

**Sixty-first Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 6, 2009**

SENATE BILL NO. 2322
(Senators Miller, Nelson, Nodland)
(Representatives Dahl, Kingsbury, Kretschmar)

AN ACT to amend and reenact section 1-08-12, subsection 1 of section 44-06-13.1, and subsection 1 of section 44-06-13.2 of the North Dakota Century Code, relating to electronic signatures and discipline of notaries public.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 1-08-12 of the North Dakota Century Code is amended and reenacted as follows:

1-08-12. Alternative methods of signing, subscribing, or verifying documents filed by electronic means. A state agency, as defined in section 44-08-04.2, charged by law with the duty of receiving signed, subscribed, or verified documents may accept such documents filed by electronic means, including telecommunications. The secretary of state ~~shall~~ may adopt rules in the manner provided in chapter 28-32 to govern methods for signing, subscribing, or verifying documents filed by electronic means, except documents filed with the tax commissioner. A signature on a document filed by electronic means which is accepted by the state agency and complies with the rules of the secretary of state has the same validity and consequence as the actual signature and written declaration for a paper document.

SECTION 2. AMENDMENT. Subsection 1 of section 44-06-13.1 of the North Dakota Century Code is amended and reenacted as follows:

1. A notary public may not notarize a signature on a document if:
 - a. 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.
 - b. The name of the notary public or the spouse of the notary public appears on the document as a party to the transaction or as a signatory to a petition within the meaning of section 1-01-50.
 - c. The signature is that of the notary public or the spouse of the notary public.
 - d. 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.
 - e. 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.
 - f. The signature on the document or the notarial certificate is not an original signature, except as otherwise provided by law.
 - g. 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.
 - h. The signature is on a blank or incomplete document.

- i. In the case of a document drafted in a language other than English, the document is not accompanied by a permanently affixed and accurate written English translation.
- j. Except as otherwise provided by law:
 - (1) The document is a copy or certified copy of any vital record authorized or required by law to be registered or filed;
 - (2) The document is a copy or certified copy of an instrument entitled by law to be recorded; or
 - (3) The document is a copy or certified copy of a public record containing an official seal.
- k. The notary did not obtain satisfactory evidence of the identity of the signer, unless the signer is personally known to the notary.

SECTION 3. AMENDMENT. Subsection 1 of section 44-06-13.2 of the North Dakota Century Code is amended and reenacted as follows:

- 1. The secretary of state may deny, revoke, or suspend a commission granted under this chapter on the following grounds:
 - a. Conviction by a court of competent jurisdiction of an offense related to the honesty, integrity, or trustworthiness of the notary which the secretary of state determines would render the notary or notary applicant unfit to serve the public as a notary.
 - b. Fraud, misrepresentation, or false statement in obtaining or renewing a commission.
 - c. Failure by a commissioned notary to report in writing to the secretary of state the notary's conviction by a court of competent jurisdiction of a felony within ninety days of the date of the conviction.
 - d. Engaging in any act prohibited under section 44-06-13.1.
 - e. Violating any other provision of this chapter.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-first Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2322.

Senate Vote: Yeas 46 Nays 0 Absent 1

House Vote: Yeas 89 Nays 1 Absent 4

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2009.

Approved at _____ M. on _____, 2009.

Governor

Filed in this office this _____ day of _____, 2009,
at _____ o'clock _____ M.

Secretary of State