

SENATE No. 2615

The Commonwealth of Massachusetts

In the One Hundred and Ninetieth General Court
(2017-2018)

SENATE, July 18, 2018

The committee on Rules to whom was referred the Senate Bill making technical changes to the laws regulating a certain notarial act (Senate, No. 2312),-- reports, recommending that the same ought to pass with an amendment substituting a new draft with the same title (Senate, No. 2615).

For the committee,
Mark C. Montigny

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An Act making technical changes to the laws regulating a certain notarial act.

Whereas, the deferred operation of this act would tend to defeat its purpose, which is to provide forthwith certain updates to the laws related to notarization, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 42 of chapter 183 of the General Laws, as appearing in the 2016
2 Official Edition, is hereby amended by striking out, in line 8, the word “voluntary”.

3 SECTION 2. Said section 42 of said chapter 183, as so appearing, is hereby further
4 amended by striking out, in line 10, the words “voluntary or free”.

5 SECTION 3. Forms (13), (14) and (15) of the Appendix in said chapter 183, as so
6 appearing, are hereby amended by striking out the word “free”, each time it appears.

7 SECTION 4. Section 1 of chapter 222 of the General Laws, as so appearing, is hereby
8 amended by striking out the definition of “Acknowledgment” and inserting in place thereof the
9 following definition:-

10 “Acknowledgment”, a notarial act in which an individual, at a single time and place
11 appears, in person, before a notary public, is identified by the notary public through satisfactory

12 evidence of identity and presents a document to the notary public and indicates that the individual
13 has executed the document for the purposes stated therein and, if applicable, that the individual
14 signed in a representative capacity and did so as the act of the represented person or entity.

15 SECTION 5. Section 15 of said chapter 222, as so appearing, is hereby amended by striking
16 out, in line 15, the word “voluntarily”.

17 SECTION 6. Said section 15 of said chapter 222, as so appearing, is hereby further
18 amended by striking out, in line 21, the word “voluntary”.

19 SECTION 7. Section 20 of said chapter 222, as so appearing, is hereby amended by striking
20 out, in lines 21 and 22, the words “voluntary or free”.

21 SECTION 8. Notwithstanding any general or special law to the contrary, an instrument or
22 document that was recorded or filed in a registry of deeds before the effective date of this act that
23 was not executed by the grantor shall not be presumed to be invalid if the instrument or document
24 was executed or acknowledged by an attorney or representative acting with legal authority on
25 behalf of the grantor.

26 SECTION 9. Notwithstanding any general or special law to the contrary, an instrument or
27 document that was recorded or filed in a registry of deeds before the effective date of this act that
28 did not contain a formal statement or form acknowledging that the grantor, or an attorney or
29 representative acting with legal authority on behalf of the grantor, executed the instrument or
30 document voluntarily or freely shall not be presumed to be invalid for failing to contain such a
31 formal statement or form.

32 SECTION 10. Notwithstanding any general or special law to the contrary, an instrument
33 or document that was recorded or filed in a registry of deeds before the effective date of this act
34 shall not be presumed to be invalid for failing to use the forms provided in section 15 or the
35 appendix to chapter 183 of the General Laws or in chapter 222 of the General Laws if the
36 instrument or document provides another form of acknowledgment, jurat, signature witnessing or
37 copy certification that: (i) is required or allowed by a court rule, form or directive, including, with
38 respect to documents presented for filing with the land court and its land registration districts, the
39 rules, forms, directives and guidelines of the land court; (ii) is required by any general or special
40 law including, but not limited to, section 2-504 of chapter 190B of the General Laws, any federal
41 law or any regulation adopted pursuant to any such law; (iii) is in a form provided by another state,
42 if the document shall be filed or recorded in or governed by the laws of that other state; or (iv)
43 appears on a printed form that contains an express prohibition against altering such form.

44 SECTION 11. Notwithstanding any general or special law to the contrary, the following
45 provisions shall apply to an instrument or document that was recorded or filed in a registry of
46 deeds before the effective date of this act and that has a form of acknowledgment, jurat, signature
47 witnessing or copy certification that is substantially similar in legal meaning and effect to the texts
48 of the several forms provided in the appendix to chapter 183 of the General Laws or in chapter 222
49 of the General Laws: (i) the failure of such an instrument or document to contain the forms of
50 acknowledgment, jurat, signature witnessing or copy certification set forth in section 15 of said
51 chapter 222 or otherwise to comply with the requirements of sections 8 to 23, inclusive, of said
52 chapter 222 shall not have any effect on the validity of the underlying instrument or document or
53 the recording of the underlying instrument or document; (ii) the failure of such an instrument or
54 document to contain the forms of acknowledgment, jurat, signature witnessing or copy

55 certification set forth in said section 15 of said chapter 222 shall not be the basis of a refusal to
56 accept the instrument or document for filing, recordation, registration or acceptance by a third
57 party; (iii) the failure of such an instrument or document executed in a representative capacity to
58 contain an acknowledgment that the instrument or document was also the voluntary or free act and
59 deed of the principal or grantor shall not affect the validity of the underlying document or the
60 recording of the document.