

Fifty-eighth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1168

Introduced by

Judiciary Committee

(At the request of the Secretary of State)

1 A BILL for an Act to amend and reenact sections 44-06-04, 44-06-12, 44-06-13.1, 44-06-14,
2 and 44-08-06 of the North Dakota Century Code, relating to notaries public and their seals and
3 fees.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. AMENDMENT.** Section 44-06-04 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **44-06-04. Filing of oath, bond, and impression of notarial seal - Requirements of**
8 **seal.** Each notary public, before entering upon the duties of office, shall file the notary public's
9 oath and bond, in the office of the secretary of state. The secretary of state, upon receipt of the
10 proper fee, oath, and bond, shall issue a certificate of authorization with which the notary public
11 may obtain an official notary seal. A notary seal vendor may provide a notary with an official
12 seal only upon presentation by the notary of a certificate of authorization. The notary public
13 shall place an impression of the notary's seal on the certificate of authorization and return the
14 certificate of authorization to the secretary of state. After the certificate of authorization is
15 received, approved, and filed, the secretary of state shall issue a notary commission that
16 authorizes the notary to commence the duties of the office of notary public.

17 ~~An official notary seal may not contain~~ After the effective date of this Act, a notary being
18 commissioned must obtain a seal approved by the secretary of state which must be designed
19 to leave a clear impression, be photographically reproducible, include the words "State of North
20 Dakota" and "Notary Public", contain the name and commission expiration date of the notary
21 public exactly as shown on the notary's commission, and which may not contain any other
22 words, numbers, symbols, or a reproduction of the great seal of the state. All notary seals must
23 be surrounded by a border and be either one and five-eighths inch [41.28 millimeters] in
24 diameter or if of a rectangular design, may be up to or equal to seven-eighths inch

[22.23 millimeters] vertically by two and five-eighths inches [66.68 millimeters] horizontally. An official seal is the property of the notary only and may not be retained or used by any other person including an employer of a notary even if the employer purchased or paid for the notary's seal. An official seal must remain in the direct and exclusive control of the notary at all times during a notary's commission. A notary must affix the notary's seal to each jurat or certificate of acknowledgment at the time of performing the notarial act. 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. AMENDMENT. Section 44-06-12 of the North Dakota Century Code is amended and reenacted as follows:

44-06-12. Notary public commission - Venue - Date of expiration. Every notary public taking an acknowledgment to any instrument, immediately following the notary's signature to the jurat or certificates of acknowledgment, shall legibly print, stamp, or type the notary's name and endorse the date of the expiration of the commission. Each jurat or certificate of acknowledgment must also contain the name of the state and county where the notarial act is being performed. The endorsement ~~may~~ must be ~~written legibly~~, stamped, or printed upon the instrument ~~either connected to or disconnected from the seal~~ and must be substantially in the following form:

My commission expires _____.

SECTION 3. AMENDMENT. Section 44-06-13.1 of the North Dakota Century Code is amended and reenacted as follows:

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

1. The document was not first signed or re-signed in the presence of the notary public, in the case of a jurat, or in the case of a certificate of acknowledgment, was not acknowledged in the presence of the notary public.

2. The name of the notary public or the spouse of the notary public 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. Except as otherwise provided by law, 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.

5. The date of the jurat or certificate of acknowledgment is not the actual date the document is to be notarized or the jurat or certificate of acknowledgement is undated.

6. The signature on the document or the notarial certificate is not an original signature, except as otherwise provided by law.

7. The notary is falsely or fraudulently signing or notarizing a document, jurat, or certificate of acknowledgement or in any other way is impersonating or assuming the identity of another notary.

A notary public who violates this section is guilty of an infraction and the notary public's commission ~~must~~ may be revoked by the secretary of state or the secretary of state may impose a lesser sanction using the procedure under chapter 28-32.

SECTION 4. AMENDMENT. Section 44-06-14 of the North Dakota Century Code is amended and reenacted as follows:

44-06-14. Fees to be charged for notarial acts - Penalty. A notary public is entitled to charge and receive 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. A notary may charge a travel fee when traveling to perform a notarial act if:

1. The notary and the person requesting the notarial act agree upon the travel fee in advance of the travel; and

2. The notary explains to the person requesting the notarial act that the travel fee is both separate from the notarial fee and neither specified nor mandated by law.

1 **SECTION 5. AMENDMENT.** Section 44-08-06 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **44-08-06. Dimensions of seal of court or officer.** ~~Upon~~ Except as otherwise
4 provided in section 44-06-04 relating to notary seals, upon every seal of a court or officer of this
5 state required or authorized to have a seal, there must be engraved the words "State of North
6 Dakota" and the name of the court or office in which the seal is to be used. All such seals,
7 except the great seal, must be surrounded by a border, and be either one and five-eighths inch
8 [41.28 millimeters] in diameter or if of a rectangular design, may be up to or equal to
9 seven-eighths inch [22.23 millimeters] vertically by two and five-eighths inches
10 [66.68 millimeters] horizontally.