

FILED FEB 19 1990

SENATE FILE 2399  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 2235)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

A BILL FOR

1 An Act relating to notarial officers and notarial acts and  
2 providing effective and applicability dates.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

4  
5  
6

SF 2399

SENATE FILE 2399

S-5410

1 Amend Senate File 2399 as follows:  
2 1. Page 3, by striking line 28, and inserting the  
3 following:  
4 "a. A short form as provided by the secretary of  
5 state."  
6 2. By striking page 4, line 5 through page 6,  
7 line 4, and inserting the following:  
8 "The secretary of state shall by rule provide short  
9 form certificates of notarial acts which shall include  
10 the information required by section 77A.10D,  
11 subsection 1."

By DONALD V. DOYLE  
JACK HESTER

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22  
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1 Section 1. NEW SECTION. 77A.10A NOTARIAL ACTS IN OTHER  
2 JURISDICTIONS OF THE UNITED STATES.

3 1. A notarial act has the same effect under the law of  
4 this state as if performed by a notarial officer of this  
5 state, if the notarial act is performed in another state,  
6 commonwealth, territory, district, or possession of the United  
7 States by any of the following persons:

- 8 a. A notary public of that jurisdiction.
- 9 b. A judge, clerk, or deputy clerk of a court of that  
10 jurisdiction.
- 11 c. Any other person authorized by the law of that  
12 jurisdiction to perform notarial acts.

13 2. Notarial acts performed in other jurisdictions of the  
14 United States under federal authority as provided in section  
15 77A.10B have the same effect as if performed by a notarial  
16 officer of this state.

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

20 4. The signature and indicated title of an officer listed  
21 in subsection 1, paragraph "a" or "b" conclusively establish  
22 the authority of a holder of that title to perform a notarial  
23 act.

24 Sec. 2. NEW SECTION. 77A.10B NOTARIAL ACTS UNDER FEDERAL  
25 AUTHORITY.

26 1. A notarial act has the same effect under the law of  
27 this state as if performed by a notarial officer of this  
28 state, if the notarial act is performed anywhere by any of the  
29 following persons under authority granted by the law of the  
30 United States:

- 31 a. A judge, clerk, or deputy clerk of a court.
- 32 b. A commissioned officer on active duty in the military  
33 service of the United States.
- 34 c. An officer of the foreign service or consular officer  
35 of the United States.

1 d. Any other person authorized by federal law to perform  
2 notarial acts.

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

6 3. The signature and indicated title of an officer listed  
7 in subsection 1, paragraph "a", "b", or "c", conclusively  
8 establish the authority of a holder of that title to perform a  
9 notarial act.

10 4. A certificate of a notarial act on an instrument to be  
11 recorded must also comply with the requirements of section  
12 331.602, subsection 1.

13 Sec. 3. NEW SECTION. 77A.10C FOREIGN NOTARIAL ACTS.

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

20 a. A notary public or notary.

21 b. A judge, clerk, or deputy clerk of a court of record.

22 c. Any other person authorized by the law of that  
23 jurisdiction to perform notarial acts.

24 2. An "apostille" in the form prescribed by the Hague  
25 convention of October 5, 1961, conclusively establishes that  
26 the signature of the notarial officer is genuine and that the  
27 officer holds the indicated office.

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

35 4. An official stamp or seal of the person performing the

1 notarial act is prima facie evidence that the signature is  
2 genuine and that the person holds the indicated title.

3 5. An official stamp or seal of an officer listed in  
4 subsection 1, paragraph "a" or "b", is prima facie evidence  
5 that a person with the indicated title has authority to  
6 perform notarial acts.

7 6. If the title of office and indication of authority to  
8 perform notarial acts appears either in a digest of foreign  
9 law or in a list customarily used as a source for that  
10 information, the authority of an officer with that title to  
11 perform notarial acts is conclusively established.

12 Sec. 4. NEW SECTION. 77A.10D CERTIFICATE OF NOTARIAL  
13 ACTS.

14 1. A notarial act must be evidenced by a certificate  
15 signed and dated by a notarial officer. The certificate must  
16 include identification of the jurisdiction in which the  
17 notarial act is performed and the title of the office of the  
18 notarial officer and may include the official stamp or seal of  
19 the office. If the officer is a notary public, the  
20 certificate may, but need not indicate the date of expiration,  
21 if any, of the commission of office. If the notarial officer  
22 is a commissioned officer on active duty in the military  
23 service of the United States, it must also include the  
24 officer's rank.

