

MEMORANDUM

State of Alaska

Department of Law

TO: The Honorable John B. Coghill
Lieutenant Governor
State of Alaska

DATE: February 12, 1992

FILE NO: 663-89-0574

TEL. NO: 465-3600

SUBJECT: Authority of a notary
public to certify copies

FROM:  Marjorie L. Odland
Assistant Attorney General
Governmental Affairs -Juneau

You have asked us whether AS 44.50.060 authorizes a notary public in Alaska to certify copies of documents. 1/ In short, because Alaska law does not directly authorize a notary public to certify copies it is our opinion that a notary public may not certify copies.

The duties of a notary public in Alaska are specifically set out in AS 44.50.060, as follows:

Duties. A notary public shall

(1) when requested, demand acceptance and payment of foreign and inland bills of exchange, or promissory notes, protest them for nonacceptance and nonpayment, and exercise the other powers and duties which by the law of nations and according to commercial usages, or by the laws of any other state, government, or country, may be performed by notaries;

(2) take the acknowledgment or proof of powers of attorney, mortgages, deeds, grants, transfers, and other instruments of writing, and give a certificate of the proof or acknowledgment, endorsed on or attached to the instrument; the certificate shall be signed by the notary in the notary's own handwriting;

(3) take depositions and affidavits, and administer oaths and affirmations, in all matters incident to the duties of the office, or to be used before a court, judge, officer, or board in the state; a deposition,

1/ For the purposes of this memorandum, a "certified copy" is a document that the notary public verifies is an accurate reproduction of the original document; ideally, with the reproduction is made by or in the presence of the notary.

affidavit, oath, or affirmation shall be signed by the notary in the notary's own handwriting, and the notary shall endorse after the signature the date of expiration of the notary's commission.

Nowhere in the duties of a notary public is certifying copies of documents mentioned as a notarial act. And, because AS 44.50.060 is very specific in listing the acts that a notary public may perform, it can be presumed that a notary may not perform any act not specified in the statute. This maxim of statutory construction is called expressio unius est exclusio alterius. 2/

Also, the office of the lieutenant governor has long interpreted AS 44.50.060 as not allowing a notary public to certify copies of documents. See A Handbook for the Alaskan Notary, Office of the Lieutenant Governor. Long-continued contemporaneous and practical interpretation of a statute by the executive officers charged with its administration constitutes an invaluable aid in determining the meaning of a doubtful statute. The use of contemporary interpretation provides certainty in the law and justifies reliance upon the conduct of public officials. 2A N. Singer, Sutherland Statutory Construction § 49.03, at 353 (4th ed. rev. 1984).

We acknowledge that under the Uniform Law on Notarial Acts, § 2(d), a notary may certify and attest to the authenticity of a copy of a document and, in so doing, must determine that the copy is a full, true, and accurate reproduction of the original. However, because Alaska's notary law was enacted before the Uniform Law on Notarial Acts was written, the uniform act is not a useful extrinsic aid in interpreting whether AS 44.50.060 allows a notary in Alaska to certify copies. 3/

In conclusion, it is our opinion that a notary public in Alaska is not authorized to certify copies of documents under current law, AS 44.50.060.

2/ As the maxim is applied to statutory interpretation, where a form of conduct, the manner of its performance and operation, and the persons and things to which it refers are designated, there is an inference that all omissions should be understood as exclusions. 2A N. Singer, Sutherland Statutory Construction § 47.23, at 194 (4th ed. rev. 1984).

3/ AS 44.50.060 was enacted in 1961. Sec. 5, ch. 99, SLA 1961. The "Uniform Law on Notarial Acts" was drafted by the National Conference of Commissioners on Uniform State Laws in 1982.

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If you have further questions on this matter, please do not hesitate to call us.

cc: Patty Trott
Notary Commissions Administrator
Office of the Lieutenant Governor