

Vote Record

Senate Committee on Economic Development, Housing and Government Operations

Date: 3-21-00
Moved by: 487 Zien Seconded by: Drz
AB: _____ Clearinghouse Rule: _____
AB: _____ SB: _____ Appointment: _____
AJR: _____ SJR: _____ Other: _____
A: _____ SR: _____

A/S Amdt: _____
A/S Amdt: _____ to A/S Amdt: _____
A/S Sub Amdt: _____
A/S Amdt: _____ to A/S Sub Amdt: _____
A/S Amdt: _____ to A/S Amdt: _____ to A/S Sub Amdt: _____

Be recommended for:

- Passage
- Introduction
- Adoption
- Rejection

- Indefinite Postponement
- Tabling
- Concurrence
- Nonconcurrence
- Confirmation

Committee Member

- Sen. Robert Wirch, Chair
- Sen. Gwendolynne Moore
- Sen. Richard Grobschmidt
- Sen. Gary Drzewiecki
- Sen. David Zien

<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Totals: _____

SENATE HEARING SLIP

(Please Print Plainly)

DATE: 3/21/00

BILL NO. AB 487

OR
SUBJECT Notary residency

requirements

Tina Krajewski & Marjorie Ross
(NAME)

(Street Address or Route Number)

(City and Zip Code)

Office of Secretary of State
(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

Registering Against:

but not speaking:

Speaking for information only; Neither for nor against:

Please return this slip to a messenger PROMPTLY.
Senate Sergeant-At-Arms
State Capitol - B35 South
P.O. Box 7882
Madison, WI 53707-7882

SENATE HEARING SLIP

(Please Print Plainly)

DATE: 3/21/2000

BILL NO. AB 487

OR
SUBJECT Notary Resumes

RICHARD KARTH
(NAME)

1283 Roy St. N5
(Street Address or Route Number)

OMNASCIA, WI 53650
(City and Zip Code)

FIRST FOOLM SAVING BANK
(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

Registering Against:

but not speaking:

Speaking for information only; Neither for nor against:

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State Capitol - B35 South
P.O. Box 7882
Madison, WI 53707-7882

SENATE HEARING SLIP

(Please Print Plainly)

DATE: 03-21-00

BILL NO. AB 487

OR
SUBJECT NOTARY

MICHAEL WILLE
(NAME)

2929 N. BAYSHOLE DR
(Street Address or Route Number)

LA CROSSE WI 54603
(City and Zip Code)

THE TITLE COMPANY INC
(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

Registering Against:

but not speaking:

Speaking for information only; Neither for nor against:

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State Capitol - B35 South
P.O. Box 7882
Madison, WI 53707-7882

SENATE HEARING SLIP

(Please Print Plainly)

DATE: 3-21-00

BILL NO. AB 487

OR
SUBJECT _____

Pete Christianson
(NAME)

1 S. Pinckey Suite 600
(Street Address or Route Number)

MSN WI 53701-2113
(City and Zip Code)

Wis. Land Title Assoc.
(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:
but not speaking:

Registering Against:
but not speaking:

Speaking for information
only; Neither for nor against:

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State Capitol - B35 South
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Madison, WI 53707-7882

SENATE HEARING SLIP

(Please Print Plainly)

DATE: 3/21/00

BILL NO. AB 487

OR
SUBJECT _____

James E. Hough
(NAME)

10 East Doty St. Suite 500
(Street Address or Route Number)

Madison, WI 53703
(City and Zip Code)

Wis. Court Reporters Assoc.
(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:
but not speaking:

Registering Against:
but not speaking:

Speaking for information
only; Neither for nor against:

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State Capitol - B35 South
P.O. Box 7882
Madison, WI 53707-7882

SENATE HEARING SLIP

(Please Print Plainly)

DATE: 03/21/00

BILL NO. AB 487

OR
SUBJECT NOTARY

KURT BAUER
(NAME)

