

AMENDED IN ASSEMBLY JUNE 2, 2014

AMENDED IN SENATE MARCH 26, 2014

SENATE BILL

No. 1050

Introduced by Senator Monning

February 18, 2014

An act to amend Sections 1189 and 1195 of the Civil Code, and to amend Section 8202 of the Government Code, relating to notaries public.

LEGISLATIVE COUNSEL'S DIGEST

SB 1050, as amended, Monning. Notaries public: verification of identity: notice.

Existing law provides for the appointment and commission of notaries public by the Secretary of State. Existing law authorizes a notary public to execute a certificate of acknowledgment or proof of execution of an instrument, or a jurat attached to a sworn affidavit. Existing law requires a certificate of acknowledgment, proof of execution, and jurat to be in a specified form.

This bill would require a *legible* notice to be included in those documents ~~in a specified typeface and an enclosed in a box, as specified,~~ stating that the acknowledgment, proof of execution, or ~~a notarial certificate of a jurat~~ verifies only the identity of the individual who signed the document to which the acknowledgment, proof of execution, or jurat is attached, and not the truthfulness, accuracy, or validity of the document.

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

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

1 SECTION 1. Section 1189 of the Civil Code is amended to
2 read:

3 1189. (a) (1) Any certificate of acknowledgment taken within
4 this state shall include a notice at the top of the certificate of
5 acknowledgment ~~in not less than 12-point boldface font type an~~
6 enclosed ~~in a~~ box stating: “A notary public or other officer
7 completing this certificate verifies only the identity of the
8 individual who signed the document to which this certificate is
9 attached, and not the truthfulness, accuracy, or validity of that
10 document.” *This notice shall be legible.*

11 (2) The physical format of the boxed notice at the top of the
12 certificate of acknowledgment required pursuant to paragraph (3)
13 is an example, for purposes of illustration and not limitation, of
14 the physical format of a boxed notice fulfilling the requirements
15 of paragraph (1).

16 (3) A certificate of acknowledgment taken within this state shall
17 be in the following form:

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A notary public or other officer completing this
certificate verifies only the identity of the
individual who signed the document to which this
certificate is attached, and not the truthfulness,
accuracy, or validity of that document.

1 State of California)
2 County of _____)

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6 On _____ before me,
7 (here insert name and title of the officer),
8 personally appeared _____,
9 who proved to me on the basis of
10 satisfactory evidence to be the person(s) whose name(s) is/are
11 subscribed to the within instrument and acknowledged to me that
12 he/she/they executed the same in his/her/their authorized
13 capacity(ies), and that by his/her/their signature(s) on the
14 instrument the person(s), or the entity upon behalf of which the
15 person(s) acted, executed the instrument.

16

17 I certify under PENALTY OF PERJURY under the laws of the State of
18 California that the foregoing paragraph is true and correct.

19

20 WITNESS my hand and official seal.

21

22 Signature _____ (Seal)

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24 (4) A notary public who willfully states as true any material
25 fact that he or she knows to be false shall be subject to a civil
26 penalty not exceeding ten thousand dollars (\$10,000). An action
27 to impose a civil penalty under this subdivision may be brought
28 by the Secretary of State in an administrative proceeding or any
29 public prosecutor in superior court, and shall be enforced as a civil
30 judgment. A public prosecutor shall inform the secretary of any
31 civil penalty imposed under this section.

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33 (b) Any certificate of acknowledgment taken in another place
34 shall be sufficient in this state if it is taken in accordance with the
35 laws of the place where the acknowledgment is made.

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37 (c) On documents to be filed in another state or jurisdiction of
38 the United States, a California notary public may complete any
39 acknowledgment form as may be required in that other state or
jurisdiction on a document, provided the form does not require the
notary to determine or certify that the signer holds a particular

1 representative capacity or to make other determinations and
2 certifications not allowed by California law.

