

- (4) In exchange for real estate owned by the state bank.
- (5) In connection with salvaging the value of property owned by the state bank.
- (6) For the purpose of producing income through the improvement or erection of a building and the sale or rental of the property.

NEW SUBSECTION. 8. If approved by the superintendent, a state bank may invest in a community development corporation. A state bank shall have the same authority to invest in a community development corporation as does a federal bank pursuant to Title XII of the United States Code.

Approved April 26, 1989

CHAPTER 50
NOTARIES PUBLIC
H.F. 693

AN ACT relating to notaries public and other notarial officers and notarial acts, and providing an applicability date and an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. NEW SECTION. 77A.1 TITLE.

This chapter shall be known as the "Iowa Law on Notarial Acts".

Sec. 2. NEW SECTION. 77A.2 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "Notarial act" means any act that a notary public of this state is authorized to perform, and includes, but is not limited to, taking an acknowledgment, administering an oath or affirmation, taking verification upon oath or affirmation, witnessing or attesting a signature, certifying or attesting a copy, and noting a protest of a negotiable instrument.
2. "Acknowledgment" means a declaration by a person that the person has executed an instrument for the purposes stated in the document and, if the instrument is executed in a representative capacity, that the person signed the instrument with proper authority and executed it as the act of the person or entity represented and identified in the document.
3. "Verification upon oath or affirmation" means a declaration that a statement is true, made by a person upon oath or affirmation.
4. "Representative capacity" means any of the following:
 - a. A representative on behalf of a corporation, partnership, trust, or other entity, as an authorized officer, agent, partner, trustee, or other representative.
 - b. A public officer, personal representative, guardian, or other representative, in the capacity recited in the instrument.
 - c. An attorney in fact for a principal.
 - d. Any other capacity as an authorized representative of another.
5. "Notarial officer" means a notary public or other officer authorized to perform notarial acts.

Sec. 3. NEW SECTION. 77A.3 APPOINTMENT – REVOCATION.

1. The secretary of state may appoint residents of this state as notaries public and may revoke an appointment for cause.
2. The secretary of state shall appoint members of the general assembly as notaries public, upon request, and may revoke an appointment for cause.
3. The secretary of state may appoint as a notary public a resident of a state bordering Iowa

if that person's place of work or business is within the state of Iowa. If a notary who is a resident of a state bordering Iowa ceases to work or maintain a place of business in Iowa, the notary commission expires.

Sec. 4. NEW SECTION. 77A.4 TERM OF COMMISSION.

The term of a notary public who is an Iowa resident is three years. The term of a notary who is a resident of a state bordering Iowa and whose place of work or business is in Iowa, is one year. The term of a notary who is a member of the general assembly is the member's term of office.

Sec. 5. NEW SECTION. 77A.5 NOTICE OF EXPIRATION OF TERM.

The secretary of state shall, two months preceding the expiration of a commission, notify the notary public of the expiration date and furnish a blank application for reappointment.

Sec. 6. NEW SECTION. 77A.6 APPLICATION – FEE.

1. Before a commission is delivered to a person appointed as a notary public, the person shall:

- a. Complete an application for appointment as a notary public on a form prescribed by the secretary of state.

- b. Remit the sum of thirty dollars to the secretary of state. However, persons appointed as notaries public under section 77A.3, subsection 2, are not subject to the fee imposed by this subsection.

2. When the secretary of state determines that the requirements of this section are satisfied, the secretary shall execute and deliver a certificate of commission to the person appointed.

3. A notary public may procure a seal or stamp for use in performing notarial acts. A seal or stamp used by a notary public in the performance of notarial acts shall contain the words "Notarial Seal" and the word "Iowa". The stamp may include the name of the notary public. However, a notarial act is not invalid if a seal or stamp used in the performance of a notarial act fails to meet the requirements of this subsection. This subsection does not require the use of a seal or stamp in the performance of a notarial act.

Sec. 7. NEW SECTION. 77A.7 REVOCATION – NOTICE AND HEARING – RULES.

If the commission of a person appointed notary public is revoked by the secretary of state, the secretary shall immediately notify the person through the mail. The notice shall state the cause of the revocation and shall inform the person of the right to a hearing on the revocation. The secretary of state shall adopt rules under chapter 17A to provide for a hearing for persons whose commission is revoked.

Sec. 8. NEW SECTION. 77A.8 DISCRETION – LIMITATION.

A notary public may exercise reasonable discretion in performing or declining to perform notarial services, but a notary shall not condition the performance of notarial services upon the requirement that the person served be a customer or client of the establishment by which the notary is employed.

The employer of a notary public shall not condition the performing of notarial services upon the requirement that the person served be a customer or client of the establishment by which the notary is employed.

Sec. 9. NEW SECTION. 77A.9 NOTARIAL ACTS.

1. In taking an acknowledgment, the notarial officer must determine, either from personal knowledge or from satisfactory evidence, that the person appearing before the notary and making the acknowledgment is the person whose true signature is on the instrument.