PO BOX 8880
(Street Address or Route Number)

MADISON 53718
(City and Zip Code)

WIS. BANKERS
(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:
but not speaking:

Registering Against:
but not speaking:

Speaking for information
only; Neither for nor against:

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Senate Sergeant-At-Arms
State Capitol - B35 South
P.O. Box 7882
Madison, WI 53707-7882

DOUGLAS LA FOLLETTE



SECRETARY OF STATE
WISCONSIN

**Testimony Presented to the Senate Committee on
Economic Development, Housing, and Government Operations**

Tuesday, March 21, 2000

AB 487: relating to qualifications of a notary public

As the Office of Secretary of State is the commissioning agency for notaries public in the state of Wisconsin, we have dealt with questions over the years regarding the legality of requiring notaries commissioned in Wisconsin to be residents of the state. Nationwide the trend among states is to permit nonresidents to become notaries.

This is particularly true in situations as found in areas like La Crosse or the Twin Cities, where people live in one state but work and/or do business in the neighboring state. With business being conducted regularly in this state by representatives from other states, it would facilitate the process if a person could be a Wisconsin notary public regardless of where that person resides -- whether it be a neighboring state or elsewhere. In addition, it is probably only a matter of time until our residency requirement is challenged in a court of law. (See attached article, dated Feb. 2000.)

The language in the bill removing bonding responsibilities from the clerk of court is further example of changes in our society and how we do business. The statutory language giving clerk of court the authority to issue personal surety bonds for notaries dates back to when the person serving as clerk of court was probably familiar with everyone in the community and could speak on their behalf. This is no longer the case and the clerks are uncomfortable with requests made by complete strangers to issue personal surety bonds.

The Office of Secretary of State supports A.B. 487 and encourages this Committee to do the same. There is no fiscal attached to this bill as we feel the number of applications generated by the passing of A.B. 487 will be minimal and easily absorbed by our current staff.

Trend Toward Non-Resident Notaries May Continue

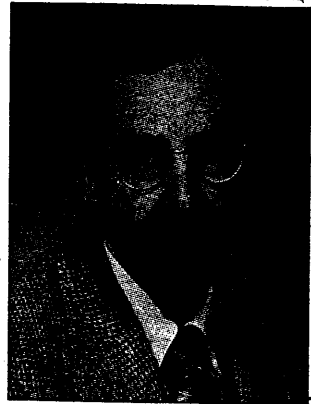
No doubt most applicants never give a second thought to whether or not they must meet a residency requirement in order to be commissioned as a Notary Public.

The lion's share of applicants probably just assume that they can become Notaries in their resident state and nowhere else. Of course, this is not true.

Although many states only permit residents to become Notaries, a good number have statutes that specifically allow for non-resident Notaries. More interestingly, states with "resident only" laws may be required to commission certain non-residents as Notaries in the future.

Because the U.S. Constitution guarantees all persons equal protection under the law, a state cannot treat its residents differently by providing benefits to some while denying the same benefits to others unless there is a basis for distinguishing one group from another.

States with 'resident only' laws may be required to commission certain non-residents as Notaries in the future.



When a state stipulates that only a resident may qualify to be a Notary, such a rule treats all residents of the state equally, and only discriminates against non-residents.

Because residents and non-residents are properly distinguishable groups, this distinction does not appear to violate the "equal protection" guarantee.

This seems both logical and sensible, and is simple enough. But, let us consider this scenario.

Suppose Jan Smith, a non-resident, is conducting business in State B, and that Smith must become a Notary in order to compete effectively with State B residents engaged in the same business.

Can State B properly impose a "resident only" restriction and deny Smith application to become a State B Notary?

Initially, one might respond, yes. But there is more to this matter than mere residency. Since Smith conducts business in State B and needs to be a Notary in order to compete effectively, equal protection rules suggest that Smith be treated in the

See MORRIS, page 3

Malcolm L. Morris is an attorney and professor at the Northern Illinois University College of Law in DeKalb, and is a commissioned Notary in the state of Illinois. He was a member of the Drafting Commission for The Notary Public Code of Professional Responsibility and is one of the co-authors of the book Notary Law and Practice: Cases and Materials.

