

HB 398-FN - AS INTRODUCED

2015 SESSION

15-0494
05/06

HOUSE BILL **398-FN**

AN ACT relative to the acceptance of documents notarized by a justice of the peace.

SPONSORS: Rep. Ulery, Hills 37

COMMITTEE: Judiciary

ANALYSIS

This bill clarifies that a justice of the peace is not required to use an official state seal or stamp to issue a valid acknowledgment. The bill also establishes penalties for failure to accept a document that was properly notarized by a justice of the peace.

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears [~~in brackets and struck through.~~]
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Fifteen

AN ACT relative to the acceptance of documents notarized by a justice of the peace.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Justice of the Peace; Powers. Amend RSA 455-A:3 to read as follows:

2 455-A:3 Powers. Every justice of the peace shall have the power to administer oaths, perform
3 marriage ceremonies, acknowledge instruments, and any other power prescribed by law. A justice of
4 the peace signing an acknowledgment or jurat on any document or instrument shall type, print, or
5 stamp the name of the justice of the peace and state the expiration date of his or her commission on
6 the document or instrument. However, failure to meet these requirements shall not impair the legal
7 validity of any acknowledgment or jurat. ***The official seal or rubber stamp used by a notary
8 public pursuant to RSA 455:3 shall not be required for a valid acknowledgment by a justice
9 of the peace.***

10 2 New Section; Failure to Accept Certificate of Notarial Act; Penalty. Amend RSA 455-A by
11 inserting after section 3 the following new section:

12 455-A:4 Failure to Accept Certificate of Notarial Act; Penalty. Any person who refuses to accept
13 an acknowledgment or jurat by a justice of the peace that meets the requirements of RSA 455-A:3
14 shall be guilty of a misdemeanor and subject to a \$5,000 fine.

15 3 Effective Date. This act shall take effect January 1, 2016.

HB 398-FN - FISCAL NOTE

AN ACT relative to the acceptance of documents notarized by a justice of the peace.

FISCAL IMPACT:

The Judicial Branch and New Hampshire Association of Counties state this bill, **as introduced**, may increase state and county expenditures by an indeterminable amount in FY 2016 and each year thereafter. There will be no fiscal impact on local expenditures or state, county, and local revenue.

METHODOLOGY:

The Judicial Branch, Department of Justice, and New Hampshire Association of Counties state this bill provides that a justice of the peace is not required to use an official state seal or stamp to issue a valid acknowledgement. This bill makes it an unspecified misdemeanor, with a fine up to \$5,000, for any person who refuses to accept an acknowledgement by a justice of the peace that meets the requirements contained in this bill. An unspecified misdemeanor can be either class A or class B, with the presumption being a class B misdemeanor. There is no method to determine how many charges would be brought as a result of the changes contained in this bill to determine the fiscal impact on expenditures. However, the Judicial Branch and New Hampshire Association of Counties have provided the potential costs associated with the penalties contained in this bill, where they can be determined. See table below for average cost information:

	FY 2016	FY 2017
<u>Judicial Branch*</u>		
Class B Misdemeanor	\$48	\$51
Class A Misdemeanor	\$69	\$71
Appeals	Varies	Varies
*It should be noted average case cost estimates for FY 2016 and FY 2017 are based on data that is more than nine years old and does not reflect changes to the courts over that same period of time or the impact these changes may have on processing the various case types.		
<u>NH Association of Counties</u>		
County Prosecution Costs	Indeterminable	Indeterminable
County Enforcement Costs	Indeterminable	Indeterminable

Estimated Average Cost of Incarcerating an Individual	\$35,000	\$35,000
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The Department of Justice states these types of offenses are typically prosecuted by local and county prosecutors, therefore this bill will have no fiscal impact on state expenditures.

The Judicial Council states the indigent defense delivery system is not often called on to provide representation to someone who violates laws related to the acceptance of properly notarized documents. Therefore, the Council states this bill is unlikely to have an impact on state expenditures related to indigent defense.