

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

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INTRODUCED BY MR. SIEMINSKI, MRS. HONAMAN AND MR. GRUPPO,
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AS REPORTED FROM COMMITTEE ON STATE GOVERNMENT, HOUSE OF
REPRESENTATIVES, AS AMENDED, SEPTEMBER 15, 1980

AN ACT

1 Providing for the appointment of notaries public and the
2 revocation or suspension of their commissions; requiring them
3 to maintain registers; establishing their powers and duties
4 and providing penalties.

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27 The General Assembly of the Commonwealth of Pennsylvania

28 hereby enacts as follows:

29 CHAPTER 1

30 PRELIMINARY PROVISIONS

1 Section 101. Short title.

2 This act shall be known and may be cited as the "Notary
3 Public Law."

4 Section 102. Purposes; rules of construction.

5 (a) The underlying purposes of this act are to simplify,
6 clarify and modernize the law governing notaries public.

7 (b) In this act, unless the context otherwise requires,
8 words in the singular shall include the plural and those in the
9 plural shall include the singular; likewise, words of the
10 masculine gender shall include the feminine.

11 Section 103. Definitions:

12 The following words and phrases when used in this act shall
13 have, unless the context clearly indicates otherwise, the
14 meaning given to them in this section:

15 "Notarization." The performance of a notarial act.

16 "Notary public" or "notary." Are used interchangeably to
17 mean any public official appointed and commissioned by the
18 Secretary of the Commonwealth to perform notarial acts.

19 "Official misconduct." The wrongful exercise of a power or
20 the wrongful performance of a duty. The term "wrongful" as used
21 in the definition of official misconduct means unauthorized,
22 unlawful, abusive, negligent, reckless or injurious.

23 CHAPTER 2

24 APPOINTMENT

25 Section 201. Appointment, jurisdiction.

26 (a) The Secretary of the Commonwealth shall appoint and
27 commission notaries public in such number as deemed necessary
28 for the public convenience.

29 (b) The jurisdiction of notaries public shall be coextensive
30 with the boundaries of the Commonwealth, irrespective of their

1 place of residence within the Commonwealth.

2 Section 202. Eligibility.

3 Any person making application for appointment to notary
4 public shall:

5 (1) Be a citizen of the United States.

6 (2) Be a resident of the Commonwealth of Pennsylvania
7 for at least one year immediately preceding the date of
8 application.

9 (3) Be at least 18 years of age by the time application
10 is made.

11 (4) Be a registered elector of the Commonwealth.

12 (5) Be able to read and write English.

13 Section 203. Disqualification from appointment.

14 (a) The following persons shall be ineligible for
15 appointment to the office of notary public:

16 (1) Any person holding any judicial office in this
17 Commonwealth, except a district justice, district magistrate
18 or alderman.

19 (2) All members of Congress and all persons whether an
20 officer, subordinate officer or agent, holding any office or
21 appointment of profit or trust under the Legislative,
22 Executive or Judicial Departments of Government of the United
23 States to which salaries or fees are attached.

24 (b) In addition, no person convicted of having committed a
25 felony shall be appointed and commissioned as a notary public.

26 (c) Any person who fails to demonstrate through the
27 application or examination provisions hereinafter described that
28 he is of known character, integrity and ability shall also be
29 ineligible for appointment to the office of notary public.

30 Section 204. Terms of office, fees collected.

1 (a) Notaries public shall be appointed for a term of four
2 years which begins from the date of appointment.

3 (b) Notaries public shall collect fees for services in an
4 amount not to exceed those fixed by the Secretary of the
5 Commonwealth, in accordance with the act of July 31, 1968
6 (P.L.769, No.240), referred to as the Commonwealth Documents
7 Law.

8 Section 205. Application procedure, endorsement, reappointment.

9 (a) Applications for appointment to the office of notary
10 public shall be made to the Secretary of the Commonwealth, on
11 forms prescribed and furnished by him. All applications shall be
12 accompanied by a fee prescribed by the Secretary of the
13 Commonwealth, payable to the order of the State Treasurer, by
14 money order, certified check or draft.

15 (b) Each application, in addition to any other information
16 contained therein, shall bear the endorsement of the Senator of
17 the district in which the applicant resides, or, in the case of
18 a vacancy in that senatorial district, shall be endorsed by the
19 Senator of an adjacent district.

20 (c) Each application shall further be accompanied by a
21 completed written examination prescribed by the Secretary of the
22 Commonwealth to determine the fitness of the applicant to
23 exercise the functions of the office of notary public. All
24 questions contained in the examination shall be based on the
25 Laws of the Commonwealth as set forth in the booklet of the Laws
26 of Pennsylvania relating to notaries public distributed by the
27 Secretary of the Commonwealth.

