor requests about the compromise of the seal.

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

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

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

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

Sec. 44.50.065. Seal impression or depiction.

(a) With regard to each paper document being notarized, a sharp, legible, photographically reproducible impression or depiction of a notary public's official seal shall be affixed

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

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

(b) For a notarized paper document, illegible information within a seal impression or

depiction may be typed or printed legibly by the notary public adjacent to, but not within, the impression or depiction.

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

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

Sec. 44.50.066. Notary public's status notification.

(a) Within 30 days after change of a notary public's name, mailing address, or physical address, the notary public shall, on a form provided by the lieutenant governor, submit written notification of the change, signed by the notary public.

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

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

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

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

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

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

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

Sec. 44.50.067. Resignation.

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

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

Sec. 44.50.068. Disciplinary action; complaint; appeal; hearing; delegation.

(a) The lieutenant governor may suspend or revoke a notary public's commission or reprimand a notary public for good cause shown, including

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

(2) failure to comply with this chapter;

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

(4) incompetence or malfeasance in carrying out the notary public's duties under this chapter.

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

notary public.

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

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

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

(f) If the lieutenant governor finds that formal disciplinary action may be warranted, the lieutenant governor may suspend or revoke a notary public's commission or reprimand a notary public. If the lieutenant governor suspends or revokes the commission or issues a reprimand, the lieutenant governor shall provide, by certified mail, the notary public with a written statement of the lieutenant governor's decision, including a written statement of the basis for the determination.

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

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

Sec. 44.50.070. Presence and identification required. [Repealed, Sec. 14 ch 60 SLA 2005].

Sec. 44.50.071. Confidentiality.

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

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

(c) A complaint filed under AS 44.50.068 shall be kept confidential unless the

lieutenant governor determines under AS 44.50.068(d) that the complaint alleges sufficient facts to constitute good cause for disciplinary action.

Sec. 44.50.072. Regulations.

(a) The lieutenant governor shall adopt regulations under AS 44.62 (Administrative Procedure Act) to carry out the purposes of this chapter.

(b) The regulations adopted by the lieutenant governor under this section must provide standards for

- (1) communication technology and identity proofing; and
- (2) sufficient forms of notarial certificates for notarial acts performed for remotely located individuals.

(c) The regulations adopted by the lieutenant governor under this section may

(1) prescribe the manner of performing notarial acts regarding tangible and electronic records;

(2) include provisions to ensure that a change to or tampering with a record bearing a notarial certificate is self-evident;

(3) include provisions to ensure integrity in the creation, transmittal, storage, or authentication of electronic records or signatures; and

(4) include provisions to prevent fraud or a mistake in the performance of notarial acts.

(d) In adopting, amending, or repealing a regulation regarding notarial acts with respect to electronic records, the lieutenant governor shall consider, so far as is consistent with this chapter,

(1) the most recent standards regarding electronic records adopted by national bodies;

(2) standards, practices, and customs of other jurisdictions with substantially similar provisions; and

(3) the views of other governmental officials and entities and other interested persons.

(e) A regulation adopted by the lieutenant governor regarding the performance of notarial acts with respect to electronic records may not require, or accord greater legal status or effect to, the implementation or application of a specific technology or technical specification.

Sec. 44.50.073. Published summary.

The lieutenant governor may publish by electronic means for commissioned notaries public a summary of the provisions of this chapter and the regulations adopted under this chapter. The lieutenant governor shall, upon request, distribute the summary to each person who is commissioned a notary public under this chapter.

Sec. 44.50.075. Notarial act performed for remotely located individual.

(a) A remotely located individual may comply with AS 44.50.062(5)(A) by using communication technology to appear before a notary public.

