



State of Wisconsin
2023 - 2024 LEGISLATURE

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2023 ASSEMBLY BILL 1099

February 20, 2024 - Introduced by LAW REVISION COMMITTEE. Referred to Committee on Rules.

AN ACT *to repeal* 422.402 and 422.421 (8); *to renumber and amend* 140.17; *to amend* 140.02 (1) (e), 140.02 (2) (a), 140.02 (3), 140.02 (4) (b), 140.02 (6) (a), 428.202 (2) (d) 1. and 551.406 (3) (a) 2.; and *to create* 140.17 (2m) and (3) of the statutes; **relating to:** updating an obsolete reference to the National Association of Securities Dealers, Inc.; eliminating an obsolete provision in the Wisconsin Consumer Act; updating a cross-reference to a federal law definition of high-cost mortgage; information included on a notary public's stamp and clarifying terminology and removing statutory duplication relating to notaries public (suggested as remedial legislation by the Department of Financial Institutions).

Analysis by the Legislative Reference Bureau

This bill updates an obsolete reference to the National Association of Securities Dealers, Inc., (NASD) in the Wisconsin Uniform Securities Law. In 2007, NASD consolidated with another organization, and the survivor organization

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changed its name to the Financial Industry Regulatory Authority, Inc., commonly known as FINRA. FINRA operates under U.S. Securities and Exchange Commission oversight and is responsible for, among other things, regulating securities firms that do business with the public, including with respect to professional training, testing, and licensing of registered persons. The bill changes the statutory reference from NASD to FINRA.

The bill also eliminates an obsolete provision in the Wisconsin Consumer Act. Current law restricts a merchant's ability to require balloon payments in certain consumer credit transactions. However, current law specifies that those restrictions do not apply to a transaction entered into on or after November 1, 1984. The bill eliminates those restrictions.

The bill also updates a cross-reference to federal law in a Wisconsin law regulating high cost mortgage lending. The Wisconsin statute defines "covered loan" by, among other things, a cross-reference to a definition under federal law for "high-cost mortgage." The federal law provision was renumbered and amended in 2010, resulting in the cross-reference in Wisconsin law becoming outdated. The bill changes the cross-reference to refer to the current federal law definition.

Additionally, the bill clarifies the information to be included on a notary public's stamp. The bill also clarifies certain terms and removes statutory duplication relating to notaries public.

Under current law, the Department of Financial Institutions issues commissions to notaries public. A notary public's notarial act must be evidenced by a certificate to which an official stamp is affixed or embossed if the notarial act relates to a tangible record or is attached to or logically associated with if the notarial act relates to an electronic record. An "official stamp" is defined as a physical image affixed to or embossed on a tangible record or an electronic image attached to or logically associated with an electronic record. Current law specifies that the official stamp of a notary public must include the notary public's name, jurisdiction, commission expiration date if applicable, and other information required by DFI.

Current law also requires a notary public applicant to provide to DFI an impression of his or her official seal or an imprint of his or her official rubber stamp.

Except with respect to an "official stamp," the seal or rubber stamp may include only the following: "Notary Public," "State of Wisconsin," and the name of the notary. Except when a notary public properly uses an "official stamp," the notary public must attest certain instruments by a clear impression of his or her seal or imprint of his or her rubber stamp, along with a written or stamped date of the notary public's commission expiration or statement that the commission is permanent.

The bill makes various changes to reconcile a substantive inconsistency, to create consistency in the use of terms, and to eliminate statutory duplication. The bill specifies that the "official stamp" of a notary public may, but is not required to, include the notary public's commission expiration date if applicable. Because the

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definition of “official stamp” includes what is elsewhere referred to in current law as a seal or rubber stamp, the bill harmonizes these terms, consistently adopting the term “official stamp.” Finally, the bill clarifies current law by eliminating duplication in certain statutory provisions.

For further information, see the NOTES provided by the Law Revision Committee of the Joint Legislative Council.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the Department of Financial Institutions and introduced by the Law Revision Committee under s. 13.83 (1) (c) 4. and 5., stats. After careful consideration of the various provisions of the bill, the Law Revision Committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

SECTION 1. 140.02 (1) (e) of the statutes is amended to read:

140.02 (1) (e) The qualified applicant shall file his or her signature, post-office address, and an impression of ~~his or her official seal~~, or imprint on a tangible record of his or her official ~~rubber~~ stamp, with the department.

NOTE: This SECTION replaces a reference to a notary public’s seal or rubber stamp with a reference to the notary public’s official stamp, which is defined to include both a seal and rubber stamp.

SECTION 2. 140.02 (2) (a) of the statutes is amended to read:

140.02 (2) (a) Except as provided in par. (am), any United States resident who is licensed to practice law in this state is entitled to a permanent commission as a notary public upon application to the department and payment of a \$50 fee. The application shall include a certificate of good standing from the supreme court, the signature and post-office address of the applicant and an impression of ~~the applicant’s official seal~~, or imprint on a tangible record of the applicant’s official ~~rubber~~ stamp.

NOTE: This SECTION replaces a reference to a notary public’s seal or rubber

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stamp with a reference to the notary public's official stamp, which is defined to include both a seal and rubber stamp.