28 (d) A notary public shall apply for reappointment in
29 accordance with all of the provisions of this section. All
30 applications for reappointment shall be filed not earlier than

1 120 days and not later than 60 days prior to the expiration of
2 the commission under which the notary is acting.

3 Section 206. State employees as notaries public.

4 (a) The Secretary of the Commonwealth may appoint and
5 commission such number of State employees as notaries public, to
6 act for and in behalf of their respective State offices as
7 deemed proper.

8 (b) An appointee under this section shall meet the
9 requirements for qualification and appointment prescribed by the
10 act, except that the head of the State government office where
11 the applicant is employed may execute a certificate that the
12 application is made for the purposes of the office and in the
13 public interest and submit it to the Secretary of the
14 Commonwealth together with the application for appointment as a
15 notary public, in which case the prescribed fee is waived.

16 (c) Premium on the bond and costs of all other notary
17 supplies for a commissioned State employee as described in
18 subsection (b) shall be paid from funds available to the office
19 in which he is employed.

20 (d) In the event an appointee under this section terminates
21 his employment with State government, he shall deliver the seal
22 of office and the register of all notarial acts to the Secretary
23 of the Commonwealth within 30 days after such termination. All
24 other notary supplies shall remain with the State government
25 office where the appointee was employed.

26 (e) Commissioned notaries public whose prescribed fee has
27 been waived according to subsection (b) and whose bond and
28 notary supply costs have been paid by a State office according
29 to subsection (c) shall remit all fees received for notarial
30 services performed to the State government office in which he is

1 employed. Nothing shall preclude a notary public so commissioned
2 from performing notarial services unrelated to the business of
3 the office of his employment provided all fees collected be
4 remitted to the State government office.

5 Section 207. Rules and regulations.

6 The Secretary of the Commonwealth shall promulgate rules and
7 regulations as may be necessary to carry out the provisions of
8 this act.

9 CHAPTER 3

10 BOND AND REGISTRATION

11 Section 301. Bond, oath of office, registration of signature.

12 (a) Every notary upon his appointment or reappointment and
13 before he enters upon the duties of the office of notary public,
14 shall submit to the recorder of deeds of the county in which the
15 notary maintains his office a surety bond, payable to the
16 Commonwealth of Pennsylvania, in such amount as shall be fixed
17 by the Secretary of the Commonwealth. Every bond shall have as
18 surety a duly authorized surety company conditioned for the
19 faithful performance of the duties of the office. Any violation
20 of this act or commission of any of the offenses stated in
21 Chapter 8 or 9, as finally determined, shall be sufficient cause
22 for the bond to be paid to the Commonwealth. The recorder of
23 deeds shall record and forward all executed bonds to the
24 Secretary of the Commonwealth for approval and filing.

25 (b) Every notary upon his appointment shall be required to
26 take and subscribe the constitutional oath of office in the
27 presence of the recorder of deeds at the time the notary submits
28 his bond.

29 (c) The commission of any notary public hereafter appointed
30 who shall, for the space of 30 days after the notice of

1 appointment, neglect to submit the bond and take the
2 constitutional oath, shall be null and void.

3 (d) The recorder of deeds shall record the commission, oath
4 and surety bond of all appointed notaries public maintaining an
5 office in that county. In addition, every commissioned notary
6 public shall provide his official signature in the recorder of
7 deeds office in the register in which his commission, oath and
8 bond has been recorded. The recorder shall charge a fee of not
9 more than \$2 for the registration of the notary signature.

10 Section 302. Change of residence, change of name.

11 (a) In the event of any change of address within the
12 Commonwealth, notice in writing shall be given the Secretary of
13 the Commonwealth and the recorder of deeds of the county of
14 original appointment by a notary public within five days of such
15 change. For the purposes of this section, "address" means office
16 address. A notary public vacates his office by removing from the
17 Commonwealth and such removal shall constitute a resignation
18 from the office of notary public as of the date of removal.

19 ~~(b) Whenever the name of any notary is changed by decree of~~ <—
20 ~~court or whenever any female notary shall marry or is divorced~~
21 ~~and assumes her maiden name thereafter, such notary may continue~~
22 ~~to perform official acts, in the name in which he or she was~~
23 ~~commissioned, until the expiration of his or her term, but he or~~
24 ~~she shall, within 30 days after entry of such decree or after~~
25 ~~marriage or divorce, notify the Secretary of the Commonwealth~~
26 ~~and the recorder of deeds of the county in which he or she~~
27 ~~maintains an office of such change of name. Application for~~
28 ~~reappointment of such notary shall be made in the new name.~~

29 (B) WHENEVER THE NAME OF ANY NOTARY IS CHANGED BY DECREE OF <—
30 COURT, OR OTHERWISE, SUCH NOTARY MAY CONTINUE TO PERFORM