(b) A notary public located in this state may perform a notarial act using communication technology for a remotely located individual if

(1) the notary public has

(A) personal knowledge of the identity of the individual;

(B) obtained satisfactory evidence of the identity of the remotely located individual by oath or affirmation from a credible witness appearing before the notary public under AS 44.50.062(5)(A); or

(C) obtained satisfactory evidence of the identity of the remotely located individual

by using

- (i) a government-issued identification card;
 - (ii) a credential analysis of the identification card described in (i) of this subparagraph; in this sub-subparagraph, “credential analysis” means a form of identity proofing by which a third person affirms the accuracy of a government-issued identification card; and
 - (iii) at least one type of identity proofing;
- (2) the notary public is able reasonably to confirm that a record before the notary public is the same record in which the remotely located individual made a statement or on which the individual executed a signature;
 - (3) the notary public, or a person acting on behalf of the notary public, creates an audiovisual recording of the performance of the notarial act; and
 - (4) for a remotely located individual located outside the United States,
 - (A) the record
 - (i) is to be filed with or relates to a matter before a public official, court, governmental entity, or other entity subject to the jurisdiction of the United States; or
 - (ii) involves property located in the territorial jurisdiction of the United States or involves a transaction substantially connected with the United States; and
 - (B) the act of making the statement or signing the record is not prohibited by the foreign state in which the remotely located individual is located.
- (c) If a notarial act is performed under this section, the notarial certificate required under AS 44.50.060 must state that the notarial act was performed using communication technology. A statement is sufficient if it states substantially as follows: “This notarial act involved the use of communication technology.”
 - (d) A notary public, guardian, conservator, or agent of a notary public, or a personal representative of a deceased notary public shall retain the audiovisual recording created under (b)(3) of this section or cause the recording to be retained by a repository designated by or on behalf of the person required to retain the recording. Unless a different period is required by regulation adopted under (f)(4) of this section, the recording must be retained for a period of at least 10 years after the recording is made.
 - (e) Before a notary public performs the notary public’s initial notarial act under this section, the notary public shall notify the lieutenant governor that the notary public will be performing notarial acts with respect to remotely located individuals and identify the communication technologies the notary public intends to use. If the lieutenant governor has established standards under (f)(3) of this section or AS 44.50.072 for approval of communication technology or identity proofing, the communication technologies and identity proofing must conform to the standards.
 - (f) In addition to adopting regulations under AS 44.50.072, the lieutenant governor may adopt regulations regarding performance of a notarial act under this section. The regulations may
 - (1) prescribe the means of performing a notarial act involving a remotely located individual using communication technology;
 - (2) establish standards for communication technology and identity proofing;
 - (3) establish requirements or procedures to approve providers of communication technology and the process of identity proofing; and
 - (4) establish standards and a period for the retention of an audiovisual recording created under (b)(3) of this section.
 - (g) Before adopting, amending, or repealing a regulation governing performance of a

notarial act with respect to a remotely located individual, the lieutenant governor shall consider

(1) the most recent standards regarding the performance of a notarial act with respect to a remotely located individual adopted by national standard-setting organizations;

(2) standards, practices, and customs of other jurisdictions that have laws substantially similar to this section; and

(3) the views of other governmental officials and entities and other interested persons.

(h) By allowing its communication technology or identity proofing to facilitate a notarial act for a remotely located individual or by providing storage of the audiovisual recording created under (b)(3) of this section, the provider of the communication technology, identity proofing, or storage appoints the lieutenant governor as the provider's agent for service of process in any civil action in this state related to the notarial act.

(i) In this section,

(1) "foreign state" means a jurisdiction other than the United States, a state, or a federally recognized tribe;

(2) "outside the United States" means a location outside the geographic boundaries of the United States, the Commonwealth of Puerto Rico, the United States Virgin Islands, and a territory, insular possession, or other location subject to the jurisdiction of the United States.

Sec. 44.50.078. Journal.

(a) A notary public shall maintain a journal in which the notary public chronicles all notarial acts that the notary public performs under AS 44.50.075. The notary public shall retain the journal for 10 years after the performance of the last notarial act chronicled in the journal.

