

Eichhorn, Chair
Millage
O'Brien

HSB 88

STATE GOVERNMENT

SUC

SF

0259

SENATE/HOUSE FILE

BY (PROPOSED SECRETARY
OF STATE BILL)

Passed Senate, Date _____

Passed House, Date _____

Vote: Ayes _____ Nays _____

Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to the duties and office of the secretary of
2 state in commissioning notarial officers.

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

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TLSB 1062DP 79

da/cls/14

1 Section 1. Section 9E.3, Code 2001, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 4. A person shall not be appointed as a
4 notary public by the secretary of state unless the person is
5 at least eighteen years of age and not disqualified from
6 voting as provided in section 48A.6.

7 Sec. 2. Section 9E.6, subsection 3, Code 2001, is amended
8 by striking the subsection.

9 Sec. 3. NEW SECTION. 9E.6A ACQUISITION AND USE OF STAMP
10 OR SEAL.

11 1. Each person performing a notarial act pursuant to
12 section 9E.10 must acquire and use a stamp or seal as provided
13 in this chapter. However, this section shall not apply to a
14 person performing a notarial act under federal authority. The
15 stamp or seal shall contain all of the following:

16 a. For a person appointed as a notary public pursuant to
17 section 9E.3, all of the following:

18 (1) The words "Notarial Seal" and "Iowa".

19 (2) The person's name.

20 (3) The words "Commission Number" followed by a number
21 assigned to the notary public by the secretary of state.

22 (4) The words "My Commission Expires" followed either by
23 the date that the notary public's term would ordinarily expire
24 as provided in section 9E.4 or a blank line. If the seal or
25 stamp contains a blank line, the person must print the date
26 that the notary public's term would ordinarily expire on the
27 blank line imprinted on each document, instrument, or paper
28 subject to a notarial act.

29 b. For any other person, all of the following:

30 (1) The words "Notarial Seal" and "Iowa".

31 (2) The person's name.

32 (3) The person's title under which the person may perform
33 a notarial act under section 9E.10.

34 Sec. 4. Section 9E.14, subsection 1, Code 2001, is amended
35 to read as follows:

1 1. A notarial act must be evidenced by a certificate
2 signed and dated by a notarial officer. The certificate must
3 include identification of the jurisdiction in which the
4 notarial act is performed and the title of the office of the
5 notarial officer and ~~may~~ shall include the official stamp or
6 seal of the office. ~~If the officer is a notary public, the~~
7 ~~certificate may, but need not indicate the date of expiration,~~
8 ~~if any, of the commission of office.~~ If the notarial officer
9 is a commissioned officer on active duty in the military
10 service of the United States, ~~it~~ the certificate must also
11 include the officer's rank.

12 Sec. 5. Section 9E.15, Code 2001, is amended to read as
13 follows:

14 9E.15 SHORT FORMS.

15 The following short form certificates of notarial acts are
16 sufficient for the purposes indicated, if completed with the
17 information required by section 9E.14, subsection 1.

18 1. For an acknowledgment in an individual capacity:

19 State of

20 (County) of

21 This instrument was acknowledged before me on

22 by

23 (date) (name(s) of person(s))

24

25 (signature of notarial officer)

26 (Stamp or Seal, ~~if any~~)

27

28 Title (and Rank)

29 (My commission expires: ...)

30 2. For an acknowledgment in a representative
31 capacity:

32 State of

33 (County) of

34 This instrument was acknowledged before me on

35 (date) by (name(s) of person(s)) as (type of author-

S.F. _____ H.F. _____

1 ity, e.g., officer, trustee, etc.) of (name of party on
2 behalf of whom instrument was executed).

3
4 (signature of notarial officer)

5 (Stamp or Seal~~-if-any~~)

6
7 Title (and Rank)

8 (My commission expires: ...)

9 3. For a verification upon oath or affirmation:

10 State of

11 (County) of

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

13 by

14 (date) (name(s) of person(s)
15 making statement)

16
17 (signature of notarial officer)

18 (Stamp or Seal~~-if-any~~)

19
20 Title (and Rank)

21 (My commission expires: ...)