1 OFFICIAL ACTS, IN THE NAME IN WHICH HE OR SHE WAS COMMISSIONED,
2 UNTIL THE EXPIRATION OF HIS OR HER TERM, BUT HE OR SHE SHALL,
3 WITHIN 30 DAYS AFTER ENTRY OF SUCH DECREE, OR AFTER SUCH NAME
4 CHANGE, IF NOT BY DECREE OF COURT, NOTIFY THE SECRETARY OF THE
5 COMMONWEALTH AND THE RECORDER OF DEEDS OF THE COUNTY IN WHICH HE
6 OR SHE MAINTAINS AN OFFICE OF SUCH CHANGE OF NAME. THE SECRETARY
7 OF THE COMMONWEALTH SHALL MARK THE PUBLIC RECORDS RELATING TO
8 THE NOTARY ACCORDINGLY AND THE RECORDER OF DEEDS SHALL RECORD
9 THE NOTIFICATION. APPLICATION FOR REAPPOINTMENT OF SUCH NOTARY
10 SHALL BE MADE IN THE NEW NAME.

11 CHAPTER 4

12 REGISTER, SEAL AND STAMP

13 Section 401. Notary register.

14 (a) Every notary public shall keep a sequential notary
15 register of all official acts performed as a notary public. The
16 register shall include all of the following:

- 17 (1) The date and time of the notarial act.
18 (2) The type of notarial act performed.
19 (3) A description of the document or proceeding.
20 (4) The printed name and address of the person whose
21 signature is being notarized.
22 (5) The signature of each person whose signature is
23 being notarized.
24 (6) Type of evidence of identification and serial
25 number, if any, shown to the notary.
26 (7) The fee charged by the notary.

27 (b) Upon written request of any member of the public, which
28 request shall include the name of the parties, the type of
29 document and the month and year in which notarized, the notary
30 shall supply a photostatic copy of the line item representing

1 the requested transaction from the register at a cost of not
2 more than 50¢ per page.

3 Section 402. Notary seal and stamp, date of expiration.

4 (a) Every notary public shall provide and keep an official
5 seal, which shall be used to authenticate all official acts,
6 instruments and attestations. This seal may be an embosser or
7 inked rubber stamp and shall impress or stamp to clearly show,
8 when affixed to a document, the words "Notary Public
9 Commonwealth of Pennsylvania," and the name and surname of the
10 notary. Such seal shall be impressed or stamped in such a manner
11 as to be capable of photographic reproduction.

12 (b) Every notary public shall note upon each official
13 notarial act, either written, typed or stamped, a legible
14 statement of the date upon which his commission expires and the
15 name of the political subdivision; the county in which he
16 maintains his office; notary public, Commonwealth of
17 Pennsylvania and the name and surname of the notary. This
18 information shall be placed immediately below the signature of
19 the notary on all official acts.

20 CHAPTER 5

21 POWERS AND DUTIES

22 Section 501. Powers and duties.

23 (a) Every notary shall have the power to:

24 (1) take depositions, affidavits and acknowledgements;

25 (2) administer oaths and affirmations;

26 (3) certify that a copy of a document is a true copy of
27 another document; and

28 (4) perform any other act permitted by law.

29 (b) Every notary who intends to issue to any State agency
30 funds that were received by him from an individual shall

1 transmit such funds not later than five days of its receipt from
2 the individual.

3 Section 502. Limitations on powers.

4 (a) A notary public who has a disqualifying interest, as
5 hereinafter defined, in a transaction may not legally perform
6 any notarial act in connection with the transaction.

7 (b) For the purposes of this act, a notary public has a
8 disqualifying interest in a transaction in connection with which
9 notarial services are requested if he:

10 (1) may receive directly or as a proximate result of the
11 notarization any advantage, right, title, interest, cash or
12 property, exceeding in value the sum of any fee properly
13 received in accordance with section 602, except when a
14 transaction is notarized by a salaried employee; or

15 (2) is named, individually, as a party to the
16 transaction.

17 (c) A notary public shall not use the powers of his office
18 except for the purpose of carrying out the duties and
19 responsibilities as set forth in this chapter. A notary public
20 shall not use the title "notary public" except for the purpose
21 of rendering notarial services.

22 Section 503. Responsibilities to appointing official.

23 It shall be the duty of a notary public, upon written
24 request:

25 (1) To furnish to the Secretary of the Commonwealth
26 certified copies of the notary's register.

27 (2) To responds within 15 days of receiving requests
28 sent by certified mail from the office of the Secretary of
29 the Commonwealth for information relating to official acts
30 performed by the notary.

1 CHAPTER 6

2 NOTICE, RECEIPT AND FEES

3 Section 601. Notice and receipt.

4 (a) A schedule of all fees charged for services, including
5 those provided by the Secretary of the Commonwealth, shall be
6 posted in the notary's business office which schedule shall be
7 printed in ten-point or larger size in English.