Morris: Non-Resident Trend May Continue for Notaries

Continued from page 1
same way as others engaged in the same business.

Thus, if other people in the business are entitled to become Notaries, Jan Smith should be given the same rights.

The end result is that even though the "resident only" statute is constitutional on its face, it can nonetheless be invalid when applied to certain individuals.

Sound crazy? Well, this actually happened. An Ohio lawyer was admitted to practice law in Michigan. She drafted legal doc-

uments that often required notarizations, and thus, being a Notary was necessary for her to effectively pursue her law practice in Michigan. Not being a Michigan resident, she was refused a Notary commission.

A federal court ruled the statute was unconstitutional as it applied to the lawyer because it denied her equal protection rights to effectively practice law in Michigan. Michigan subsequently changed its law to allow non-residents who do business in the state to become Notaries. More states may follow suit.



Monday, March 20, 2000

Assembly Judiciary and Personal Privacy Committee
Senate Economic Development, Housing, and Government Operations Committee
300 SE Capitol
State Capital
Madison, Wisconsin 53701

Re: AB-487 Qualifications of Notary Public

Committee Members and Staff:

Please register my support for the above referenced bill.

This bill was introduced to expand the residency requirement for notary publics from Wisconsin only to "residents of the United States". Under existing law only Wisconsin residents can be Wisconsin notary publics. Legal documents such as deeds, mortgages, satisfactions, assignments, etc. which are executed in Wisconsin (regardless of the state in which they will be recorded) must be notarized by a Wisconsin notary.

The current residency requirement limits Wisconsin businesses that employ staff exercising the duties of a notary public to only Wisconsin residents. While probably good intentioned when the residency requirement was last visited by the Legislature, this requirement has become awkward in today's mobile economy. Our Bank has experienced problems with the existing residency requirement in our offices in Hudson (St. Croix), La Crosse and Onalaska (La Crosse), Prairie du Chien (Crawford), and Beloit (Rock). We expect similar problems in Lake Geneva, Racine, and Kenosha were the Bank has recently opened new offices.

The goal of successful businesses today should be to hire the best qualified candidate for a position, regardless of their state of residence. Enactment of **AB 478** will enable Wisconsin businesses to focus on hiring the best person for the job so that person can make a contribution to the business's effort in competing in the regional, national, and global economy of today.

Thank you for your time and consideration. If you have any questions, please do not hesitate to call me.

Sincerely yours,

First Federal Savings Bank La Crosse - Madison

A handwritten signature in black ink, appearing to read 'R. Karth', with a long horizontal line extending to the right.

Richard Karth, Vice President
Secondary Market Manager

Voice: 608-784-8000 ext 201
Fax: 608-785-1685
E-mail: dkarth@firstfed.com



First Federal Savings Bank
P.O. Box 1868
La Crosse, WI 54602-1868
608-781-4636
Or 800-657-4636

Economic Development Housing and Government Operations Committee

March 21, 2000

10:00 AM

Room 300 South East

AB-487 - Qualifications of a Notary Public

Comments by: Michael F. Wille
The Title Company, Inc.
750 N. Third Street
La Crosse, WI 54602-0578

My name is Mike Wille and I am president of The Title Company, Inc. which is based in La Crosse with offices in Eau Claire, Viroqua and Prairie du Chien. I am here today to speak in favor of Assembly Bill #487 - Qualifications of a Notary Public.

As a title company we handle real estate closings between sellers and buyers and on behalf of lenders. Typically a real estate closing requires three documents to have an acknowledgement by a Notary Public. The seller executes a deed and an affidavit covering construction work and tenants while the buyer executes a mortgage.

