

ASSEMBLY BILL

No. 434

Introduced by Assembly Member Silva

February 16, 2007

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

LEGISLATIVE COUNSEL'S DIGEST

AB 434, as introduced, 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 requested.

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 days of the mailing of the request.

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 of the Government Code is amended
- 2 to read:
- 3 8206. (a) (1) A notary public shall keep one active sequential
- 4 journal at a time, of all official acts performed as a notary public.
- 5 The journal shall be kept in a locked and secured area, under the

1 direct and exclusive control of the notary. Failure to secure the
2 journal shall be cause for the Secretary of State to take
3 administrative action against the commission held by the notary
4 public pursuant to Section 8214.1.

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

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

9 (B) Character of every instrument sworn to, affirmed,
10 acknowledged, or proved before the notary.

11 (C) The signature of each person whose signature is being
12 notarized.

13 (D) A statement as to whether the identity of a person making
14 an acknowledgment or taking an oath or affirmation was based on
15 personal knowledge or satisfactory evidence. If identity was
16 established by satisfactory evidence pursuant to Section 1185 of
17 the Civil Code, then the journal shall contain the signature of the
18 credible witness swearing or affirming to the identity of the
19 individual or the type of identifying document, the governmental
20 agency issuing the document, the serial or identifying number of
21 the document, and the date of issue or expiration of the document.

22 (E) If the identity of the person making the acknowledgment or
23 taking the oath or affirmation was established by the oaths or
24 affirmations of two credible witnesses whose identities are proven
25 upon the presentation of satisfactory evidence, the type of
26 identifying documents, the identifying numbers of the documents
27 and the dates of issuance or expiration of the documents presented
28 by the witnesses to establish their identity.

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

30 (G) If the document to be notarized is a deed, quitclaim deed,
31 or deed of trust affecting real property, the notary public shall
32 require the party signing the document to place his or her right
33 thumbprint in the journal. If the right thumbprint is not available,
34 then the notary shall have the party use his or her left thumb, or
35 any available finger and shall so indicate in the journal. If the party
36 signing the document is physically unable to provide a thumbprint
37 or fingerprint, the notary shall so indicate in the journal and shall
38 also provide an explanation of that physical condition. This
39 paragraph shall not apply to a trustee's deed resulting from a decree

1 of foreclosure or a nonjudicial foreclosure pursuant to Section
2 2924 of the Civil Code, nor to a deed of reconveyance.

3 (b) If a sequential journal of official acts performed by a notary
4 public is stolen, lost, misplaced, destroyed, damaged, or otherwise
5 rendered unusable as a record of notarial acts and information, the
6 notary public shall immediately notify the Secretary of State by
7 certified or registered mail. The notification shall include the period
8 of the journal entries, the notary public commission number, and
9 the expiration date of the commission, and when applicable, a
10 photocopy of any police report that specifies the theft of the
11 sequential journal of official acts.

12 (c) Upon written request of any member of the public, which
13 request shall include the name of the parties, the type of document,
14 and the month and year in which notarized, the notary shall *within*
15 *15 days from the mailing of the request by the member of the*
16 *public, either supply a photostatic copy of the line item*
17 *representing the requested transaction at a cost of not more than*
18 *thirty cents (\$0.30) per page, or acknowledge that no such line*
19 *item exists.*

20 (d) The journal of notarial acts of a notary public is the exclusive
21 property of that notary public, and shall not be surrendered to an
22 employer upon termination of employment, whether or not the
23 employer paid for the journal, or at any other time. The notary
24 public shall not surrender the journal to any other person, except
25 the county clerk, pursuant to Section 8209, or to a peace officer,
26 as defined in Sections 830.1, 830.2, and 830.3 of the Penal Code,
27 acting in his or her official capacity and within his or her authority,
28 in response to a criminal search warrant signed by a magistrate
29 and served upon the notary public by the peace officer. The notary
30 public shall obtain a receipt for the journal, and shall notify the
31 Secretary of State by certified mail within 10 days that the journal
32 was relinquished to a peace officer. The notification shall include
33 the period of the journal entries, the commission number of the
34 notary public, the expiration date of the commission, and a
35 photocopy of the receipt. The notary public shall obtain a new
36 sequential journal. If the journal relinquished to a peace officer is
37 returned to the notary public and a new journal has been obtained,
38 the notary public shall make no new entries in the returned journal.
39 A notary public who is an employee shall permit inspection and
40 copying of journal transactions by a duly designated auditor or

1 agent of the notary public's employer, provided that the inspection
2 and copying is done in the presence of the notary public and the
3 transactions are directly associated with the business purposes of
4 the employer. The notary public, upon the request of the employer,
5 shall regularly provide copies of all transactions that are directly
6 associated with the business purposes of the employer, but shall
7 not be required to provide copies of any transaction that is unrelated
8 to the employer's business. Confidentiality and safekeeping of any
9 copies of the journal provided to the employer shall be the
10 responsibility of that employer.

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