

**Fifty-fifth Legislative Assembly, State of North Dakota, begun in the
Capitol in the City of Bismarck, on Monday, the sixth day of January,
one thousand nine hundred and ninety-seven**

HOUSE BILL NO. 1353
(Representative Keiser)

AN ACT to create and enact a new section to chapter 44-06 of the North Dakota Century Code, relating to name changes of notaries public; to amend and reenact sections 44-06-04, 44-06-05, 44-06-11, 44-06-13, 44-06-13.1, and 44-06-14 of the North Dakota Century Code, relating to bonds, seals, commissions, and fees of notaries public; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 44-06-04 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

44-06-04. Filing of oath, bond, and impression of notarial seal - Requirements of seal. Each notary public, before entering upon the duties of such office, shall obtain an official seal bearing the notary public's name and shall file a legible impression of such seal and the notary public's oath and bond, in the office of the secretary of state. The secretary of state, upon receipt of the proper fee, oath, and bond, shall issue a certificate of authorization with which the notary public may obtain an official notary seal. A notary seal vendor may provide a notary with an official seal only upon presentation by the notary of a certificate of authorization. The notary public shall place an impression of the notary's seal on the certificate of authorization and return the certificate of authorization to the secretary of state. After the certificate of authorization is received, approved, and filed, the secretary of state shall issue a notary commission that authorizes the notary to commence the duties of the office of notary public.

An official notary seal may not contain a reproduction of the great seal of the state. An official seal is the property of the notary only and may not be retained or used by any other person. Upon the resignation, removal, revocation, or expiration of a notary's commission, or the death or name change of a notary, the notarial seal must be destroyed. When a notary's official seal is lost, damaged, or is rendered otherwise unworkable, the notary shall immediately submit written notice of that fact to the secretary of state. Within five working days after receipt of the notice, the secretary of state shall issue a new certificate of authorization which a notary may use to obtain a replacement seal.

SECTION 2. A new section to chapter 44-06 of the North Dakota Century Code is created and enacted as follows:

Name change. A notary who has legally changed the notary's name shall submit to the secretary of state a rider to the notary's surety bond stating both the old and new names, the effective date of the new name, and a ten dollar fee within thirty days of the name change. Upon receipt of the rider and fee the secretary of state shall issue a certificate of authorization that a notary public may use to obtain a new seal. Once the authorization is on file the secretary of state shall issue a commission with the notary's new name.

SECTION 3. AMENDMENT. Section 44-06-05 of the North Dakota Century Code is amended and reenacted as follows:

44-06-05. Vacancy - Disposition of records and seals. Whenever the office of any notary public becomes vacant, the record of such the notary together with all papers relating to the office must be deposited in the office of the secretary of state except for the seal which must be destroyed as provided in section 44-06-04. If a notary public resigns the notary's commission, the notary shall notify the secretary of state within thirty days of the resignation, and shall indicate the effective date of the resignation. Any notary public who, on resignation or removal from office, or any executor or administrator personal representative of the estate of any deceased notary public who neglects to

deposit ~~such~~ the records and papers as aforesaid for the space of three months, or any person who knowingly destroys, defaces, or conceals any records or papers of any notary public, shall forfeit and pay a sum of not less than fifty dollars nor more than five hundred dollars, and ~~he~~ that person also is liable in a civil action for damages to any party injured.

SECTION 4. AMENDMENT. Section 44-06-11 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

44-06-11. Revocation of notary commission - Notice. In case the commission of ~~any~~ a person appointed as a notary is subject to a revocation action, the secretary of state shall give notice thereof by mail to ~~such~~ that person immediately and to the clerk of the district court of the proper county, using the procedures of chapter 28-32. The notice may provide that the person may not perform any notarial acts during the pendency of the revocation proceeding. A notary whose commission is revoked may be denied a new commission for a period of up to six years following the date of revocation.

SECTION 5. AMENDMENT. Section 44-06-13 of the North Dakota Century Code is amended and reenacted as follows:

44-06-13. Acting as notary when disqualified - Penalty. ~~Any~~ A notary public who exercises the duties of ~~his~~ a notary's office with knowledge that ~~his~~ the notary's commission has expired or has been ~~canceled~~ revoked or that ~~he~~ the notary is disqualified otherwise is guilty of an infraction, and, if appropriate, ~~his~~ the notary's commission must be ~~canceled~~ revoked by the secretary of state using the procedure under chapter 28-32.

SECTION 6. AMENDMENT. Section 44-06-13.1 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

44-06-13.1. ~~Wrongfully notarizing document~~ Prohibited acts - Penalty. A notary public may not notarize a signature on a document if:

1. The document was not signed in the presence of the notary public.
2. The name of the notary public or the spouse of the notary public is a party to the document appears on the document as a party to the transaction.
3. The signature is that of the notary public or the spouse of the notary public.
4. The notary public uses a name or initial in notarizing the document other than as it appears on the notary's commission. However, such an act by a notary by itself does not affect the validity of the document.

A notary public who violates this section is guilty of an infraction and the notary public's commission must be ~~canceled~~ revoked by the secretary of state, ~~who shall give written notice of such cancellation to the notary public using the procedure under chapter 28-32.~~

SECTION 7. AMENDMENT. Section 44-06-14 of the North Dakota Century Code is amended and reenacted as follows:

44-06-14. Fees to be charged by notaries public for notarial acts - Penalty. A notary public is entitled to charge and receive ~~the following fees:~~ not more than five dollars per notarial act. A notary who charges a fee exceeding that amount is guilty of an infraction. It is an infraction for any person other than the notary public to impose or collect any monetary fee, charge, or commission in connection with the notarization of any document.

1. ~~For each protest, fifty cents.~~
2. ~~For recording the same, twenty five cents.~~
3. ~~For each notice of protest completed and served, twenty five cents and postage for mailing the notice.~~

4. ~~For taking affidavit and seal, one dollar and fifty cents.~~
5. ~~For administering an oath or affirmation, ten cents.~~
6. ~~For taking a deposition, each ten words, one and one-half cents.~~
7. ~~For each certificate and seal, one dollar and fifty cents.~~
8. ~~For taking proof of acknowledgment, one dollar and fifty cents.~~

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Fifty-fifth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1353.

House Vote: Yeas 91 Nays 0 Absent 6

Senate Vote: Yeas 46 Nays 0 Absent 3

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 1997.

Approved at _____ M. on _____, 1997.

Governor

Filed in this office this _____ day of _____, 1997,
at _____ o'clock _____ M.

Secretary of State