

Sixty-third
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1207

Introduced by

Representatives Klemin, Becker, Haak

Senators Hogue, Poolman, Sitte

1 A BILL for an Act to create and enact a new subsection to section 44-06.1-09 of the North
2 Dakota Century Code, relating to notarial acts performed in this state and bordering states; to
3 amend and reenact subsection 1 of section 44-06.1-16, ~~section 44-06.1-18~~, subsection 5 of
4 section 44-06.1-21, and section 44-06.1-22 of the North Dakota Century Code, relating to
5 notary stamps, the use of civil penalties collected by the secretary of state, and implementation
6 of a notary public database; ~~to provide an effective date~~; and to declare an emergency.

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

8 **SECTION 1.** A new subsection to section 44-06.1-09 of the North Dakota Century Code is
9 created and enacted as follows:

10 A notarial act performed in this state by a notarial officer of a bordering state has the
11 same effect as if the act were performed by a notarial officer of this state, if the
12 bordering state grants notarial officers of this state similar authority within that state.

13 **SECTION 2. AMENDMENT.** Subsection 1 of section 44-06.1-16 of the North Dakota
14 Century Code is amended and reenacted as follows:

15 1. The secretary of state, upon receipt of the proper fee, oath, and bond, shall issue a
16 certificate of authorization with which the notary public may obtain an official notary
17 stamping device. A notary stamp vendor may provide a notary with an official stamping
18 device only upon presentation by the notary of a certificate of authorization. The notary
19 public shall place an impression of the notary's stamp on the certificate of
20 authorization and return the certificate of authorization to the secretary of state. After
21 the certificate of authorization is received, approved, and filed, the secretary of state
22 shall issue a notary commission that authorizes the notary to commence the duties of
23 the office of notary public. A notary being commissioned must obtain a stamping
24 device approved by the secretary of state which must be designed to leave a clear

1 impression, be photographically reproducible, include the words "State of North
2 Dakota" and "Notary Public", contain the name and commission expiration date of the
3 notary public exactly as shown on the notary's commission, and which may not
4 contain any other words, numbers, symbols, or a reproduction of the great seal of the
5 state. All notary stamps must be surrounded by a border and, except as otherwise
6 permitted by the secretary of state, may be either up to or equal to one and five-eighths
7 inch [41.28 millimeters] in diameter or if of a rectangular design, may be up to or equal
8 to seven-eighths inch [22.23 millimeters] vertically by two and five-eighths inches
9 [66.68 millimeters] horizontally.

10 ~~SECTION 3. AMENDMENT. Section 44-06.1-18 of the North Dakota Century Code is~~
11 ~~amended and reenacted as follows:~~

12 ~~44-06.1-18. (Effective after July 31, 20132015) Notification regarding performance of~~
13 ~~notarial acts on electronic record - Selection of technology.~~

14 ~~1. A notary public may select one or more tamper-evident technologies to perform~~
15 ~~notarial acts with respect to electronic records. An individual may not require a notary~~
16 ~~public to perform a notarial act with respect to an electronic record with a technology~~
17 ~~that the notary public has not selected.~~

18 ~~2. Before a notary public performs the notary public's initial notarial act with respect to an~~
19 ~~electronic record, a notary public shall notify the secretary of state that the notary~~
20 ~~public will be performing notarial acts with respect to electronic records and identify~~
21 ~~the technology the notary public intends to use. If the secretary of state has~~
22 ~~established standards for approval of technology pursuant to section 44-06.1-25, the~~
23 ~~technology must conform to the standards. If the technology conforms to the~~
24 ~~standards, the secretary of state shall approve the use of the technology.~~

25 **SECTION 3. AMENDMENT.** Subsection 5 of section 44-06.1-21 of the North Dakota
26 Century Code is amended and reenacted as follows:

- 27 5. The secretary of state may impose a lesser sanction for a violation of any provision of
28 this chapter if determined appropriate by the secretary of state under the pertinent
29 facts and circumstances. A lesser sanction includes imposition of a civil penalty not to
30 exceed five hundred dollars or a letter of reprimand. Any civil penalty collected by the

1 secretary of state must be deposited in the secretary of state's general services
2 operating fund.

3 **SECTION 4. AMENDMENT.** Section 44-06.1-22 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **44-06.1-22. (Effective after July 31, 2013) Database of notaries public.**

6 ~~The~~When the secretary of state acquires or develops the technical capability to maintain an
7 electronic database of notaries public, the secretary of state shall maintain an electronic
8 database of notaries public:

- 9 1. Through which an individual may verify the authority of a notary public to perform
10 notarial acts; and
- 11 2. Which indicates whether a notary public has notified the secretary of state that the
12 notary public will be performing notarial acts on electronic records.

13 **SECTION 5. EMERGENCY.** Section 1 of this Act is declared to be an emergency measure.