22 4. For witnessing or attesting a signature:

23 State of

24 (County) of

25 Signed or attested before me on

26 by

27 (date) (name(s) of person(s))
28

29 (signature of notarial officer)

30 (Stamp or Seal~~-if-any~~)

31
32 Title (and Rank)

33 (My commission expires: ...)

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

35 State of

1 (County) of
2 I certify that this is a true and correct copy of a
3 document in the possession of
4 Dated
5
6 (signature of notarial officer)
7 (Stamp or Seal,--if-any)
8
9 Title (and Rank)
10 (My commission expires: ...)
11 Sec. 6. Section 558.15, Code 2001, is amended to read as
12 follows:
13 558.15 NOTARIAL SEALS OF NONRESIDENTS -- PRESUMPTION.
14 Any notarial stamp or seal purporting to have been affixed
15 to any instrument in writing, by any notary public residing
16 elsewhere than in this state, shall be prima facie evidence
17 that the words thereon engraved conform to the requirements of
18 the law of the place where such certificate purports to have
19 been made.
20 Sec. 7. Section 558.39, unnumbered paragraph 1, Code 2001,
21 is amended to read as follows:
22 The following forms of acknowledgment shall be sufficient
23 in the cases to which they are respectively applicable. In
24 each case where one of these forms is used, the name of the
25 state and county where the acknowledgment is taken shall
26 precede the body of the certificate, and the signature and
27 official title of the officer shall follow it as indicated in
28 the first form and shall constitute a part of the certificate,
29 and the stamp or seal of the officer shall be attached when
30 necessary under the provision of this chapter and as provided
31 in section 9E.6. No certificate of acknowledgment shall be
32 held to be defective on account of the failure to show the
33 official title of the officer making the certificate if such
34 title appears either in the body of such certificate or in
35 connection therewith, or with the signature thereto.

1 Sec. 8. Section 558.39, subsection 13, unnumbered
2 paragraph 3, Code 2001, is amended to read as follows:
3 (In all cases add a stamp or seal as provided in section
4 9E.6A and a signature and title of the officer taking the
5 acknowledgment, and strike from between the parentheses the
6 word or clause not used, as the case may be.)

7 EXPLANATION

8 This bill makes several changes relating to notarial
9 activity including as provided in Code chapter 9E. It provides
10 that a person must be at least 18 years old. In addition, a
11 person who is disqualified from voting is ineligible to obtain
12 or retain a commission. Currently, a notarial officer may but
13 is not required to use a stamp or seal that includes the words
14 "Notarial Seal" and "Iowa", and may include the name of the
15 notary public. The bill requires the use of the stamp or seal
16 and prescribes the information that must be included on the
17 stamp or seal. For a notary public commissioned by the
18 secretary of state, the stamp or seal must include a reference
19 to the notarial seal, the person's name, the commission
20 number, and the expiration of the commission's term. For a
21 public official, the stamp or seal must include a reference to
22 notarial seal, Iowa, the person's name, and the title of the
23 person's office.

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CHESTER J. CULVER
IOWA SECRETARY OF STATE



HOOVER BUILDING, 2ND FLOOR
DES MOINES, IOWA 50319

Memo

To: Members of the General Assembly

From: Secretary of State Chet Culver

Date: January 25, 2001

Re: Notarial Acts Bill

Notaries play an important role in both the commercial and legal world. Many significant commercial documents must be notarized before the transaction can be completed, and many legal documents must be notarized before filing. With that in mind, it is necessary that Notaries have certain qualifications and standards of practice. This bill sets the minimum age at 18 for notaries to receive their commission and also bars those who have been disqualified from voting from being commissioned. Additionally, the bill will require those people appointed as Notaries Public and those people performing notarial acts by operation of law to use a stamp or seal on all documents they notarize. Problems with notary identification will be corrected with this legislation.

