

ASSEMBLY BILL

No. 3304

Introduced by Assembly Member Napolitano

February 23, 1996

An act to amend Section 1188 of the Civil Code, and to amend Section 8213 of, and to add Section 8210 to, the Government Code, relating to notaries.

LEGISLATIVE COUNSEL'S DIGEST

AB 3304, as introduced, Napolitano. Notary public.

(1) Existing law requires an officer taking the acknowledgment of an instrument to endorse thereon or attach thereto a prescribed certificate.

This bill would authorize this officer to attach the certificate of a jurisdiction outside the state if the instrument will be filed in that jurisdiction.

(2) Existing law prescribes the duties of a notary public, as specified.

This bill would authorize a notary public to sign the name of a person physically unable to sign or make a mark on a document presented for notarization if certain requirements are met.

(3) Existing law requires, within a prescribed time period, every person appointed a notary public to file an official bond, and take, subscribe, and file an oath of office in the office of the county clerk of the county within which the person maintains a principal place of business, as specified.

This bill would instead require this person to take and subscribe the oath either in the office of this county clerk or before another notary public in that county.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1188 of the Civil Code is
2 amended to read:

3 1188. An officer taking the acknowledgment of an
4 instrument shall endorse thereon or attach thereto a
5 certificate substantially in the form prescribed in Section
6 1189 *or, if the instrument will be filed outside the state,*
7 *in the form prescribed by the jurisdiction in which it is to*
8 *be filed.*

9 SEC. 2. Section 8210 is added to the Civil Code, to
10 read:

11 8210. A notary public may sign the name of a person
12 physically unable to sign or make a mark on a document
13 presented for notarization if all of the following
14 requirements are met:

15 (a) The notary public is satisfied that the person has
16 voluntarily given consent for the notary public to do so.

17 (b) The notary public writes below the signature and
18 in the presence of this person, "Signature affixed by a
19 notary public pursuant to Section 8210 of the
20 Government Code."

21 (c) A physician and surgeon certifies, in writing, that
22 the person is unable to physically sign or make a mark on
23 a document due to the physical disability, but is capable
24 of communicating his or her intentions.

25 SEC. 3. Section 8213 of the Government Code is
26 amended to read:

27 8213. (a) No later than 30 days after the beginning of
28 the term prescribed in the commission, every person
29 appointed a notary public shall file an official bond, ~~and~~
30 ~~take, subscribe,~~ and file an oath of office in the office of
31 the county clerk of the county within which the person
32 maintains a principal place of business as shown in the



1 application submitted to the Secretary of State, and the
2 commission shall not take effect unless this is done within
3 the 30-day period. *A person appointed to be a notary*
4 *public shall take and subscribe the oath of office either in*
5 *the office of that county clerk or before another notary*
6 *public in that county. If the oath of office is taken and*
7 *subscribed before a notary public, the oath and bond may*
8 *be filed with the county clerk by certified mail. Upon the*
9 *filing of the oath and bond, the county clerk shall*
10 *immediately transmit to the Secretary of State a*
11 *certificate setting forth the fact of the filing and*
12 *containing a copy of the official oath, personally signed by*
13 *the notary public in the form set forth in the commission*
14 *and shall immediately deliver the bond to the county*
15 *recorder for recording. The county clerk shall retain the*
16 *oath of office for one year following the expiration of the*
17 *term of the commission for which the oath was taken,*
18 *after which the oath may be destroyed or otherwise*
19 *disposed of. The copy of the oath, personally signed by the*
20 *notary public, on file with the Secretary of State may at*
21 *any time be read in evidence with like effect as the*
22 *original oath, without further proof.*

23 (b) If a notary public transfers the principal place of
24 business from one county to another, the notary public
25 may file a new oath of office and bond, or a duplicate of
26 the original bond with the county clerk to which the
27 principal place of business was transferred. If the notary
28 public elects to make a new filing, the notary public shall,
29 within 30 days of the filing, obtain an official seal which
30 shall include the name of the county to which the notary
31 public has transferred. In a case where the notary public
32 elects to make a new filing, the same filing and recording
33 fees are applicable as in the case of the original filing and
34 recording of the bond.

35 (c) If a notary public submits an application for a name
36 change to the Secretary of State, the notary public shall,
37 within 30 days from the date an amended commission is
38 issued, file a new oath of office and an amendment to the
39 bond with the county clerk in which the principal place
40 of business is located. The amended commission with the



1 name change shall not take effect unless the filing is
2 completed within the 30-day period. The amended
3 commission with the name change takes effect the date
4 the oath and amendment to the bond is filed with the
5 county clerk. If the principal place of business address was
6 changed in the application for name change, either a new
7 or duplicate of the original bond shall be filed with the
8 county clerk with the amendment to the bond. The
9 notary public shall, within 30 days of the filing, obtain an
10 official seal that includes the name of the notary public
11 and the name of the county to which the notary public has
12 transferred, if applicable.

13 (d) The recording fee specified in Section 27361 of the
14 Government Code shall be paid by the person appointed
15 a notary public. The fee may be paid to the county clerk
16 who shall transmit it to the county recorder.

17 (e) The county recorder shall record the bond and
18 shall thereafter mail, unless specified to the contrary, it to
19 the person named in the instrument and, if no person is
20 named, to the party leaving it for recording.

