

AMENDED IN SENATE AUGUST 31, 2007

AMENDED IN SENATE JUNE 25, 2007

AMENDED IN SENATE MAY 9, 2007

AMENDED IN ASSEMBLY APRIL 9, 2007

AMENDED IN ASSEMBLY MARCH 22, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 434

Introduced by Assembly Member Silva

February 16, 2007

~~An act to amend Section 8206 of the Government Code, relating to~~
An act to add Section 8206.5 to the Government Code, relating to
notaries public.

LEGISLATIVE COUNSEL'S DIGEST

AB 434, as amended, Silva. Notaries public.

Existing law requires a notary public to keep an active journal of all official acts performed as a notary public, and to include in this journal, among other things, information as to every instrument acknowledged or proved before the notary. Existing law requires a notary, upon written request of any member of the public, as specified, to supply a photostatic copy of any line item contained in this journal.

This bill would require a notary public to either provide a photostatic copy, as specified, to the requesting member of the public, or acknowledge that the line item does not exist, within 15 business days of receipt of the request by the notary.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 8206.5 is added to the Government Code,
2 to read:

3 8206.5. Upon receiving a request for a copy of a transaction
4 pursuant to subdivision (c) of Section 8206, the notary shall
5 respond to the request within 15 business days after receipt of the
6 request and either photostatic the supply copy requested or
7 acknowledge that no such line item exists. In a disciplinary
8 proceeding for noncompliance with subdivision (c) of Section 8206
9 or this section, a notary may defend his or her delayed action on
10 the basis of unavoidable, exigent business or personal
11 circumstances.

12 SECTION 1. ~~Section 8206 of the Government Code is amended~~
13 to read:

14 8206. (a) (1) ~~A notary public shall keep one active sequential~~
15 ~~journal at a time, of all official acts performed as a notary public.~~
16 ~~The journal shall be kept in a locked and secured area, under the~~
17 ~~direct and exclusive control of the notary. Failure to secure the~~
18 ~~journal shall be cause for the Secretary of State to take~~
19 ~~administrative action against the commission held by the notary~~
20 ~~public pursuant to Section 8214.1.~~

21 (2) ~~The journal shall be in addition to and apart from any copies~~
22 ~~of notarized documents that may be in the possession of the notary~~
23 ~~public and shall include all of the following:~~

24 (A) ~~Date, time, and type of each official act.~~

25 (B) ~~Character of every instrument sworn to, affirmed,~~
26 ~~acknowledged, or proved before the notary.~~

27 (C) ~~The signature of each person whose signature is being~~
28 ~~notarized.~~

29 (D) ~~A statement as to whether the identity of a person making~~
30 ~~an acknowledgment or taking an oath or affirmation was based on~~
31 ~~personal knowledge or satisfactory evidence. If identity was~~
32 ~~established by satisfactory evidence pursuant to Section 1185 of~~
33 ~~the Civil Code, then the journal shall contain the signature of the~~
34 ~~credible witness swearing or affirming to the identity of the~~
35 ~~individual or the type of identifying document, the governmental~~

1 agency issuing the document, the serial or identifying number of
2 the document, and the date of issue or expiration of the document.

3 (E) If the identity of the person making the acknowledgment or
4 taking the oath or affirmation was established by the oaths or
5 affirmations of two credible witnesses whose identities are proven
6 upon the presentation of satisfactory evidence, the type of
7 identifying documents, the identifying numbers of the documents
8 and the dates of issuance or expiration of the documents presented
9 by the witnesses to establish their identity.

10 (F) The fee charged for the notarial service.

11 (G) If the document to be notarized is a deed, quitclaim deed,
12 or deed of trust affecting real property, the notary public shall
13 require the party signing the document to place his or her right
14 thumbprint in the journal. If the right thumbprint is not available,
15 then the notary shall have the party use his or her left thumb, or
16 any available finger and shall so indicate in the journal. If the party
17 signing the document is physically unable to provide a thumbprint
18 or fingerprint, the notary shall so indicate in the journal and shall
19 also provide an explanation of that physical condition. This
20 paragraph shall not apply to a trustee's deed resulting from a decree
21 of foreclosure or a nonjudicial foreclosure pursuant to Section
22 2924 of the Civil Code, nor to a deed of reconveyance.

23 (b) If a sequential journal of official acts performed by a notary
24 public is stolen, lost, misplaced, destroyed, damaged, or otherwise
25 rendered unusable as a record of notarial acts and information, the
26 notary public shall immediately notify the Secretary of State by
27 certified or registered mail. The notification shall include the period
28 of the journal entries, the notary public commission number, and
29 the expiration date of the commission, and when applicable, a
30 photocopy of any police report that specifies the theft of the
31 sequential journal of official acts.

32 (c) Upon written request of any member of the public, which
33 request shall include the name of the parties, the type of document,
34 and the month and year in which notarized, the notary shall, within
35 15 business days from the receipt of the request by the notary,
36 either supply a photostatic copy of the line item representing the
37 requested transaction at a cost of not more than thirty cents (\$0.30)
38 per page, or acknowledge that no such line item exists. In a
39 disciplinary proceeding for noncompliance with these provisions;

1 a notary may defend his or her delayed action on the basis of
2 unavoidable, exigent business or personal circumstances.

3 (d) The journal of notarial acts of a notary public is the exclusive
4 property of that notary public, and shall not be surrendered to an
5 employer upon termination of employment, whether or not the
6 employer paid for the journal, or at any other time. The notary
7 public shall not surrender the journal to any other person, except
8 the county clerk, pursuant to Section 8209, or to a peace officer,
9 as defined in Sections 830.1, 830.2, and 830.3 of the Penal Code,
10 acting in his or her official capacity and within his or her authority,
11 in response to a criminal search warrant signed by a magistrate
12 and served upon the notary public by the peace officer. The notary
13 public shall obtain a receipt for the journal, and shall notify the
14 Secretary of State by certified mail within 10 days that the journal
15 was relinquished to a peace officer. The notification shall include
16 the period of the journal entries, the commission number of the
17 notary public, the expiration date of the commission, and a
18 photocopy of the receipt. The notary public shall obtain a new
19 sequential journal. If the journal relinquished to a peace officer is
20 returned to the notary public and a new journal has been obtained,
21 the notary public shall make no new entries in the returned journal.
22 A notary public who is an employee shall permit inspection and
23 copying of journal transactions by a duly designated auditor or
24 agent of the notary public's employer, provided that the inspection
25 and copying is done in the presence of the notary public and the
26 transactions are directly associated with the business purposes of
27 the employer. The notary public, upon the request of the employer,
28 shall regularly provide copies of all transactions that are directly
29 associated with the business purposes of the employer, but shall
30 not be required to provide copies of any transaction that is unrelated
31 to the employer's business. Confidentiality and safekeeping of any
32 copies of the journal provided to the employer shall be the
33 responsibility of that employer.

34 (e) The notary public shall provide the journal for examination
35 and copying in the presence of the notary public upon receipt of
36 a subpoena duces tecum or a court order, and shall certify those
37 copies if requested.

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