(b) A notary public may create a journal on a tangible medium or in an electronic format. A notary public shall maintain at least one journal in a tangible medium to chronicle all notarial acts described in (a) of this section. A notary public may maintain one or more journals in an electronic format to chronicle all notarial acts described in (a) of this section. If a journal is maintained in an electronic format, the journal must be in a permanent, tamper-evident electronic format complying with the regulations of the lieutenant governor under AS 44.50.072.

(c) A notary public shall make an entry in a journal contemporaneously with performance of the notarial act, and an entry must contain the following information:

(1) the date and time of the notarial act;

(2) a description of the record, if any, and type of notarial act;

(3) the full name and address of each individual for whom the notarial act is performed;

(4) if identity of the individual is based on personal knowledge, a statement to that effect;

(5) if identity of the individual is based on satisfactory evidence, a brief description of the method of identification and the identification credential presented, if any, including the date of issuance and expiration of the identification credential; and

(6) the fee, if any, charged by the notary public.

(d) If a notary public's journal is lost or stolen, the notary public shall promptly notify the lieutenant governor upon discovering that the journal is lost or stolen.

(e) Upon resignation from, or revocation or suspension of, a notary public's commission, the notary public shall retain the notary public's journal in accordance with (a) of this section and inform the lieutenant governor where the journal is located.

Sec. 44.50.080. - 44.50.140l Seal; Protest of bill or note; Return of papers to lieutenant governor; Application of Administrative Procedure Act to revocation of notary commission; Bond; Filing oath and bond; Disposition of bond. [Repealed, Sec. 14 ch 60 SLA 2005].

Sec. 44.50.145. Notification regarding performance of notarial act on electronic record; selection of technology; acceptance of tangible copy of electronic record.

(a) A notary public may select one or more tamper-evident technologies with which to perform notarial acts with respect to electronic records. A person may not require a notary public to perform a notarial act with respect to an electronic record with a technology that the notary public has not selected.

(b) Before a notary public performs the notary public's initial notarial act with respect to an electronic record, a notary public shall notify the lieutenant governor that the notary public will be performing notarial acts with respect to electronic records and identify the communication technology the notary public intends to use. If the lieutenant governor has established standards for approval of communication technology under AS 44.50.072 or 44.50.075, the technology must conform to the standards. If the communication technology conforms to the standards, the lieutenant governor shall approve the use of the communication technology.

(c) A recorder may accept for recording a tangible copy of an electronic record containing a notarial certificate as satisfying any requirement that a record accepted for recording be an original, if the notarial officer executing the notarial certificate certifies that the tangible copy is an accurate copy of the electronic record.

Sec. 44.50.150. Copy of bond as evidence.

A certified copy of the record of the official bond with all affidavits, acknowledgments, endorsements, and attachments may be read in evidence with the same effect as the original, without further proof.

Sec. 44.50.160. Misconduct or neglect.

A notary and the sureties on the official bond are liable to persons injured for the damages sustained on account of misconduct or neglect of the notary.

Sec. 44.50.165. Validity of notarial acts.

The failure of a notarial officer to perform a duty or meet a requirement specified in this chapter does not invalidate a notarial act performed by the notarial officer. The validity of a notarial act under this chapter does not prevent an aggrieved person from seeking to invalidate the record or transaction that is the subject of the notarial act or from seeking other remedies based on a law of this state other than this chapter or a law of the United States. This section does not validate a purported notarial act performed by an individual who does not have the authority to perform a notarial act.

Sec. 44.50.170. State employees as notaries. [Repealed, Sec. 14 ch 60 SLA 2005].

Sec. 44.50.180. Postmasters as notaries.

(a) Each postmaster in the state may perform the functions of a notary public in the state.

(b) Each official act of a postmaster as a notary public shall be signed by the postmaster, with a designation of the person's title as postmaster, shall have the

cancellation stamp of the post office affixed, and shall state the name of the post office and the date on which the act was done.

(c) [Repealed, Sec. 14 ch 60 SLA 2005].

(d) Nothing in this chapter requires a postmaster to post a bond or to have a commission.

Sec. 44.50.185. Relation to Electronic Signatures in Global and National Commerce Act.

