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NEW LAWS AFFECTING NOTARIES PUBLIC BEGINNING JANUARY 1, 2009

New Law Review

The provisions in Assembly Bill 2452 will take effect January 1, 2009. The text of the new law can be found at http://www.leginfo.ca.gov/pub/07-08/bill/asm/ab_2451-2500/ab_2452_bill_20080703_chaptered.pdf

There are only two changes to notary public law for 2009. Civil Code section 1185(b)(4)(F) adds another class of documents to the list of acceptable types of identification a notary public may use to identify a person. The new identification includes an employee identification card issued by an agency or office of the State of California, or by an agency or office of a city, county, or city and county in this state. Any identification accepted by the notary public must still contain all of the elements listed in Civil Code section 1185(b)(4). If the identification does not meet these requirements, the notary public must refuse the notarization unless an acceptable form of identification is presented.

Civil Code section 1196 amended the subscribing witness provisions. A summary of the new requirements for a proof of execution by a subscribing witness is attached for your reference.

A subscribing witness can no longer appear before a notary public and prove identity based on personal knowledge alone. The subscribing witness must bring a credible witness and the credible witness must have identification. The credible witness must be personally known by the notary public. Because proof of execution by a subscribing witness is not commonly used and may be confusing to a notary public, we have attached a subscribing witness scenario.

Civil Code section 1195 provides a proof of execution by a subscribing witness form. However, the form does not comply with the statutory changes to Civil Code section 1196 effective January 1, 2009. The law allows that other formats with similar wording are acceptable; therefore, attached is a suggested format for the form that complies with both Civil Code sections 1195 and 1196.