

House File 682 - Introduced

HOUSE FILE _____
BY WENDT

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to notarial acts, including the regulation of
2 notarial officers, and providing a penalty.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 2403YH 82
5 da/gg/14

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1 1 Section 1. Section 9E.6, subsection 1, Code 2007, is
1 2 amended by adding the following new paragraph:
1 3 NEW PARAGRAPH. c. Complete a course of education
1 4 regarding the requirements of this chapter as prescribed by
1 5 the secretary of state. The course of education shall not be
1 6 more than three hours. The secretary of state may select a
1 7 qualified person to conduct the course of education.
1 8 Sec. 2. Section 9E.6A, unnumbered paragraph 1, Code 2007,
1 9 is amended to read as follows:
1 10 Each person performing a notarial act pursuant to section
1 11 9E.10 must acquire and use a stamp or seal as provided in this
1 12 chapter. A person shall not perform a notarial act other than
1 13 by using a stamp or seal. However, this section shall not
1 14 apply to a notarial act performed by a judicial officer as
1 15 defined in section 602.1101, if the notarial act is performed
1 16 in accordance with state or federal statutory authority, and
1 17 shall not apply to a certification by a chief officer or a
1 18 chief officer's designee of a peace officer's verification of
1 19 a uniform citation and complaint pursuant to section 805.6,
1 20 subsection 5.
1 21 Sec. 3. NEW SECTION. 9E.8A PAYMENT OF FEES.
1 22 1. A notarial officer may require payment of a fee for the
1 23 performance of a notarial act.
1 24 2. a. A notarial officer is not required to refund a fee
1 25 paid to a notarial officer for performing a notarial act if
1 26 the notarial act was completed.
1 27 b. A notarial officer is required to refund a fee paid to
1 28 reimburse the notarial officer for travel, unless all of the
1 29 following conditions apply:
1 30 (1) The notarial officer and the person requesting the
1 31 notarial act agree upon the travel fee in advance of the
1 32 travel.
1 33 (2) The notarial officer explains to the person requesting
1 34 the notarial act that the travel fee is separate from any
1 35 other fee.
2 1 (3) The notarial officer did not know or should have not
2 2 known that the notarial act was unlawful.
2 3 Sec. 4. Section 9E.9, subsection 6, Code 2007, is amended
2 4 to read as follows:
2 5 6. a. A notarial officer has satisfactory evidence that a
2 6 person is the person whose true signature is on a document in
2 7 any of the following circumstances:
2 8 ~~a-~~ (1) The person is personally known to the notarial
2 9 officer. The notarial officer shall consider the person to be
2 10 personally known to the notarial officer if the notarial
2 11 officer is familiar with the person as a result of
2 12 interactions with the person over a period of time sufficient
2 13 to eliminate all reasonable doubt that the person has the
2 14 identity claimed.
2 15 ~~b-~~ (2) The person is identified upon the oath or
2 16 affirmation of a credible witness personally known to the
2 17 notarial officer.
2 18 ~~c-~~ (3) The person is identified on the basis of
2 19 identification documents issued by a federal or state
2 20 government agency which contains the person's photograph and

2 21 signature.

2 22 b. A notarial officer does not have satisfactory evidence
2 23 that a person is the person whose true signature is on a
2 24 document solely because of the notarial officer's familiarity
2 25 with the signature.

2 26 Sec. 5. NEW SECTION. 9E.9B SIGNING FOR PERSON UNABLE TO
2 27 SIGN.

2 28 A notarial officer may sign the name of a person physically
2 29 unable to sign or make a mark on a document presented for
2 30 notarization if orally or otherwise directed to do so by the
2 31 person. Upon signing for such person, the notarial officer
2 32 shall add the following statement beneath the signature:
2 33 "Signature affixed by notarial officer pursuant to section
2 34 9E.9B of the Code of Iowa".

2 35 Sec. 6. NEW SECTION. 9E.9C JOURNAL OF NOTARIAL ACTS.

3 1 A notarial officer, for each notarial act, shall record in
3 2 an official journal the following:

3 3 1. The date and time of day of the notarial act.

3 4 2. The title or type of the document or proceeding and
3 5 date of the document or proceeding.

3 6 3. The signature, printed name, and address of each person
3 7 whose signature is notarized and of each witness.

3 8 4. The manner of identification of each signer.

3 9 Sec. 7. Section 9E.17, Code 2007, is amended to read as
3 10 follows:

3 11 9E.17 POWERS AND DUTIES OF THE SECRETARY OF STATE.