This chapter modifies, limits, and supersedes 15 U.S.C. 7001 - 7031 (Electronic Signatures in Global and National Commerce Act) but does not modify, limit, or supersede 15 U.S.C. 7001(c) or authorize electronic delivery of any of the notices described in 15 U.S.C. 7003(b).

Sec. 44.50.190. Savings clause. [Repealed, Sec. 14 ch 60 SLA 2005].

Sec. 44.50.200. Definitions.

In this chapter, unless the context otherwise requires,

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

(2) “notarial act” means an act, whether performed with respect to a tangible or electronic record, that is identified as a notarial act under AS 09.63.120 and an act that a notary public is directed to perform under AS 44.50.060;

(3) “notary public” means a person commissioned to perform notarial acts under this chapter.

(4) “acknowledgment” means a declaration by an individual before a notarial officer that the individual has signed a record for the purpose stated in the record and, if the record is signed in a representative capacity, that the individual signed the record with proper authority and signed it as the act of the individual or entity identified in the record;

(5) “communication technology” means an electronic device or process that

(A) allows a notary public and a remotely located individual to communicate with each other simultaneously by sight and sound; and

(B) when necessary and consistent with other applicable law, facilitates communication with a remotely located individual who has a visual, hearing, or speech impairment;

(6) “electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities;

(7) “electronic signature” means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by an individual with the intent to sign the record;

(8) “identity proofing” means a process or service by which a third person provides a notary public with a means to verify the identity of a remotely located individual by a review of personal information from public or private data sources;

(9) “in a representative capacity” means acting as

(A) an authorized officer, agent, partner, trustee, or other representative for a person other than an individual;

(B) a public officer, personal representative, guardian, or other representative in the capacity stated in a record;

(C) an agent or attorney-in-fact for a principal; or

(D) an authorized representative of another in any other capacity;

(10) “notarial officer” means a notary public or other individual authorized to perform a notarial act;

(11) “record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form;

(12) “remotely located individual” means an individual who is not in the physical presence of a notary public who performs a notarial act under AS 44.50.075;

(13) “sign” means, with present intent to authenticate or adopt a record, to

(A) execute or adopt a tangible symbol; or

(B) attach to or logically associate with the record an electronic symbol, sound, or process;

(14) “signature” means a tangible symbol or an electronic signature that evidences the signing of a record.

ALASKA ADMINISTRATIVE CODE

TITLE 6. GOVERNOR’S OFFICE

PART 1. ELECTIONS

CHAPTER 25. ADMINISTRATION OF ELECTIONS

ARTICLE 3. ABSENTEE AND QUESTIONED VOTING

6 AAC 25.570. Witnessing absentee by-mail ballot.

(a) A voter voting an absentee ballot by mail must have the voter’s ballot certification on the envelope witnessed by

(1) an official authorized to administer an oath or by one individual 18 years of age or older as required by AS 15.20.081(d); or

(2) an election official appointed under AS 15.10.120 or an absentee voting official appointed under AS 15.20.045 during the official’s term as described in 6 AAC 25.032.

(b) An official authorized to administer an oath or other individual serving as a witness to an absentee ballot voted by mail is attesting that the voter subscribed and swore to the oath in the presence of the witness and that to the best of the witness’s knowledge

(1) the voter is the person he or she claims to be; and,

(2) the voter is the person who voted the ballot.

(c) In serving as a witness as described in (a) of this section, an individual must execute the witnessing affidavit by signing the witness’s name. The signature of the witness may be any written or printed form of the witness’s name or initials, or any mark intended as a signature.

(d) If the signature of a witness as described in (a) of this section appears on the affidavit in a place other than the correct space provided, the incorrect placement of the signature will not cause the ballot to be rejected.

(e) A notary public commissioned in this state and serving as a witness on an absentee by-mail ballot oath and affidavit envelope shall affix the notary public’s notary seal and indicate the date on which the notary’s commission expires. However, failure of the notary to affix the seal or to provide the date on which the notary’s commission will expire will not cause the ballot to be rejected if the notary’s authority can be verified through official notary records on file with the lieutenant governor.