3 (d) An acknowledgment provided prior to January 1, 1993, and
4 conforming to applicable provisions of former Sections 1189,
5 1190, 1190a, 1190.1, 1191, and 1192, as repealed by Chapter 335
6 of the Statutes of 1990, shall have the same force and effect as if
7 those sections had not been repealed.

8 SEC. 2. Section 1195 of the Civil Code is amended to read:

9 1195. (a) Proof of the execution of an instrument, when not
10 acknowledged, may be made by any of the following:

- 11 (1) By the party executing it, or either of them.
- 12 (2) By a subscribing witness.
- 13 (3) By other witnesses, in cases mentioned in Section 1198.

14 (b) (1) Proof of the execution of a power of attorney, grant
15 deed, mortgage, deed of trust, quitclaim deed, security agreement,
16 or any instrument affecting real property is not permitted pursuant
17 to Section 27287 of the Government Code, though proof of the
18 execution of a trustee’s deed or deed of reconveyance is permitted.

19 (2) Proof of the execution for any instrument requiring a notary
20 public to obtain a thumbprint from the party signing the document
21 in the notary public’s journal is not permitted.

22 (c) Any certificate for proof of execution taken within this state
23 shall include a notice at the top of the certificate for proof of
24 execution in ~~not less than 12-point boldface font type~~ *an* enclosed
25 ~~in a box~~ stating: “A notary public or other officer completing this
26 certificate verifies only the identity of the individual who signed
27 the document to which this certificate is attached, and not the
28 truthfulness, accuracy, or validity of that document.” *This notice*
29 *shall be legible.*

30 (d) The physical format of the boxed notice at the top of the
31 certificate for proof of execution required pursuant to subdivision
32 (e) is an example, for purposes of illustration and not limitation,
33 of the physical format of a boxed notice fulfilling the requirements
34 of subdivision (c).

35 (e) A certificate for proof of execution taken within this state
36 shall be in the following form:

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A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of _____) ss.

On ____ (date), before me, ____ (name and title of officer), personally appeared ____ (name of subscribing witness), proved to me to be the person whose name is subscribed to the within instrument, as a witness thereto, on the oath of ____ (name of credible witness), a credible witness who is known to me and provided a satisfactory identifying document. ____ (name of subscribing witness), being by me duly sworn, said that he/she was present and saw/heard ____ (name[s] of principal[s]), the same person(s) described in and whose name(s) is/are subscribed to the within or attached instrument in his/her/their authorized capacity(ies) as (a) party(ies) thereto, execute or acknowledge executing the same, and that said affiant subscribed his/her name to the within or attached instrument as a witness at the request of ____ (name[s] of principal[s]).

WITNESS my hand and official seal.
Signature _____ (Seal)

SEC. 3. Section 8202 of the Government Code is amended to read:

8202. (a) When executing a jurat, a notary shall administer an oath or affirmation to the affiant and shall determine, from satisfactory evidence as described in Section 1185 of the Civil Code, that the affiant is the person executing the document. The affiant shall sign the document in the presence of the notary.
(b) To any affidavit subscribed and sworn to before a notary, there shall be attached a jurat that includes a notice at the top, in ~~not less than 12-point boldface font type~~ *an* enclosed in a box, stating: “A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document

1 to which this certificate is attached, and not the truthfulness,
2 accuracy, or validity of that document.” *This notice shall be legible.*

3 (c) The physical format of the boxed notice at the top of the
4 jurat required pursuant to subdivision (d) is an example, for
5 purposes of illustration and not limitation, of the physical format
6 of a boxed notice fulfilling the requirements of subdivision (b).

7 (d) A jurat executed pursuant to this section shall be in the
8 following form:

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17 State of California

18 County of _____

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20 Subscribed and sworn to (or affirmed) before me on this _____
21 day of _____, 20__, by _____, proved
22 to me on the basis of satisfactory evidence to be the person(s) who
23 appeared before me.

24

25

Seal _____

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Signature _____

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