S T A T E O F N E W Y O R K

4329

2009-2010 Regular Sessions

I N A S S E M B L Y

February 3, 2009

Introduced by M. of A. HEASTIE -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the executive law, in relation to the duties of notaries public, by requiring evidence of identity for a notarial act and maintenance of an official journal of notarial acts

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Section 135 of the executive law is amended to read as follows:

S 135. Powers and duties; in general; of notaries public who are attorneys at law. 1. Every notary public duly qualified is hereby authorized and empowered within and throughout the state to administer oaths and affirmations, to take affidavits and depositions, to receive and certify acknowledgments or proof of deeds, mortgages and powers of attorney and other instruments in writing; to demand acceptance or payment of foreign and inland bills of exchange, promissory notes and obligations in writing, and to protest the same for non-acceptance or non-payment, as the case may require, and, for use in another jurisdiction, to exercise such other powers and duties as by the laws of nations and according to commercial usage, or by the laws of any other government or country may be exercised and performed by notaries public, provided that when exercising such powers he shall set forth the name of such other jurisdiction.

2. A NOTARY PUBLIC SHALL DETERMINE THE IDENTITY OF EACH PERSON REQUESTING A NOTARIAL ACT. A NOTARY PUBLIC HAS EVIDENCE OF IDENTITY IF THE PERSON REQUESTING A NOTARIAL ACT IS PERSONALLY KNOWN TO THE NOTARY PUBLIC; IS IDENTIFIED ON THE BASIS OF A CURRENT IDENTIFICATION DOCUMENT ISSUED BY A FEDERAL OR STATE GOVERNMENT AGENCY CONTAINING A PHOTOGRAPH, SIGNATURE, AND PHYSICAL DESCRIPTION, THOUGH A PROPERLY STAMPED PASSPORT WITHOUT A PHYSICAL DESCRIPTION IS ACCEPTABLE; OR IS IDENTIFIED UPON THE OATH OR AFFIRMATION OF A CREDIBLE WITNESS PERSONALLY KNOWN TO THE NOTARY

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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PUBLIC OR OF TWO CREDIBLE WITNESSES WHO PRESENT AN IDENTIFICATION DOCUMENT PURSUANT TO THIS SECTION.

3. A NOTARY PUBLIC SHALL KEEP, MAINTAIN, AND PROTECT A CHRONOLOGICAL PAPER OR ELECTRONIC OFFICIAL JOURNAL OF NOTARIAL ACTS. FOR EVERY NOTARIAL ACT, THE NOTARY SHALL RECORD IN THE JOURNAL THE DATE AND TIME OF THE NOTARIAL ACT, THE TYPE OF NOTARIAL ACT; THE TYPE, TITLE, OR DESCRIPTION AND DATE OF THE DOCUMENT OR MATTER; THE NAME, ADDRESS, SIGNATURE, AND, IN THE CASE OF REAL ESTATE DOCUMENTS, THE RIGHT THUMBPRINT OF EACH PERSON WHO REQUESTS A NOTARIAL ACT; A DESCRIPTION OF THE EVIDENCE OF IDENTITY OF EACH PERSON, INCLUDING, IF APPLICABLE, A STATEMENT THAT THE PERSON IS "PERSONALLY KNOWN" TO THE NOTARY, THE TYPE, SERIAL NUMBER, AND DATE OF ISSUANCE OR EXPIRATION OF AN IDENTIFICATION DOCUMENT, OR THE NAME AND SIGNATURE OF ANY CREDIBLE WITNESS, AND IF APPLICABLE, THE TYPE, SERIAL NUMBER, AND DATE OF ISSUANCE OR EXPIRATION OF A DOCUMENT IDENTIFYING THE WITNESS; AND THE FEE, IF ANY, CHARGED FOR THE NOTARIAL ACT.

4. A notary public who is an attorney at law regularly admitted to practice in this state may, in his discretion, administer an oath or affirmation to or take the affidavit or acknowledgment of his client in respect of any matter, claim, action or proceeding.

5. For any misconduct by a notary public in the performance of any of his powers such notary public shall be liable to the parties injured for all damages sustained by them. A notary public shall not, directly or indirectly, demand or receive for the protest for the non-payment of any note, or for the non-acceptance or non-payment of any bill of exchange, check or draft and giving the requisite notices and certificates of such protest, including his notarial seal, if affixed thereto, any greater fee or reward than seventy-five cents for such protest, and ten cents for each notice, not exceeding five, on any bill or note. Every notary public having a seal shall, except as otherwise provided, and when requested, affix his seal to such protest free of expense.

S 2. This act shall take effect immediately.