3 12 1. The secretary of state has the power and authority
3 13 reasonably necessary to administer this chapter efficiently
3 14 and to perform the duties imposed upon the secretary of state.
3 15 This power and authority includes rulemaking authority to
3 16 provide for reciprocity in recognizing notarial acts performed
3 17 under any other jurisdiction.

3 18 2. The secretary of state shall cooperate with the midwest
3 19 notary association in order to provide information to persons
3 20 seeking to become a notarial officer under this chapter or to
3 21 notarial officers regarding compliance with the requirements
3 22 of this chapter. The secretary of state shall publish the
3 23 information in an electronic format on its principal internet
3 24 site.

3 25 Sec. 8. NEW SECTION. 9E.18 WRONGFUL INFLUENCE ==
3 26 PENALTY.

3 27 A person who knowingly solicits, coerces, or influences a
3 28 notarial officer to commit misconduct under this chapter is
3 29 guilty of a serious misdemeanor.

3 30 Sec. 9. Section 9E.10A, Code 2007, is repealed.

3 31 EXPLANATION

3 32 This bill amends Code chapter 9E, the "Iowa Law on Notarial
3 33 Acts". The bill makes a number of changes relating to
3 34 notarial acts and notarial officers performing those acts.

3 35 Under the Code chapter, a notarial officer includes a notary

4 1 public commissioned by the secretary of state and certain
4 2 prescribed public officials. The Code chapter provides for
4 3 the qualifications of applicants and procedures for notarizing
4 4 a document, including by the use of a stamp or seal (and
4 5 prescribes the information that must be included on the stamp
4 6 or seal).

4 7 The bill amends Code section 9E.6 which provides criteria
4 8 for obtaining a commission as a notary public, including by
4 9 completing an application and submitting a fee to the
4 10 secretary of state. The bill requires the applicant to
4 11 complete a course of education as prescribed by the secretary
4 12 of state.

4 13 The bill amends Code section 9E.6A, which provides that a
4 14 person performing a notarial act must acquire and use a stamp
4 15 or seal. The bill provides that a person is prohibited from
4 16 performing a notarial act other than by using a stamp or seal.

4 17 The bill creates new Code section 9E.8A which authorizes a
4 18 notarial officer to require a fee for the performance of a
4 19 notarial act, and provides conditions for refunding a fee paid
4 20 to a notarial officer for travel expenses.

4 21 The bill amends Code section 9E.9 which provides criteria
4 22 for when a notarial officer has satisfactory evidence that a
4 23 person is the person whose true signature is on a document,
4 24 including if the person is personally known to the notarial
4 25 officer. The bill provides that the notarial officer shall
4 26 consider the person to be personally known to the notarial
4 27 officer if the notarial officer is familiar with the person as
4 28 a result of interactions with the person over a period of
4 29 time. Another way in which the authenticity of identity is
4 30 verified is on the basis of a supporting document. The bill
4 31 requires that the supporting document be issued by a federal

4 32 or state government agency and contain the person's photograph
4 33 and signature. The bill prohibits a notarial officer from
4 34 basing the verification on the officer's familiarity with a
4 35 signature.

5 1 The bill creates new Code section 9E.9B authorizing a
5 2 notarial officer to sign for a person physically unable to
5 3 sign if directed to do so by the person. Upon signing for the
5 4 person, the notarial officer is to add a statement beneath the
5 5 signature that the signature was affixed by the notarial
5 6 officer pursuant to Code section 9E.9B.

5 7 The bill creates new Code section 9E.9C directing a
5 8 notarial officer to maintain an official journal including for
5 9 each notarial act the date and time of day of the notarial
5 10 act; the title or type of the document or proceeding and date
5 11 of the document or proceedings; the signature, printed name,
5 12 and address of each person whose signature is notarized and of
5 13 each witness; and the manner of identification of each signer.

5 14 The bill amends Code section 9E.17 providing authority to
5 15 the secretary of state to administer the Code chapter. The
5 16 bill provides that the secretary of state must cooperate with
5 17 the midwest notary association in order to provide information
5 18 to persons seeking to become or who are notarial officers.

5 19 The bill creates a new Code section 9E.18 prohibiting a
5 20 person from knowingly soliciting, coercing, or influencing a
5 21 notarial officer to commit misconduct. A person committing
5 22 the offense is guilty of a serious misdemeanor. A serious
5 23 misdemeanor is punishable by confinement for no more than one
5 24 year and a fine of at least \$315 but not more than \$1,875.

5 25 The bill repeals Code section 9E.10A which provides that a
5 26 notarial act is not affected because the notarial officer is
5 27 an officer, director, or shareholder of a corporation that may
5 28 have a beneficial interest or other interest in the subject
5 29 matter of the notarial act.

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