May 26, 2009

To: All Fidelity Attorney Agents and Customers

Re: Changes to Illinois Notary Public Act

Public Act 95-988 makes substantial changes to the Illinois Notary Public Act (5 ILCS 312) effective June 1, 2009. This amendment requires new procedures for our offices and agents when notarizing certain deeds for Cook County property. This memo is intended to be a summary to assist in preparation for the changes that must be implemented prior to June 1, 2009.

If you have any questions, please contact your local Fidelity office – or, of course, please call me at any time.

Here is a brief summary of the changes to our procedures, as well as the changes to the Illinois Notary Public Act due to Public Act 95-988:

1. **New Title Exceptions:**

   In anticipation of the coming changes, we have started to will raise two new informational exceptions on our commitments. These exceptions are as follows:

   **For Cook County Property Commitments:**

   Effective June 1, 2009, if any document of conveyance for Cook County Residential Real Property is to be notarized by a Company employee who is an Illinois notary public, Public Act 95-988 requires the completion of a Notarial Record for each grantor whose signature is notarized. The Notarial Record will include the thumbprint or fingerprint of the grantor. The grantor must present identification documents that are valid; are issued by a state or federal government agency of the United States; bear the photographic image of the individual’s face; and bear the individual’s signature.

   **For All Illinois Property Commitments:**

   Effective June 1, 2009, pursuant to Public Act 95-988, satisfactory evidence of identification must be presented for the notarization of any and all documents notarized by an Illinois notary public. Pursuant to this Act, it is our requirement that satisfactory identification documents are documents that are valid at the time of the notarial act; are issued by a state or federal government agency of the United States; bear the photographic image of the individual’s face; and bear the individual’s signature.
2. What documents does this apply to?

The new provisions only affect transactions involving **certain deeds for Residential Real Property in Cook County**. Residential Real Property is defined as buildings containing one to four dwelling units or an individual residential condominium unit. The following are exceptions, and would therefore **not** be affected by these new requirements (see amendments to 5 ILCS 312/3-102):

i. court-ordered and court-authorized deeds, including quit-claim deeds pursuant to a judgment for dissolution of marriage and transfers in the administration of a probate estate;
ii. judicial sales deeds, including foreclosures and levy sales;
iii. deeds into trust where the beneficiary is also the grantor;
iv. deeds from grantors to themselves that are intended to change the nature or type of tenancy;
v. deeds from a grantor to the grantor and another natural person that are intended to establish a tenancy by which the grantor and the other natural person own Residential Real Property;
vi. deeds in lieu of foreclosure; or
vii. deeds transferring ownership to a grantor trust where the beneficiary includes the grantor.

2. What does the notary need to do?

a) For documents affected by the new provisions, the notary must create a Notarial Record. This Notarial Record must include a signature and thumbprint of the person whose signature is being notarized. In addition, the Notarial Record must include various details including the date, type of document, PIN and address of the property, the printed name and address of each person whose signature is notarized and a certification by the person that the property in question is “Residential” as defined by the Act, a description of the ID or evidence reviewed by the notary, the date of notarization, fee charged and other details about the notary.

b) In addition, if the Notary is:

i) **Principal/Employee/Agent of a Title Insurance Company/Agent, financial institution or attorney**: notary must deliver the original Notarial Record to the notary’s employer or principal within 14 days after performance of the notarial act for retention for a period of 7 years as part of the employer’s or principal’s business records.

ii) **Not one the above**: notary delivers the original Notarial Record to the Recorder of Deeds of Cook County within 14 days.

Notary may not retain any copies of the Notarial Record, but the employer or principal may retain copies as part of its business records (subject to applicable privacy laws). It is not to be disclosed absent a proper subpoena, and is not subject to Freedom of Information Act requests.
3. **Other Changes**

- These provisions are in effect until July 1, 2013
- The maximum fee for a notarial act is increased from $1.00 to $25.00
- There is a specific provision describing what identification documents constitute “satisfactory evidence” is for purposes of the Act: “**Identification documents are documents that are valid at the time of the notarial act, issued by a state or federal government agency, and bearing the photographic image of the individual's face and signature of the individual.**”

The statutorily required version of the form is attached. Our Fidelity form will be substantially similar.

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NOTARIAL RECORD – RESIDENTIAL REAL PROPERTY TRANSACTIONS

Date Notarized:
Fee: $

The undersigned grantor hereby certifies that the real property identified in this Notarial Record is Residential Real Property as defined in the Illinois Notary Public Act.

Grantor's (Signer's) Printed Name:

Grantor's (Signer's) Signature:

Grantor's (Signer's) Residential Street Address, City, State, and Zip:

Type or Name of Document of Conveyance:

PIN No. of Residential Real Property:

Common Street Address of Residential Real Property:

Thumbprint or Fingerprint:

Description of Means of Identification:

Additional Comments:

Name of Notary Printed:

Notary Phone Number:

Commission Expiration Date:

Residential Street Address of Notary, City, State, and Zip:

Name of Notary's Employer or Principal:

Business Street Address of Notary's Employer or Principal, City, State, and Zip: