

**OPINION
70-264**

August 3, 1970 (OPINION)

Mr. Charles Bosch

Motor Vehicle Registrar

State Capitol

RE: Notary Public - Signatures - Use of Facsimile

This is in response to your letter dated July 23, 1970, wherein you request our opinion regarding the use of facsimile signatures by a notary public. You submit the following in your letter:

"We have recently been asked by a Notary Public if he could use a 'signature stamp' when notarizing North Dakota certificates of title. This is a situation where a signature stamp would be preferable rather than signing the signature, due to the volume of notarizing being done by this particular Notary Public.

"Since we can find no definite answer to this question, we are requesting your opinion regarding this matter."

In that connection we would first note the provisions of section 44-08-13 of the North Dakota Century Code, as amended, which provides as follows:

"FACSIMILE SIGNATURE. Any authorized officer, after filing with the secretary of state or, in the case of officers of any city, village, county, school district or other political subdivision, with the clerk of such subdivision, his manual signature certified by him under oath, may execute or cause to be executed with a facsimile signature in lieu of his manual signature:

1. Any public security, provided that at least one signature required or permitted to be placed thereon shall be manually subscribed, but no such manual subscription shall be required as to interest coupons attached to such security; and
2. Any instrument of payment. Upon compliance with sections 44-08-12 through 44-08-15 by the authorized officer, his facsimile signature has the same legal effect as his manual signature." (emphasis supplied)

For purposes of definition, we note that section 44-08-12 of the North Dakota Century Code, as amended, provides in part:

"DEFINITIONS. As used in sections 44-08-12 through 44-08-15:

1. 'Public security' means a bond, note, certificate of indebtedness, or other obligation for the payment of money, issued by this state or by any of its departments,

agencies, public bodies, or other instrumentalities or by any of its political subdivisions.

2. 'Instrument of payment' means a check, draft, warrant, or order for the payment, delivery, or transfer of funds.
3. * * *.
4. 'Facsimile signature' means a reproduction by engraving, imprinting, stamping, or other means of the manual signature of an authorized officer."

It would appear that certificates of title issued by the Motor Vehicle Department are not contemplated by section 44-08-13, quoted above, which permits the use of facsimile signatures. Clearly such certificates do not constitute "public securities" or "instruments of payment" as contemplated by the statute.

Regarding the use of such facsimile signatures by a notary public, we note the provisions of section 44-06-12 of the North Dakota Century Code, which provide in part:

"NOTARY PUBLIC COMMISSION - DATE OF EXPIRATION. Every notary public taking an acknowledgment to any instrument, immediately following his signature to the jurat or certificates of acknowledgment, shall legibly print, stamp, or type his name and shall endorse the date of the expiration of such commission. * * *." (emphasis supplied)

Accordingly, it would appear that a Notary Public must affix his manual signature to such instruments as certificates of title issued by the Motor Vehicle Department.

In conclusion, we are of the opinion that a Notary Public may not use a facsimile signature or "signature stamp" when notarizing North Dakota certificates of title, but must rather affix his manual signature to same as required by statute.

We trust that the foregoing will adequately set forth our position on the matter presented.

HELGI JOHANNESON

Attorney General