2/27/01 State Gov.
4/2/01 Do Pass

FEB 14 2001
Place On Calendar

HOUSE FILE 259
BY COMMITTEE ON STATE GOVERNMENT

(SUCCESSOR TO HSB 88)

Passed House, (P. 506) Date 2/27/01 Passed Senate, (P. 1049) Date 4-10-01
Vote: Ayes 99 Nays 1 Vote: Ayes 50 Nays 0
Approved April 17, 2001

A BILL FOR

1 An Act relating to the duties and office of the secretary of
2 state in commissioning notarial officers.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

HF 259

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3 NEW SUBSECTION. 4. A person shall not be appointed as a
4 notary public by the secretary of state unless the person is
5 at least eighteen years of age and not disqualified from
6 voting as provided in section 48A.6.

7 Sec. 2. Section 9E.6, subsection 3, Code 2001, is amended
8 by striking the subsection.

9 Sec. 3. NEW SECTION. 9E.6A ACQUISITION AND USE OF STAMP
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11 1. Each person performing a notarial act pursuant to
12 section 9E.10 must acquire and use a stamp or seal as provided
13 in this chapter. However, this section shall not apply to a
14 person performing a notarial act under federal authority. The
15 stamp or seal shall contain all of the following:

16 a. For a person appointed as a notary public pursuant to
17 section 9E.3, all of the following:

18 (1) The words "Notarial Seal" and "Iowa".

19 (2) The person's name.

20 (3) The words "Commission Number" followed by a number
21 assigned to the notary public by the secretary of state.

22 (4) The words "My Commission Expires" followed either by
23 the date that the notary public's term would ordinarily expire
24 as provided in section 9E.4 or a blank line. If the seal or
25 stamp contains a blank line, the person must print the date
26 that the notary public's term would ordinarily expire on the
27 blank line imprinted on each document, instrument, or paper
28 subject to a notarial act.

29 b. For any other person, all of the following:

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33 a notarial act under section 9E.10.

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1 1. A notarial act must be evidenced by a certificate
 2 signed and dated by a notarial officer. The certificate must
 3 include identification of the jurisdiction in which the
 4 notarial act is performed and the title of the office of the
 5 notarial officer and ~~may~~ shall include the official stamp or
 6 seal of the office. ~~If the officer is a notary public, the~~
 7 ~~certificate may, but need not indicate the date of expiration,~~
 8 ~~if any, of the commission of office.~~ If the notarial officer
 9 is a commissioned officer on active duty in the military
 10 service of the United States, ~~it~~ the certificate must also
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 16 sufficient for the purposes indicated, if completed with the
 17 information required by section 9E.14, subsection 1.

18 1. For an acknowledgment in an individual capacity:

19 State of

20 (County) of

21 This instrument was acknowledged before me on

22 by

23 (date) (name(s) of person(s))

24

25 (signature of notarial officer)

26 (Stamp or Seal, ~~if any~~)

27

28 Title (and Rank)

29 (My commission expires: ...)

30 2. For an acknowledgment in a representative
 31 capacity:

32 State of

33 (County) of

34 This instrument was acknowledged before me on

35 (date) by (name(s) of person(s)) as (type of author-

1 ity, e.g., officer, trustee, etc.) of (name of party on
2 behalf of whom instrument was executed).

3
4 (signature of notarial officer)

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6

7 Title (and Rank)

8 (My commission expires: ...)

9 3. For a verification upon oath or affirmation:

10 State of

11 (County) of

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

13 by

14 (date) (name(s) of person(s)

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18 (Stamp or Seal, ~~if any~~)

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22 4. For witnessing or attesting a signature:

23 State of

24 (County) of

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26 by

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29 (signature of notarial officer)

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32 Title (and Rank)

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

35 State of

1 (County) of

2 I certify that this is a true and correct copy of a
3 document in the possession of

4 Dated

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6 (signature of notarial officer)

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11 Sec. 6. Section 558.15, Code 2001, is amended to read as
12 follows:

13 558.15 NOTARIAL SEALS OF NONRESIDENTS -- PRESUMPTION.