2. In taking a verification upon oath or affirmation, the notarial officer must determine, either from personal knowledge or from satisfactory evidence, that the person appearing before the officer and making the verification is the person whose true signature is on the statement verified.

3. In witnessing or attesting a signature, the notarial officer must determine, either from personal knowledge or from satisfactory evidence, that the signature is that of the person

appearing before the officer and named on the instrument.

4. In certifying or attesting a copy of a document or other item, the notarial officer must determine that the copy is a full, true, and accurate transcription or reproduction of that which was copied.

5. In making or noting a protest of a negotiable instrument, the notarial officer must determine the matters set forth in section 554.3509.

6. A notarial officer has satisfactory evidence that a person is the person whose true signature is on a document in any of the following circumstances:

- a. The person is personally known to the notarial officer.
- b. The person is identified upon the oath or affirmation of a credible witness personally known to the notarial officer.
- c. The person is identified on the basis of identification documents.

Sec. 10. NEW SECTION. 77A.10 NOTARIAL ACTS IN THIS STATE.

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

- a. A notary public appointed by the secretary of state pursuant to section 77A.3.
 - b. A judge, clerk, or deputy clerk of a court of this state.
 - c. A person authorized by the law of this state to administer oaths.
 - d. Any other person authorized to perform the specific act by the law of this state.
2. Notarial acts performed within this state under federal authority have the same effect as if performed by a notarial officer of this state.

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

Sec. 11. NEW SECTION. 77A.11 CERTIFICATION BY SECRETARY OF STATE.

The secretary of state shall collect the following fees, for use in offsetting the cost of administering this chapter:

1. For furnishing a certified copy of any document, instrument, or paper relating to a notary public, one dollar per page and five dollars for the certificate.
2. For furnishing an uncertified copy of any document, instrument, or paper relating to a notary public, one dollar per page.
3. For certifying, under seal of the secretary of state, a statement as to the status of a notary commission which would not appear from a certified copy of documents on file in the secretary of state's office, five dollars.

Sec. 12. NEW SECTION. 77A.12 POWERS OF THE SECRETARY OF STATE.

The secretary of state has the power and authority reasonably necessary to administer this chapter efficiently and to perform the duties imposed upon the secretary of state. This power and authority includes rulemaking authority to provide for reciprocity in recognizing notarial acts performed under any other jurisdiction.

Sec. 13. Section 602.8102, subsection 21, Code 1989, is amended by striking the subsection.

Sec. 14. Chapter 77, Code 1989, is repealed.

Sec. 15. The secretary of state is given the authority until June 30, 1990, to extend the commissions of notaries public for a period not to exceed nine months, for the purpose of staggering commission expiration dates in a manner to more evenly distribute the notary renewal process.

Sec. 16. This Act, being deemed of immediate importance, takes effect upon enactment and applies to notarial acts performed on or after its effective date.

Approved April 26, 1989

CHAPTER 51**STATE PUBLIC DEFENDER AND APPELLATE DEFENDER***H.F. 699*

AN ACT relating to the state public defender and the appointment of a state appellate defender.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 13B.4, Code 1989, is amended to read as follows:

13B.4 JURISDICTION DUTIES OF STATE PUBLIC DEFENDER.

1. The state public defender shall ~~represent~~ coordinate the provision of legal representation of indigents under arrest or charged with a crime, on appeal in criminal cases, and on appeal in proceedings to obtain postconviction relief when appointed ordered to do so by the district court in which the judgment or order was issued, and may represent provide for the representation of indigents in proceedings instituted pursuant to chapter 908, and shall not engage in the private practice of law. The court may, upon the application of the indigent or the indigent's trial attorney, or on its own motion, appoint the state public defender to represent the indigent on appeal or on appeal in postconviction proceedings. The state public defender may represent an indigent under arrest or charged with a crime at the discretion of the state public defender or upon the request of a local public defender.

2. The state public defender may contract with persons admitted to practice law in this state for the provision of legal services to indigents where there is no local public defender office in the area.

Sec. 2. NEW SECTION. 13B.11 STATE APPELLATE DEFENDER.

The state public defender shall appoint a state appellate defender who shall represent indigents on appeal in criminal cases and on appeal in proceedings to obtain postconviction relief when appointed to do so by the district court in which the judgment or order was issued, and may represent indigents in proceedings instituted pursuant to chapter 908 when required to do so by the state public defender, and shall not engage in the private practice of law.

Approved April 26, 1989

CHAPTER 52**LONG-TERM CARE COORDINATING UNIT MEMBERSHIP***H.F. 270*

AN ACT relating to the membership of the long-term care coordinating unit within the department of elder affairs.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 249D.58, subsection 1, Code 1989, is amended by adding the following new paragraphs:

NEW PARAGRAPH. d. The director of the department of inspections and appeals.

NEW PARAGRAPH. e. Two members appointed by the governor.

Approved April 26, 1989