

HOUSE BILL NO. 306

INTRODUCED BY T. BERRY, WARBURTON

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A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING THE REQUIREMENT FOR A NOTARY PUBLIC TO KEEP AND MAINTAIN AN OFFICIAL NOTARY JOURNAL; AMENDING SECTIONS 1-5-416 AND 1-5-419, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 1-5-416, MCA, is amended to read:

"1-5-416. Powers and duties. (1) A notary public shall:

(a) subject to subsection (2), take the acknowledgment or proof of any power of attorney, mortgage, deed, grant, transfer, or other instrument executed by any person and give a certificate of the proof or acknowledgment, endorsed on or attached to the instrument;

(b) take depositions and affidavits, if the notary is knowledgeable of the applicable legal requirements, and administer oaths and affirmations in all matters incident to the duties of the notary public's office or to be used before any court, judge, officer, or board in this state;

(c) whenever requested and upon payment of the required fees, make and give a certified copy of any record kept or that originated in the notary public's place of employment;

(d) provide and keep an official ink stamp and seal prescribed by the secretary of state;

(e) authenticate with the notary public's official seal and the notary's original signature, which must be in blue or black ink, as it appears on the notary's certificate of commission, all official acts. Whenever the notary public signs officially as a notary public, the notary public shall add to the signature the words "Notary Public for the State of Montana, residing at.... (stating the name of the town or city of the notary public's post office)" and shall endorse upon the instrument the date, showing the month, day, and four-digit year, of the expiration of the notary public's commission.

(f) on every document on which the notary's seal of office is used, type, stamp, or legibly print the notary's name, as shown on the notary's certificate of commission, after or below the original signature of the notary;

~~(g) keep and maintain an official notary journal recording the details of each notarial act performed,~~



1 ~~including the date, the type of notarial act, the type of document, the date of the document, the name, address,~~
 2 ~~and signature of the individual for whom the notarization was performed, the type of identification used, and any~~
 3 ~~other information prescribed by the secretary of state.~~

4 (2) A notary public may not:

5 (a) notarize the notary's own signature;

6 (b) notarize a document in which the notary is individually named or has an interest from which the notary
 7 will directly benefit by a transaction involving the document; or

8 (c) certify a document issued by a public entity, such as a birth, death, or marriage certificate, unless the
 9 notary is employed by the entity issuing or holding the original version of that document."

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11 **Section 2.** Section 1-5-419, MCA, is amended to read:

12 **"1-5-419. Transfer of records upon termination of office.** (1) A notary public, upon resignation or
 13 removal from office or at the expiration of the notary public's term if the notary public is not reappointed, or, in
 14 case of the notary public's death, the notary public's legal representative shall:

15 ~~——(a) transfer in a timely manner all the journals kept by the notary public to the office of the county clerk~~
 16 ~~and recorder of the county in which the notary public was a resident; and~~

17 ~~——(b) destroy the notary's official stamp and seal.~~

18 (2) A knowing failure to take the ~~actions~~ action prescribed in subsection (1) makes the offending person
 19 liable for damages to any person injured by the failure."

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21 NEW SECTION. **Section 3. Effective date.** [This act] is effective July 1, 2011.

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