14 Any notarial stamp or seal purporting to have been affixed
15 to any instrument in writing, by any notary public residing
16 elsewhere than in this state, shall be prima facie evidence
17 that the words thereon engraved conform to the requirements of
18 the law of the place where such certificate purports to have
19 been made.

20 Sec. 7. Section 558.39, unnumbered paragraph 1, Code 2001,
21 is amended to read as follows:

22 The following forms of acknowledgment shall be sufficient
23 in the cases to which they are respectively applicable. In
24 each case where one of these forms is used, the name of the
25 state and county where the acknowledgment is taken shall
26 precede the body of the certificate, and the signature and
27 official title of the officer shall follow it as indicated in
28 the first form and shall constitute a part of the certificate,
29 and the stamp or seal of the officer shall be attached when
30 necessary under the provision of this chapter and as provided
31 in section 9E.6. No certificate of acknowledgment shall be
32 held to be defective on account of the failure to show the
33 official title of the officer making the certificate if such
34 title appears either in the body of such certificate or in
35 connection therewith, or with the signature thereto.

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3 (In all cases add a stamp or seal as provided in section
4 9E.6A and a signature and title of the officer taking the
5 acknowledgment, and strike from between the parentheses the
6 word or clause not used, as the case may be.)

7 EXPLANATION

8 This bill makes several changes relating to notarial
9 activity including as provided in Code chapter 9E. It provides
10 that a person must be at least 18 years old. In addition, a
11 person who is disqualified from voting is ineligible to obtain
12 or retain a commission. Currently, a notarial officer may but
13 is not required to use a stamp or seal that includes the words
14 "Notarial Seal" and "Iowa", and may include the name of the
15 notary public. The bill requires the use of the stamp or seal
16 and prescribes the information that must be included on the
17 stamp or seal. For a notary public commissioned by the
18 secretary of state, the stamp or seal must include a reference
19 to the notarial seal, the person's name, the commission
20 number, and the expiration of the commission's term. For a
21 public official, the stamp or seal must include a reference to
22 notarial seal, Iowa, the person's name, and the title of the
23 person's office.

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H-1060

1 Amend House File 259 as follows:

2 1. Page 1, by striking lines 12 through 15, and
3 inserting the following: "section 9E.10 may acquire
4 and use a stamp or seal as provided in this chapter.

5 2. A seal or stamp must contain the words
6 "Notarial Seal" and the word "Iowa". The stamp or
7 seal may also contain all of the following:"

8 2. Page 1, by striking line 18.

9 3. Page 1, by striking line 30.

10 4. Page 1, by inserting after line 33, the
11 following:

12 "A notarial act is not invalid if a seal or stamp
13 used in the performance of a notarial act fails to
14 meet the requirements of this subsection."

15 5. By striking page 1, line 34, through page 2,
16 line 11.

17 6. Page 2, line 26, by striking the words "Seal
18 ~~if any~~" and inserting the following: "Seal, if any".

19 7. Page 3, line 5, by striking the words "Seal
20 ~~if any~~" and inserting the following: "Seal, if any".

21 8. Page 3, line 18, by striking the words "Seal
22 ~~if any~~" and inserting the following: "Seal, if any".

23 9. Page 3, line 30, by striking the words "Seal
24 ~~if any~~" and inserting the following: "Seal, if any".

25 10. Page 4, line 7, by striking the words "Seal
26 ~~if any~~" and inserting the following: "Seal, if any".

27 11. Page 4, line 31, by striking the figure:
28 "9E.6" and inserting the following: "9E.6A".

29 12. Page 5, by striking lines 1 through 6.

30 13. By renumbering as necessary.

By KREIMAN of Davis

H-1060 FILED FEBRUARY 21, 2001

W/D

2/27/01

(p. 506)

HOUSE FILE 259

AN ACT

RELATING TO THE DUTIES AND OFFICE OF THE SECRETARY OF STATE
IN COMMISSIONING NOTARIAL OFFICERS.