(f) An official witness authorized to administer an oath shall provide the official’s title, the date of attestation, and the location at which the attestation took place. However,

failure of an official witness to provide the official's title, or provision of a title other than a title specified in AS 15.20.081(d) will not cause the ballot to be rejected. In addition, failure of the official witness to state the date of attestation or the location at which the attestation took place will not cause the ballot to be rejected if other information provided on the ballot is sufficient to reasonably determine that the ballot was voted on or before election day.

(g) Failure of a United States postal official serving as a witness to sign the attestation will not cause the ballot to be rejected if the postal official affixes the postal station's official postal stamp.

(h) An individual over the age of 18 who serves as a witness to a voter's certificate shall be asked to state the date of attestation, and the location at which the attestation took place. However, failure of the official witness to state the date of attestation, or the location at which the attestation took place will not cause the ballot to be rejected if other information provided on the certificate is sufficient to reasonably determine that the ballot was voted on or before election day.

(i) A voter may not serve as a witness on the voter's own ballot certification on the envelope. The ballot of a voter who has signed as a witness to the voter's own voter certificate will not be counted.

(Eff. 8/12/90, Register 115; am 8/22/2004, Register 171; am 5/14/2006, Register 178) Authority: AS 15.15.010, AS 15.20.081, AS 15.20.203, AS 15.15.220

PART 7. LIEUTENANT GOVERNOR CHAPTER 88. NOTARIZATIONS

6 AAC 88.010. Applicability. This chapter applies to persons performing notarial acts established under AS 44.50.

(Eff. 1/1/2021], Register 237)

Authority: AS 44.50.033 AS 44.50.072

6 AAC 88.020. Application fee. (a) The application fee for commission as a notary public is \$40.

(b) In addition to the application fee under (a) of this section, the application fee to perform notarial acts using communication technology for remotely located individuals is \$100 for an initial notary public commission. If a notary public is commissioned under AS 44.50.010 at the time the notary public applies to perform remote notarial acts as described in this subsection, that notary public shall pay an application fee of \$25 for each remaining year of the notary public's commission.

(Eff. 1/1/2021], Register 237)

Authority: AS 44.50.033 AS 44.50.072

6 AAC 88.030. Standards for communication technology, (a) Communication technology must provide for synchronous audio-video feeds of sufficient video resolution and audio clarity to enable the notary public and remotely located individual to see and speak with each other in real time. The process must provide a means for the notary public to reasonably confirm that a record before the notary public is the same record in which the remotely located individual made a statement or on which the remotely located individual executed a signature.

(b) Communication technology must provide reasonable security measures to prevent unauthorized access to

- (1) the live transmission of the audio-video feeds;
- (2) the methods used to perform the identity proofing; and
- (3) the electronic record that is the subject of the remote online notarization.

(c) If a remotely located individual leaves the session before the completion of the identity verification, the individual must restart the identity proofing process from the beginning.

(Eff. 1/1/2021], Register 237)

Authority: AS 44.50.072 AS 44.50.075

6 AAC 88.040. Standards for identity proofing, (a) If a notary public does not have personal knowledge or satisfactory evidence of the identity of a remotely located individual under (d) of this section, the notary public must reasonably verify the individual's identity through a multi-factor authentication procedure as provided in (a) - (c) of this section. The procedure must analyze the individual's identification credential that is the subject of remote presentation against trusted third-party data sources, bind the individual's identity to the individual following a successful knowledge-based authentication assessment, and permit the notary public to visually compare the identification credential and the individual. Credential analysis and identity proofing must be performed by a reputable third party that has provided evidence to the notary public of its ability to satisfy the requirements of this chapter.