In our La Crosse office we have employees who reside in Minnesota and in our Prairie du Chien office we have an employee who resides in Iowa. Current Wisconsin law prohibits these employees from becoming a Wisconsin Notary Public. At one point our Prairie du Chien office had only two employees and they both resided in Iowa. We ended up getting the building owner, who was a chiropractor, to obtain his Notary. In between patients he would come into the closing to witness the signing of the documents mentioned above.

I am a Notary Public for Minnesota and Wisconsin even though I am a Wisconsin resident. In drafting this bill we looked at Minnesota requirements. I feel this bill is much more practical than and progressive in the fact that it allows anyone who is a United State citizen to become a Notary Public in Wisconsin. While this would allow someone from California to become a Notary Public they would have to have some ties to the State of Wisconsin because the purpose of a Notary is to acknowledge the signing of the document within the borders of the state.

I am on the Board of Governors for the American Land Title Association and we are looking at the future of digital signatures and Internet closings. This bill does not deal with the future it brings Wisconsin's Notary Law out of the past and more in line with today's business practices. It is possible for the real estate agent, an attorney and a mortgage broker to attend a closing. All of these people can be out of state residents licensed to conduct business in Wisconsin. Currently the Notary Public can not be an out of state resident.

AB-487 - Qualifications of a Notary Public will allow a non resident to become a Notary Public in the State of Wisconsin just like other licensees and make Wisconsin a friendly place to do business. I urge you to vote in favor of AB-487.



Wisconsin Senate Assistant Republican Leader
Senator Brian D. Rude

DATE: March 21, 2000

TO: Chairperson Wirch, Senator Moore, Senator Grobschmidt,
Senator Drzewiecki, Senator Zien

FROM: Senator Brian D. Rude

RE: Support for Assembly Bill 487

As members of the Senate Committee on Economic Development, Housing and Government Operations, thank you for allowing me to submit testimony in support of Assembly Bill 487. A long standing scheduling commitment prevents me from personally testifying before you today.

Assembly Bill 487 expands the persons eligible to be notaries public in the State of Wisconsin to include anyone who resides in the United States. Under current law, only residents of the State of Wisconsin are now eligible to be notaries in the State of Wisconsin. This law has created a hardship for many constituents in my district and is the primary reason why I chose to sponsor this legislation.

Nancy Johnson, whose court reporting service business is located in La Crosse, approached me earlier this year to ask for assistance in changing the law. It is my understanding that at the time she had 6 employees, three of whom lived just across the border in the State of Minnesota. While these employees hold a notary license in Minnesota and are allowed to use their notary in Wisconsin, there is one exception to this use of their license. That would be federal law. Federal Law requires notaries dealing with Federal Court cases to be certified as a notary in the state in which they are serving as a notary. With a fourth employee considering a move to La Crescent, Minnesota, scheduling her staff for specific cases was becoming a serious problem. Consequently, four of her six employees would not be allowed to handle any federal cases in Wisconsin because their notary license was not issued in Wisconsin.

In researching this issue, it was determined that both Minnesota and Iowa allow residents of bordering states to be certified in their state. Consequently, she asked me to join Representative Huebsch in introducing similar legislation in Wisconsin that would allow Minnesota and Iowa residents the same privilege.

A Notary Specialist in the Secretary of State's Office, shared with my office that this issue had come up before and was a problem in other areas of the state. In fact, we have also found that the problem went beyond bordering states. Also, further research and contact with the Attorney General's Office resulted in the current proposal that changes the statutory language to include any qualifying resident of the United States.

I urge you to support AB 487. Today many Wisconsin businesses employ staff or operate beyond our border. This change reflects the way we do business in Wisconsin now and in the future. Thank you.



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Thank you for your time and consideration. If you have any questions, please do not hesitate to call me.

Sincerely yours,

First Federal Savings Bank La Crosse - Madison

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Richard Karth, Vice President
Secondary Market Manager

Voice: 608-784-8000 ext 201
Fax: 608-785-1685
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