8 (b) A notary shall provide to each individual a receipt
9 itemizing all services provided and corresponding fees charged.

10 (c) Any notary public who charges more than the maximum fees
11 specified or fails to post this notice, is guilty of official
12 misconduct.

13 Section 602. Fees.

14 The fees of notaries public shall be fixed by the Secretary
15 of the Commonwealth in accordance with the act of July 31, 1968
16 (P.L.769, No.240), referred to as the Commonwealth Documents
17 Law.

18 CHAPTER 7

19 LIABILITY

20 Section 701. Liability of notary.

21 A notary public is liable to the persons involved for all
22 damages proximately caused by a notary's official misconduct.

23 Section 702. Liability of employer of notary.

24 The employer of a notary public is also liable to the persons
25 involved for all damages proximately caused by the notary's
26 official misconduct, if:

27 (1) the notary public was acting within the scope of his
28 employment at the time he engaged in the official misconduct;
29 and

30 (2) the employer consented to the notary public's

1 official misconduct.

2 CHAPTER 8

3 REVOCATION AND SUSPENSION

4 Section 801. Revocation and suspension of commission.

5 (a) The Secretary of the Commonwealth may suspend or
6 permanently revoke the commission of any notary public who
7 during the term of appointment:

8 (1) knowingly and willfully commits any official
9 misconduct;

10 (2) recklessly or negligently commits any official
11 misconduct;

12 (3) has submitted an application for appointment or
13 reappointment which has been found to contain any
14 misstatement or omission of fact;

15 (4) is convicted of any felony;

16 (5) fails to exercise the powers or perform the duties
17 of a notary public in accordance with this act;

18 (6) is adjudged liable or agrees in a statement to pay
19 damages in any suit grounded in fraud, misrepresentation,
20 impersonation or violation of the State regulatory laws of
21 this Commonwealth;

22 (7) represents or implies from unauthorized use of his
23 commission of notary public that he has qualifications,
24 powers, duties, rights or privileges that by law he does not
25 possess;

26 (8) allows or permits his name or title of notary public
27 to be used deceptively, fraudulently or in false or
28 misleading advertising;

29 (9) engages in the unauthorized practice of law;

30 (10) ceases to be a citizen of the United States;

1 the notarial services performed. The heirs or personal
2 representatives shall forward the notary's official seal to the
3 Secretary of the Commonwealth.

4 (b) If a notary public no longer desires to be a notary
5 public or has ceased to have a business or residence in this
6 Commonwealth, he shall send forthwith by certified mail or
7 deliver to the recorder of deeds of the county where he
8 maintained and office as a notary public a letter of
9 resignation, the register of all notarial acts and all other
10 papers and copies relating to the notarial services performed.
11 The commission of such notary shall thereupon cease to be in
12 effect. The official seal of the notary shall be delivered to
13 the Secretary of the Commonwealth within 30 days of the
14 resignation.

15 (c) Should an application for reappointment be rejected or
16 should a commission be suspended or revoked for any reason, the
17 applicant or notary shall send forthwith by certified mail or
18 deliver to the recorder of deeds of the county where the
19 applicant or notary maintained an office the register of all
20 notarial acts and all other papers and copies relating to the
21 notarial services performed within ten days of notice from the
22 Secretary of the Commonwealth that the application for
23 reappointment has been denied or the commission has been
24 suspended or revoked. The applicant or notary shall also deliver
25 his official seal to the Secretary of the Commonwealth within
26 ten days of said notice.

27 (d) Any person who violates the provisions of subsection (c)
28 shall be guilty of a summary offense and upon conviction shall
29 be sentenced to pay a fine of not more than \$300 or to be
30 imprisoned not more than 90 days or both.

1 Section 902. Records retained by recorder of deeds.

2 All registers of notarial acts, papers and copies of acts
3 performed by notaries public submitted to the office of the
4 recorder of deeds shall be maintained by the recorder for a
5 period of not less than five years from the date of receipt of
6 such material.

7 CHAPTER 10

8 REPEALS AND EFFECTIVE DATE

9 Section 1001. Repeals.

10 (a) The act of August 21, 1953 (P.L.1323, No.373), known as
11 "The Notary Public Law," is repealed as of December 31, 1984 and
12 notaries appointed under the provisions of that act shall adhere
13 to its provisions for the duration of their terms of office.

14 (b) All other acts and parts of acts are repealed insofar as
15 they are inconsistent with the provisions of this act.

16 Section 1002. Effective date.

17 This act shall take effect January 1, 1981 and shall apply
18 prospectively. Nothing in this act shall be construed as
19 revoking any existing commission of any notary public; provided
20 that an appointment or renewal of a commission of a notary
21 public shall be consistent with the provisions of this act.