(b) Credential analysis must use public or private data sources to confirm the validity of the identification credential that is the subject of remote presentation by a remotely located individual and must, at a minimum,

(1) use automated software processes to aid the notary public in verifying the identity of each remotely located individual;

(2) require the identification credential to pass an authenticity test, consistent with sound commercial practices, that uses appropriate technologies to confirm the integrity of visual, physical, or cryptographic security features, and to confirm that the identification credential is not fraudulent or inappropriately modified;

(3) use information held or published by the issuing source or an authoritative source, as available and consistent with sound commercial practices, to confirm the validity of personal details and identification credential details; and

(4) enable the notary public to visually compare for consistency the information and photograph on the identification credential and the remotely located individual as viewed by the notary public in real time through communication technology.

(c) Identity proofing may be performed by means of a knowledge-based authentication assessment. The assessment is successful if it meets the following requirements:

(1) the remotely located individual must answer a quiz of a minimum of five questions related to the individual's personal history or identity formulated from public or private data sources;

(2) each question must have a minimum of five possible answer choices;

(3) at least 80 percent of the questions must be answered correctly;

(4) all questions must be answered within two minutes;

(5) if the remotely located individual fails the first attempt, the individual may retake the quiz one time within 24 hours;

(6) during a retake of the quiz, a minimum of 40 percent of the prior questions must be replaced;

(7) if the remotely located individual fails the second attempt, the individual is not allowed to retry with the same online notary public until at least 24 hours after the second

failed attempt; and

(8) the notary public may not be able to see or record the questions or answers,

(d) The multi-factor authentication requirements in (a) - (c) of this section do not apply if

(1) the notary public has personal knowledge of the identity of the individual; or

(2) the individual is identified by oath or affirmation of a credible witness subject to the following requirements:

(A) to be a credible witness, the witness must have personal knowledge of the remotely located individual;

(B) the notary public must have personal knowledge of the credible witness or must have satisfactory evidence of the identity of the credible witness through verification of the witness's identity by multi-factor authentication in accordance with (a) - (c) of this section;

(C) a credible witness may be outside the physical presence of the notary public or remotely located individual if the notary public, credible witness, and remotely located individual can communicate by using communication technology.

(Eff. 1/1/2021), Register 237)

Authority: AS 44.50.072 AS 44.50.075

6 AAC 88.050. Form of notarial certificates for remote notarial acts. A notarial certificate for a remote online notarization is sufficient if it is substantially in a form prescribed by the laws and regulations of the state and conforms with AS 44.50.075(c) by including a statement that the notarization was performed using communication technology.

(Eff. 1/1/2021), Register 237)

Authority: AS 44.50.072 AS 44.50.075

6 AAC 88.990. Definitions. In this chapter, unless the context requires otherwise,

(1) "credential analysis" has the meaning given in AS 44.50.075(b)(1)(C)(ii);

(2) "electronic record" has the meaning given in AS 09.80.190;

(3) "identification credential" means a non-expired passport, driver's license, or form of government-issued identification document that contains the signature and photograph of the individual;

(4) "multi-factor authentication" means a security system that requires more than one method of authentication from independent categories of credentials to verify the user's identity for a login or other transaction;

(5) "notarial certificate" means the portion of a notarized document that is completed by a notary public and that bears the notary public's signature, seal, and language as required by law;

(6) "person" has the meaning given in AS 01.10.060;

(7) "personal knowledge" means that the individual appearing before the notary public is known to the notary public through dealings sufficient to provide reasonable certainty that the individual has the identity claimed;

(8) "real time" means the actual span of uninterrupted, simultaneous communication using audio-video feeds during which all parts of an online notarial act occur excluding issues or buffering that does not materially affect the substantive communication between the notary public and the individual;

(9) "remote online notarization" or "remote notarial act" means a notarial act performed by means of communication technology under this chapter;

(10) "remote presentation" means transmission to a notary public through

communication technology of an image of a remotely located individual's identification credential that is of sufficient quality to enable the notary public to reasonably identify the remotely located individual and to perform credential analysis.

(Eff. 1/1/2021], Register 237)

Authority: AS 44.50.072 AS 44.50.075