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

Section 1. Section 9E.3, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 4. A person shall not be appointed as a notary public by the secretary of state unless the person is at least eighteen years of age and not disqualified from voting as provided in section 48A.6.

Sec. 2. Section 9E.6, subsection 3, Code 2001, is amended by striking the subsection.

Sec. 3. NEW SECTION. 9E.6A ACQUISITION AND USE OF STAMP OR SEAL.

1. Each person performing a notarial act pursuant to section 9E.10 must acquire and use a stamp or seal as provided in this chapter. However, this section shall not apply to a person performing a notarial act under federal authority. The stamp or seal shall contain all of the following:

a. For a person appointed as a notary public pursuant to section 9E.3, all of the following:

(1) The words "Notarial Seal" and "Iowa".

(2) The person's name.

(3) The words "Commission Number" followed by a number assigned to the notary public by the secretary of state.

(4) The words "My Commission Expires" followed either by the date that the notary public's term would ordinarily expire as provided in section 9E.4 or a blank line. If the seal or stamp contains a blank line, the person must print the date that the notary public's term would ordinarily expire on the blank line imprinted on each document, instrument, or paper subject to a notarial act.

b. For any other person, all of the following:

(1) The words "Notarial Seal" and "Iowa".

(2) The person's name.

(3) The person's title under which the person may perform a notarial act under section 9E.10.

Sec. 4. Section 9E.14, subsection 1, Code 2001, is amended to read as follows:

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

Sec. 5. Section 9E.15, Code 2001, is amended to read as follows:

9E.15 SHORT FORMS.

The following short form certificates of notarial acts are sufficient for the purposes indicated, if completed with the information required by section 9E.14, subsection 1.

1. For an acknowledgment in an individual capacity:

State of

(County) of

This instrument was acknowledged before me on

..... by

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

.....

(signature of notarial officer)

(Stamp or Seal,-if-any)

.....

Title (and Rank)

(My commission expires: ...)

2. For an acknowledgment in a representative capacity:

State of
(County) of

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

.....
(signature of notarial officer)

(Stamp or Seal, if any)

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Title (and Rank)
(My commission expires: ...)

3. For a verification upon oath or affirmation:

State of
(County) of

Signed and sworn to (or affirmed) before me on
..... by
(date) (name(s) of person(s)
making statement)

.....
(signature of notarial officer)

(Stamp or Seal, if any)

.....
Title (and Rank)
(My commission expires: ...)

4. For witnessing or attesting a signature:

State of
(County) of

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

.....
(signature of notarial officer)

(Stamp or Seal, if any)

.....
Title (and Rank)
(My commission expires: ...)

5. For attestation of a copy of a document:
State of
(County) of

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

.....
(signature of notarial officer)
(Stamp or Seal, if any)
.....
Title (and Rank)
(My commission expires: ...)

Sec. 6. Section 558.15, Code 2001, is amended to read as follows:

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Any notarial stamp or seal purporting to have been affixed to any instrument in writing, by any notary public residing elsewhere than in this state, shall be prima facie evidence that the words thereon engraved conform to the requirements of the law of the place where such certificate purports to have been made.

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held to be defective on account of the failure to show the official title of the officer making the certificate if such title appears either in the body of such certificate or in connection therewith, or with the signature thereto.

Sec. 8. Section 558.39, subsection 13, unnumbered paragraph 3, Code 2001, is amended to read as follows:

(In all cases add a stamp or seal as provided in section 9E.6A and a signature and title of the officer taking the acknowledgment, and strike from between the parentheses the word or clause not used, as the case may be.)

BRENT SIEGRIST

Speaker of the House

MARY E. KRAMER

President of the Senate

I hereby certify that this bill originated in the House and is known as House File 259, Seventy-ninth General Assembly.

MARGARET THOMSON

Chief Clerk of the House

Approved April 17, 2001

THOMAS J. VILSACK

Governor