25 2. A certificate of a notarial act is sufficient if it  
26 meets the requirements of subsection 1, and is in any of the  
27 following forms:

- 5410 28 a. The short form set forth in section 77A.10E.  
29 b. A form otherwise prescribed by the law of this state,  
30 including those forms set out in chapter 558.  
31 c. A form prescribed by the laws or regulations applicable  
32 in the place in which the notarial act was performed.  
33 d. A form which sets forth the actions of the notarial  
34 officer and those are sufficient to meet the requirements of  
35 the designated notarial act.

1 3. By executing a certificate of a notarial act, the  
2 notarial officer certifies that the officer has made the  
3 determinations required by section 77A.9.

4 Sec. 5. NEW SECTION. 77A.10E SHORT FORMS.

5410 5 The following short form certificates of notarial acts are  
6 sufficient for the purposes indicated, if completed with the  
7 information required by section 77A.10D, subsection 1.

8 1. For an acknowledgment in an individual capacity:

9 State of \_\_\_\_\_

10 (County) of \_\_\_\_\_

11 This instrument was acknowledged before me on

12 \_\_\_\_\_ by \_\_\_\_\_.

13 (date) (name(s) of person(s))

14

\_\_\_\_\_  
(signature of notarial  
officer)

17 (Seal, if any)

18

\_\_\_\_\_  
Title (and Rank)

19

[My commission expires: \_\_]

20

21 2. For an acknowledgment in a representative capacity:

22 State of \_\_\_\_\_

23 (County) of \_\_\_\_\_

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

28

\_\_\_\_\_  
(signature of notarial  
officer)

29

30

31 (Seal, if any)

32

\_\_\_\_\_  
Title (and Rank)

33

[My commission expires: \_\_]

34

35 3. For a verification upon oath or affirmation:

S.F. 2399 H.F. \_\_\_\_\_

1 State of \_\_\_\_\_

2 (County) of \_\_\_\_\_

3 Signed and sworn to (or affirmed) before me on

4 \_\_\_\_\_ by \_\_\_\_\_.

5 (date) (name(s) of person(s) making statement)

6

7

\_\_\_\_\_  
(signature of notarial  
officer)

8

9 (Seal, if any)

10

11

\_\_\_\_\_  
Title (and Rank)

12

[My commission expires: \_\_]

13

4. For witnessing or attesting a signature:

14 State of \_\_\_\_\_

15 (County) of \_\_\_\_\_

16 Signed or attested before me on \_\_\_\_\_ by

17

(date)

18

\_\_\_\_\_.

19 (name(s) of person(s))

20

21

\_\_\_\_\_  
(signature of notarial  
officer)

22

23 (Seal, if any)

24

25

\_\_\_\_\_  
Title (and Rank)

26

[My commission expires: \_\_]

27

5. For attestation of a copy of a document:

28 State of \_\_\_\_\_

29 (County) of \_\_\_\_\_

30 I certify that this is a true and correct copy of a

31 document in the possession of \_\_\_\_\_.

32 Dated \_\_\_\_\_

33

34

\_\_\_\_\_  
(signature of notarial  
officer)

35

1 (Seal, if any)

2

3

\_\_\_\_\_  
Title (and Rank)

4

[My commission expires:\_\_\_]

5 Sec. 6. Section 558.42, Code 1989, is amended to read as  
6 follows:

7 558.42 ACKNOWLEDGMENT AS CONDITION PRECEDENT.

8 It shall not be deemed lawfully recorded, unless it has  
9 been previously acknowledged or proved in the manner  
10 prescribed in this chapter or chapter 77A, except that  
11 affidavits and certified copies of petitions in bankruptcy  
12 with or without the schedules appended, of decrees of  
13 adjudication in bankruptcy, and of orders approving trustees'  
14 bonds in bankruptcy, and Uniform Commercial Code financing  
15 statements and financing statement changes need not be thus  
16 acknowledged.

