

AMENDED IN ASSEMBLY APRIL 7, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2566**

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**Introduced by Assembly Member Nazarian**

February 19, 2016

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An act to amend Section 1185 of the Civil Code, relating to property.

LEGISLATIVE COUNSEL'S DIGEST

AB 2566, as amended, Nazarian. Notaries public: acceptance of identification.

Existing law relating to property transfers prohibits the acknowledgment of an instrument unless the officer taking it has satisfactory evidence that the person making the acknowledgment is the individual who is described in and who executed the instrument. Existing law provides that an officer may reasonably rely ~~on~~ *on, among other things*, a passport issued by a foreign government, a driver's license issued by another state or a Canadian or Mexican public agency, an identification card issued by another state or a branch of the Armed Forces of the United States, or an employee identification card issued by an agency or office of this state or a city, county, or city and county in this state, provided that the document meets certain requirements. In the event the document is a passport, it must be stamped by the United States Citizenship and Immigration Services of the Department of Homeland Security.

~~This bill would also authorize the acceptance of a passport, whether or not it is stamped by the United States Citizenship and Immigration Services of the Department of Homeland Security, and a valid, unexpired consular identification document issued by a consulate from the person's country of citizenship, as proof of identity.~~

*This bill, instead of that provision pertaining to a passport issued by a foreign government, would authorize the acceptance of a valid passport from the applicant’s county of citizenship, or a valid consular identification document issued by a consulate from the applicant’s country of citizenship, as proof of identity. The bill would eliminate the requirement that the passport be stamped by the United States Citizenship and Immigration Services of the Department of Homeland Security.*

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 1185 of the Civil Code is amended to  
2 read:

3 1185. (a) The acknowledgment of an instrument shall not be  
4 taken unless the officer taking it has satisfactory evidence that the  
5 person making the acknowledgment is the individual who is  
6 described in and who executed the instrument.

7 (b) For purposes of this section, “satisfactory evidence” means  
8 the absence of information, evidence, or other circumstances that  
9 would lead a reasonable person to believe that the person making  
10 the acknowledgment is not the individual he or she claims to be  
11 and any one of the following:

12 (1) (A) The oath or affirmation of a credible witness personally  
13 known to the officer, whose identity is proven to the officer upon  
14 presentation of a document satisfying the requirements of paragraph  
15 (3) or (4), that the person making the acknowledgment is personally  
16 known to the witness and that each of the following are true:

17 (i) The person making the acknowledgment is the person named  
18 in the document.

19 (ii) The person making the acknowledgment is personally known  
20 to the witness.

21 (iii) That it is the reasonable belief of the witness that the  
22 circumstances of the person making the acknowledgment are such  
23 that it would be very difficult or impossible for that person to  
24 obtain another form of identification.

25 (iv) The person making the acknowledgment does not possess  
26 any of the identification documents named in paragraphs (3) and  
27 (4).

1 (v) The witness does not have a financial interest in the  
2 document being acknowledged and is not named in the document.

3 (B) A notary public who violates this section by failing to obtain  
4 the satisfactory evidence required by subparagraph (A) shall be  
5 subject to a civil penalty not exceeding ten thousand dollars  
6 (\$10,000). An action to impose this civil penalty may be brought  
7 by the Secretary of State in an administrative proceeding or a public  
8 prosecutor in superior court, and shall be enforced as a civil  
9 judgment. A public prosecutor shall inform the secretary of any  
10 civil penalty imposed under this subparagraph.

11 (2) The oath or affirmation under penalty of perjury of two  
12 credible witnesses, whose identities are proven to the officer upon  
13 the presentation of a document satisfying the requirements of  
14 paragraph (3) or (4), that each statement in paragraph (1) is true.

15 (3) Reasonable reliance on the presentation to the officer of any  
16 one of the following, if the document or other form of identification  
17 is current or has been issued within five years:

18 (A) An identification card or driver's license issued by the  
19 Department of Motor Vehicles.

20 (B) A passport issued by the Department of State of the United  
21 States.

22 (C) An inmate identification card issued by the Department of  
23 Corrections and Rehabilitation, if the inmate is in custody in prison.

24 (D) Any form of inmate identification issued by a sheriff's  
25 department, if the inmate is in custody in a local detention facility.

26 (4) Reasonable reliance on the presentation of any one of the  
27 following, provided that a document specified in subparagraphs  
28 (A) to ~~(F)~~, (E), inclusive, shall either be current or have been issued  
29 within five years and shall contain a photograph and description  
30 of the person named on it, shall be signed by the person, and shall  
31 bear a serial or other identifying number:

32 ~~(A) A passport issued by a foreign government, with or without~~  
33 ~~a stamp by the United States Citizenship and Immigration Services~~  
34 ~~of the Department of Homeland Security.~~

35 ~~(B) A valid, unexpired consular identification document issued~~  
36 ~~by a consulate from the applicant's country of citizenship.~~

37 (A) *A valid consular identification document issued by a*  
38 *consulate from the applicant's county of citizenship, or a valid*  
39 *passport from the applicant's country of citizenship.*

40 ~~(C)~~

- 1 (B) A driver’s license issued by a state other than California or
- 2 by a Canadian or Mexican public agency authorized to issue
- 3 driver’s licenses.
- 4 ~~(D)~~
- 5 (C) An identification card issued by a state other than California.
- 6 ~~(E)~~
- 7 (D) An identification card issued by any branch of the Armed
- 8 Forces of the United States.
- 9 ~~(F)~~
- 10 (E) An employee identification card issued by an agency or
- 11 office of the State of California, or by an agency or office of a city,
- 12 county, or city and county in this state.
- 13 (c) An officer who has taken an acknowledgment pursuant to
- 14 this section shall be presumed to have operated in accordance with
- 15 the provisions of law.
- 16 (d) A party who files an action for damages based on the failure
- 17 of the officer to establish the proper identity of the person making
- 18 the acknowledgment shall have the burden of proof in establishing
- 19 the negligence or misconduct of the officer.
- 20 (e) A person convicted of perjury under this section shall forfeit
- 21 any financial interest in the document.