SECTION 3. 140.02 (3) of the statutes is amended to read:

140.02 (3) ~~NOTARIAL SEAL OR OFFICIAL STAMP.~~ (a) ~~Except as authorized in s. 137.19, and except as provided in s. 140.17, every~~ Every notary public shall provide an engraved official seal ~~which makes a distinct and legible impression or official rubber stamp which makes a distinct and legible imprint on paper. The impression of the seal or the imprint of the rubber stamp shall state only the following: "Notary Public," "State of Wisconsin" and the name of the notary. But any notarial seal in use on August 1, 1959, shall be considered in compliance~~ stamp that satisfies the requirements under s. 140.17.

(b) The impression or imprint of the ~~notarial seal upon any instrument or writing~~ official stamp on a tangible record, or the impression upon wafer, wax, or other adhesive substance and affixed to ~~any instrument or writing~~ or embossed on a tangible record, shall be deemed an affixation or embossing of the seal, ~~and the imprint of the notarial rubber stamp upon any instrument or writing shall be deemed an affixation of the rubber~~ official stamp under s. 140.15 (2).

NOTE: This SECTION replaces the requirements for a notary public's official seal that creates an impression or rubber stamp imprint with a stamp that may, but need not, include the expiration date of the notary public's commission and establishes that the imprint of an official stamp on a tangible record constitutes an embossment of an official notary public seal.

SECTION 4. 140.02 (4) (b) of the statutes is amended to read:

140.02 (4) (b) ~~Except as authorized in s. 137.19, and except when a notary public properly uses an official stamp under s. 140.17, all certificates of acknowledgments of deeds and other conveyances, or any written instrument required or authorized by law to be acknowledged or sworn to before any notary~~

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~~public, In addition to satisfying the applicable requirement under s. 140.15 (2), a notary public who performs a notarial act within this state, shall be attested by a clear impression of the official seal or imprint of the rubber stamp of said officer, and in addition thereto shall be written or stamped~~ shall include on the certificate either the day, month, and year when the notary public's commission of said notary public will expire, expires or that such commission is permanent. This information may be part of the official stamp affixed to or embossed on the certificate, written on the certificate if it is a tangible record, or attached to or logically associated with the certificate.

NOTE: This SECTION states that a notary public who performs a notarial act must include a certificate that states the day, month, and year that notary public's commission expires or that the commission is permanent and establishes that this information may be part of the notary public's official stamp affixed to or embossed on the certificate, written on the certificate if it is a tangible record, or attached to or otherwise logically associated with the certificate.

SECTION 5. 140.02 (6) (a) of the statutes is amended to read:

140.02 **(6)** (a) The department may certify to the official qualifications of any notary public and to the genuineness of the notary public's signature and ~~seal or rubber~~ official stamp.

NOTE: This SECTION replaces a reference to a notary public's seal or rubber stamp with a reference to the notary public's official stamp, which is defined to include both a seal and rubber stamp.

SECTION 6. 140.17 of the statutes is renumbered 140.17 (1m), and 140.17 (1m) (a), as renumbered, is amended to read:

140.17 **(1m)** (a) Include the notary public's name, ~~jurisdiction, commission expiration date if applicable,~~ the words "Notary Public" and "State of Wisconsin," and other information required by the department.

NOTE: This SECTION replaces a requirement that the official stamp of a notary

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public must include, in addition to the notary public's name and other information required by the Department of Financial Institutions, the notary public's jurisdiction and commission expiration date with a requirement that the official stamp include the words "Notary Public" and "State of Wisconsin."

SECTION 7. 140.17 (2m) and (3) of the statutes are created to read:

140.17 **(2m)** The official stamp of a notary public may include the notary public's commission expiration date if applicable.

(3) The official stamp of a notary public may not include information other than the information required under sub. (1m) or permitted under sub. (2m).

NOTE: This SECTION establishes that the official stamp of a notary public may, but need not, include the date that the notary public's commission expires and may not include information that is not either required or expressly permitted in state law.

SECTION 8. 422.402 of the statutes is repealed.

NOTE: This SECTION repeals an obsolete restriction affecting certain transactions entered into before November 1, 1984.

SECTION 9. 422.421 (8) of the statutes is repealed.

NOTE: This SECTION eliminates a statutory subsection that references another statute repealed in this bill.

SECTION 10. 428.202 (2) (d) 1. of the statutes is amended to read:

428.202 **(2)** (d) 1. That the loan transaction, at the time that the loan is consummated, is considered a mortgage under 15 USC 1602 ~~(aa)~~ (bb) and regulations adopted thereunder, including 12 CFR 226.32.

NOTE: This SECTION updates a reference to a federal statute that was renumbered and amended in 2010.

SECTION 11. 551.406 (3) (a) 2. of the statutes is amended to read:

551.406 **(3)** (a) 2. The date that approval of registration status is transmitted by the administrator to the applicant through the central registration depository of the ~~National Association of Securities Dealers, Inc.~~ Financial Industry Regulatory Authority, Inc.

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SECTION 11

NOTE: This SECTION updates the name of the National Association of Securities Dealers, Inc., to the Financial Industry Regulatory Authority, Inc.

(END)