17 Sec. 7. EFFECTIVE DATE.

18 This Act, being deemed of immediate importance, takes  
19 effect upon enactment and applies to notarial acts performed  
20 on or after the effective date of this Act.

21 EXPLANATION

22 This bill provides that notarial acts performed in other  
23 jurisdictions of the United States, in foreign jurisdictions,  
24 or under federal authority have the same effect as if  
25 performed in Iowa by an Iowa notarial officer. The bill also  
26 provides certain notarial forms.

27 An immediate effective date is included.

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HESTER, CH.  
GRONSTAL  
GETTINGS

SSB 2235  
JUDICIARY

SENATE FILE 2399  
BY (PROPOSED COMMITTEE ON  
JUDICIARY BILL BY  
CHAIRPERSON VARN)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

A BILL FOR

1 An Act relating to notarial officers and notarial acts and  
2 providing effective and applicability dates.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. NEW SECTION. 77A.10A NOTARIAL ACTS IN OTHER  
2 JURISDICTIONS OF THE UNITED STATES.

3 1. A notarial act has the same effect under the law of  
4 this state as if performed by a notarial officer of this  
5 state, if the notarial act is performed in another state,  
6 commonwealth, territory, district, or possession of the United  
7 States by any of the following persons:

8 a. A notary public of that jurisdiction.

9 b. A judge, clerk, or deputy clerk of a court of that  
10 jurisdiction.

11 c. Any other person authorized by the law of that  
12 jurisdiction to perform notarial acts.

13 2. Notarial acts performed in other jurisdictions of the  
14 United States under federal authority as provided in section  
15 77A.10B have the same effect as if performed by a notarial  
16 officer of this state.

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

20 4. The signature and indicated title of an officer listed  
21 in subsection 1, paragraph "a" or "b" conclusively establish  
22 the authority of a holder of that title to perform a notarial  
23 act.

24 Sec. 2. NEW SECTION. 77A.10B NOTARIAL ACTS UNDER FEDERAL  
25 AUTHORITY.

26 1. A notarial act has the same effect under the law of  
27 this state as if performed by a notarial officer of this  
28 state, if the notarial act is performed anywhere by any of the  
29 following persons under authority granted by the law of the  
30 United States:

31 a. A judge, clerk, or deputy clerk of a court.

32 b. A commissioned officer on active duty in the military  
33 service of the United States.

34 c. An officer of the foreign service or consular officer  
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2 notarial acts.

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13 Sec. 3. NEW SECTION. 77A.10C FOREIGN NOTARIAL ACTS.

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15 this state as if performed by a notarial officer of this  
16 state, if the notarial act is performed within the  
17 jurisdiction of and under authority of a foreign nation or its  
18 constituent units or a multinational or international  
19 organization by any of the following persons:

20 a. A notary public or notary.

21 b. A judge, clerk, or deputy clerk of a court of record.

22 c. Any other person authorized by the law of that  
23 jurisdiction to perform notarial acts.

24 2. An "apostille" in the form prescribed by the Hague  
25 convention of October 5, 1961, conclusively establishes that  
26 the signature of the notarial officer is genuine and that the  
27 officer holds the indicated office.

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

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3 5. An official stamp or seal of an officer listed in  
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6 perform notarial acts.

7 6. If the title of office and indication of authority to  
8 perform notarial acts appears either in a digest of foreign  
9 law or in a list customarily used as a source for that  
10 information, the authority of an officer with that title to  
11 perform notarial acts is conclusively established.

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14 1. A notarial act must be evidenced by a certificate  
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17 notarial act is performed and the title of the office of the  
18 notarial officer and may include the official stamp or seal of  
19 the office. If the officer is a notary public, the  
20 certificate may, but need not indicate the date of expiration,  
21 if any, of the commission of office. If the notarial officer  
22 is a commissioned officer on active duty in the military  
23 service of the United States, it must also include the  
24 officer's rank.

25 2. A certificate of a notarial act is sufficient if it  
26 meets the requirements of subsection 1, and is in any of the  
27 following forms:

28 a. The short form set forth in section 77A.10E.

29 b. A form otherwise prescribed by the law of this state,  
30 including those forms set out in chapter 558.

