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BUSINESS PROGRAMS | NOTARY PUBLIC
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**NEW LAWS AFFECTING NOTARIES PUBLIC
BEGINNING JANUARY 1, 2008**

Assembly Bill 886 (Chapter 399, Statutes of 2007) and Assembly Bill 434 (Chapter 496, Statutes of 2007) make a number of significant changes in notarial law. The text of the new laws can be found at: www.leginfo.ca.gov/pub/07-08/bill/asm/ab_0851-0900/ab_886_bill_20071010_chaptered.pdf and www.leginfo.ca.gov/pub/07-08/bill/asm/ab_0401-0450/ab_434_bill_20071011_chaptered.pdf. The new laws take effect January 1, 2008.

The primary changes provided by AB 886 effective January 1, 2008 are as follows:

1. **Civil Code section 1185 – Acknowledgment; requisites.** The identity of the person making an acknowledgment may no longer be established by personal knowledge alone. Under the new law, the identity of the person making the acknowledgment must be established by specified documents or a credible witness who is personally known to the notary public and proves their identity by specified documents. Violation of the section subjects a notary public to a civil penalty of up to \$10,000 in an administrative action brought by the Secretary of State or a public prosecutor.
2. **Civil Code section 1189 – Certificate of Acknowledgment.** The certificate of acknowledgment is now executed under penalty of perjury. A notary public who willfully states as true any material fact known to be false can be subject to a civil penalty of up to \$10,000.
3. **Government Code section 6203 – Criminal offense.** A four-year statute of limitations is added to the misdemeanor crime of a notary public who makes and delivers as true any certificate or writing that contains statements known to be false.
4. **Government Code section 8201.1 – Additional qualifications; fingerprints.** Notary public applicants shall submit fingerprints to the Department of Justice for the purpose of a background check. Under the new law, the fingerprints will also be submitted to the Federal Bureau of Investigation and the Secretary of State will be informed of any results as well as any subsequent arrests.
5. **Government Code section 8201.5 – Application form.** A notary public applicant must submit a photograph of himself/herself to the Secretary of State along with the application.
6. **Government Code section 8202 – Execution of jurat.** The identity of the affiant may no longer be established by personal knowledge alone. “Personal knowledge” as a basis for identifying the affiant when executing a jurat has been deleted. “Satisfactory evidence” must be used to identify an affiant in accordance with Civil Code section 1185 (see above).

7. **Government Code section 8206 – Sequential journal.** A statement about the identity of a person making an acknowledgment, or taking an oath or affirmation must be based on “satisfactory evidence” in conformity with Civil Code section 1185 (see above). Also, a power of attorney is added to the list of notarized documents that require a thumbprint. Further, when requested by a peace officer investigating a criminal offense, a notary public must surrender his or her journal immediately or as soon as possible if the journal is not present. The peace officer must have probable cause to believe the journal contains evidence of a criminal offense. The peace officer who seizes a journal must notify the Secretary of State within 24 hours or as soon as possible of the name of the notary public whose journal was seized.
8. **Government Code section 8213.5 – Change in location.** A notary public may not use a commercial mail receiving agency or post office box as his or her principal place of business or residence unless the notary public provides the Secretary of State with a physical street address as the principal place of residence. Willful failure to notify the Secretary of State of a change of address is now punishable as an infraction by a fine of up to \$500.
9. **Government Code section 8213.6 – Name changes; application; filing.** Willful failure to notify the Secretary of State of a name change is now punishable as an infraction by a fine of up to \$500.
10. **Government Code section 8214.1 – Grounds for refusal.** Willful failure to report the theft or loss of a journal is now expressly stated as grounds for revocation or suspension of a notary public. New grounds for denial of an application or revocation or suspension have been added for crimes connected to notarial acts: making a false writing, fraud relating to a deed of trust, improper notarial acts, unlawfully acting as a notary public, filing false or forged documents, forgery, embezzlement, and falsely obtaining personal information. Also, willful failure to provide access to a journal when requested by a police officer is now grounds for revocation or suspension.
11. **Government Code section 8214.2 – Fraud deed of trust.** In addition to being guilty of a felony, a notary public who defrauds in relation to a deed of trust on real property single-family residence by means of forgery may be subject to other relief or remedies provided to the parties by law.
12. **Government Code section 8214.15 – Civil penalties.** Willful violation of subdivision (d) of Section 8214.1 (failure to discharge the duties or responsibilities of a notary public) is deleted.
13. **Government Code section 8214.21 (New Section) – Failure to provide journal, penalty.** Willful failure of a notary public to provide a peace officer with a journal when requested is punishable by a civil penalty of up to \$2,500. The Secretary of State or a public prosecutor may seek such a penalty.
14. **Government Code section 8214.23 (New Section) – Failure to obtain thumbprint, penalty.** A notary public who fails to obtain a thumbprint as required by Government Code section 8206 is subject to a civil penalty up to \$2,500. Either the Secretary of State or a

public prosecutor may seek this penalty. There is a four-year statute of limitations for this offense.

15. **Government Code section 8221 – Destruction, defacement, concealment of records.** Willfully destroying, defacing, or concealing records belonging to a notary public now has a four-year statute of limitations. The criminal penalty is not the exclusive relief or remedy provided by law.
16. **Government Code section 8225 – Improper notarial acts.** The misdemeanor crime of soliciting, coercing, or influencing a notary public to perform an improper notarial act, knowing it to be improper, now has a four-year statute of limitations.
17. **Government Code section 8228 – Enforcement of chapter.** In addition to the Secretary of State, a peace officer, acting within his or her authority may also enforce this Chapter 3 of Division 1 of Title 2 of the Government Code relating to notaries public by examining a notary public's pertinent records.
18. **Government Code section 8228.1 – Willful failure to control seal.** A four-year statute of limitations is added to the misdemeanor crime of a notary public willfully failing to perform his or her required duties or failing to keep the notary public seal under his or her direct and exclusive control.

The primary change provided by AB 434 effective January 1, 2008 is:

Government Code section 8206.5 (New Section) – Response time for a request. A notary public must respond to a request for a transaction in the notary public journal within 15 business days after the receipt of the request and must supply either a photostatic copy of the line item or acknowledge that no such line item exists. In a disciplinary proceeding for failing to comply with this section, the notary public may raise a defense of unavoidable, exigent business or personal circumstances.