

AMENDED IN ASSEMBLY MAY 2, 1996

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

ASSEMBLY BILL

No. 3304

Introduced by Assembly Member Napolitano

February 23, 1996

An act to amend Section ~~4188~~ *1189* of the Civil Code, and to amend Section ~~8213~~ of, and to add Section ~~8210~~ to, the *amend Section 8213 of the* Government Code, relating to notaries.

LEGISLATIVE COUNSEL'S DIGEST

AB 3304, as amended, Napolitano. Notary public.

(1) Existing law requires an officer taking the acknowledgment of an instrument to endorse thereon or attach thereto a prescribed certificate. *Existing law sets forth one form for general use for the acknowledgement of an instrument, and provides that any certificate of acknowledgment taken in another place shall be sufficient in this state if it is taken in accordance with the laws of the place where the acknowledgment is made.*

This bill would provide that on documents to be filed in another state or jurisdiction of the United States, a California notary may complete any acknowledgment form as may be required in that other state or jurisdiction on a document, provided the form does not require the notary to make any determination or certification not allowed by California law.

~~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."~~



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

5 ~~SEC. 3.~~

6 *SECTION 1. Section 1189 of the Civil Code is*
7 *amended to read:*

8 1189. (a) Any certificate of acknowledgment taken
9 within this state shall be in substantially the following
10 form:

11
12 State of California]
13 County of _____]
14

15 On _____ before me, (here insert name and title of the
16 officer), personally appeared _____
17 _____
18 _____,

19 personally known to me (or proved to me on the basis of
20 satisfactory evidence) to be the person(s) whose name(s) is/are
21 subscribed to the within instrument and acknowledged to me that
22 he/she/they executed the same in his/her/their authorized
23 capacity(ies), and that by his/her/their signature(s) on the
24 instrument the person(s), or the entity upon behalf of which the
25 person(s) acted, executed the instrument.

26
27 WITNESS my hand and official seal.

28
29 Signature _____ (Seal)
30

31 (b) Any certificate of acknowledgment taken in
32 another place shall be sufficient in this state if it is taken
33 in accordance with the laws of the place where the
34 acknowledgment is made.

35 (c) *On documents to be filed in another state or*
36 *jurisdiction of the United States, a California notary*
37 *public may complete any acknowledgment form as may*
38 *be required in that other state or jurisdiction on a*
39 *document, provided the form does not require the notary*
40 *to determine or certify that the signer holds a particular*



1 *representative capacity or to make other determinations*
2 *and certifications not allowed by California law.*

3 (d) An acknowledgment provided prior to January 1,
4 1993, and conforming to applicable provisions of former
5 Sections 1189, 1190, 1190a, 1190.1, 1191, and 1192, as
6 repealed by Chapter 335 of the Statutes of 1990, shall have
7 the same force and effect as if those sections had not been
8 repealed.

9 SEC. 2. Section 8213 of the Government Code is
10 amended to read:

11 8213. (a) No later than 30 days after the beginning of
12 the term prescribed in the commission, every person
13 appointed a notary public shall file an official bond and an
14 oath of office in the office of the county clerk of the county
15 within which the person maintains a principal place of
16 business as shown in the application submitted to the
17 Secretary of State, and the commission shall not take
18 effect unless this is done within the 30-day period. A
19 person appointed to be a notary public shall take and
20 subscribe the oath of office either in the office of that
21 county clerk or before another notary public in that
22 county. If the oath of office is taken and subscribed before
23 a notary public, the oath and bond may be filed with the
24 county clerk by certified mail. Upon the filing of the oath
25 and bond, the county clerk shall immediately transmit to
26 the Secretary of State a certificate setting forth the fact
27 of the filing and containing a copy of the official oath,
28 personally signed by the notary public in the form set
29 forth in the commission and shall immediately deliver the
30 bond to the county recorder for recording. The county
31 clerk shall retain the oath of office for one year following
32 the expiration of the term of the commission for which
33 the oath was taken, after which the oath may be
34 destroyed or otherwise disposed of. The copy of the oath,
35 personally signed by the notary public, on file with the
36 Secretary of State may at any time be read in evidence
37 with like effect as the original oath, without further proof.

38 (b) If a notary public transfers the principal place of
39 business from one county to another, the notary public
40 may file a new oath of office and bond, or a duplicate of



1 the original bond with the county clerk to which the
2 principal place of business was transferred. If the notary
3 public elects to make a new filing, the notary public shall,
4 within 30 days of the filing, obtain an official seal which
5 shall include the name of the county to which the notary
6 public has transferred. In a case where the notary public
7 elects to make a new filing, the same filing and recording
8 fees are applicable as in the case of the original filing and
9 recording of the bond.

10 (c) If a notary public submits an application for a name
11 change to the Secretary of State, the notary public shall,
12 within 30 days from the date an amended commission is
13 issued, file a new oath of office and an amendment to the
14 bond with the county clerk in which the principal place
15 of business is located. The amended commission with the
16 name change shall not take effect unless the filing is
17 completed within the 30-day period. The amended
18 commission with the name change takes effect the date
19 the oath and amendment to the bond is filed with the
20 county clerk. If the principal place of business address was
21 changed in the application for name change, either a new
22 or duplicate of the original bond shall be filed with the
23 county clerk with the amendment to the bond. The
24 notary public shall, within 30 days of the filing, obtain an
25 official seal that includes the name of the notary public
26 and the name of the county to which the notary public has
27 transferred, if applicable.

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

32 (e) The county recorder shall record the bond and
33 shall thereafter mail, unless specified to the contrary, it to
34 the person named in the instrument and, if no person is
35 named, to the party leaving it for recording.

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