31 c. A form prescribed by the laws or regulations applicable  
32 in the place in which the notarial act was performed.

33 d. A form which sets forth the actions of the notarial  
34 officer and those are sufficient to meet the requirements of  
35 the designated notarial act.

1 3. By executing a certificate of a notarial act, the  
2 notarial officer certifies that the officer has made the  
3 determinations required by section 77A.9.

4 Sec. 5. NEW SECTION. 77A.10E SHORT FORMS.

5 The following short form certificates of notarial acts are  
6 sufficient for the purposes indicated, if completed with the  
7 information required by section 77A.10D, subsection 1.

8 1. For an acknowledgment in an individual capacity:

9 State of \_\_\_\_\_  
10 (County) of \_\_\_\_\_

11 This instrument was acknowledged before me on

12 \_\_\_\_\_ by \_\_\_\_\_.

13 (date) (name(s) of person(s))

14

15 \_\_\_\_\_  
(signature of notarial  
16 officer)

17 (Seal, if any)

18

19 \_\_\_\_\_  
Title (and Rank)

20 [My commission expires:\_\_\_]

21 2. For an acknowledgment in a representative capacity:

22 State of \_\_\_\_\_  
23 (County) of \_\_\_\_\_

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

28

29 \_\_\_\_\_  
(signature of notarial  
30 officer)

31 (Seal, if any)

32

33 \_\_\_\_\_  
Title (and Rank)

34 [My commission expires:\_\_\_]

35 3. For a verification upon oath or affirmation:

S.F. \_\_\_\_\_ H.F. \_\_\_\_\_

1 State of \_\_\_\_\_

2 (County) of \_\_\_\_\_

3 Signed and sworn to (or affirmed) before me on

4 \_\_\_\_\_ by \_\_\_\_\_.

5 (date) (name(s) of person(s) making statement)

6

7 \_\_\_\_\_  
(signature of notarial  
8 officer)

9 (Seal, if any)

10

11 \_\_\_\_\_  
Title (and Rank)

12 [My commission expires: \_\_]

13 4. For witnessing or attesting a signature:

14 State of \_\_\_\_\_

15 (County) of \_\_\_\_\_

16 Signed or attested before me on \_\_\_\_\_ by

17 \_\_\_\_\_  
(date)

18 \_\_\_\_\_.

19 (name(s) of person(s))

20

21 \_\_\_\_\_  
(signature of notarial  
22 officer)

23 (Seal, if any)

24

25 \_\_\_\_\_  
Title (and Rank)

26 [My commission expires: \_\_]

27 5. For attestation of a copy of a document:

28 State of \_\_\_\_\_

29 (County) of \_\_\_\_\_

30 I certify that this is a true and correct copy of a

31 document in the possession of \_\_\_\_\_.

32 Dated \_\_\_\_\_

33

34 \_\_\_\_\_  
(signature of notarial  
35 officer)

1 (Seal, if any)

2

3

\_\_\_\_\_  
Title (and Rank)

4

[My commission expires:\_\_\_]

5 Sec. 6. Section 558.42, Code 1989, is amended to read as  
6 follows:

7 558.42 ACKNOWLEDGMENT AS CONDITION PRECEDENT.

8 It shall not be deemed lawfully recorded, unless it has  
9 been previously acknowledged or proved in the manner  
10 prescribed in this chapter or chapter 77A, except that  
11 affidavits and certified copies of petitions in bankruptcy  
12 with or without the schedules appended, of decrees of  
13 adjudication in bankruptcy, and of orders approving trustees'  
14 bonds in bankruptcy, and Uniform Commercial Code financing  
15 statements and financing statement changes need not be thus  
16 acknowledged.

17 Sec. 7. EFFECTIVE DATE.

18 This Act, being deemed of immediate importance, takes  
19 effect upon enactment and applies to notarial acts performed  
20 on or after the effective date of this Act.

21 EXPLANATION

22 This bill provides that notarial acts performed in other  
23 jurisdictions of the United States, in foreign jurisdictions,  
24 or under federal authority have the same effect as if  
25 performed in Iowa by an Iowa notarial officer. The bill also  
26 provides certain notarial forms.

27 An immediate effective date is included.

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