

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 851 Session of
2001

INTRODUCED BY CLYMER, BARRAR, CALTAGIRONE, HALUSKA, HENNESSEY,
HORSEY, LEH, S. MILLER, NAILOR, PRESTON, READSHAW, SHANER,
STABACK, T. STEVENSON, E. Z. TAYLOR, THOMAS, WASHINGTON,
YOUNGBLOOD AND ZIMMERMAN, MARCH 7, 2001

REFERRED TO COMMITTEE ON STATE GOVERNMENT, MARCH 7, 2001

AN ACT

1 Amending the act of August 21, 1953 (P.L.1323, No.373), entitled
2 "An act concerning notaries public; and amending, revising,
3 consolidating and changing the law relating thereto," further
4 providing for appointment of notaries, for eligibility, for
5 applications to become a notary public, for application for
6 reappointment, for resignation and for change of residence,
7 for oath of office, bond and recording, for registration of
8 notary's signature and fees, for notarial seal, for
9 electronic notarization, for register and copier of records,
10 for power to administer oaths, affirmations, certain writings
11 relating to commerce, depositions, affidavits and certain
12 writings relating to land, for fees of notaries public, for
13 rejection of application and for surrender of seal; providing
14 for revocation of commission for certain personal checks and
15 for regulations; making editorial changes; and making
16 repeals.

17 The General Assembly of the Commonwealth of Pennsylvania
18 hereby enacts as follows:

19 Section 1. Section 2 of the act of August 21, 1953
20 (P.L.1323, No.373), known as The Notary Public Law, is amended
21 to read:

22 Section 2. Appointment of Notaries.--The Secretary of the
23 Commonwealth is hereby authorized to appoint and commission, for
24 a term of four years from the date of appointment, as many

1 notaries public as, in [his] the secretary's judgment, the
2 interest of the public may require, whose jurisdiction shall be
3 co-extensive with the boundaries of the Commonwealth[,
4 irrespective of their place of residence within the
5 Commonwealth].

6 Section 2. Section 3 of the act, amended June 9, 1978
7 (P.L.462, No.61), is amended to read:

8 Section 3. Eligibility.--[Any citizen of Pennsylvania, being
9 eighteen (18) years of age or over, of known character,
10 integrity and ability, shall be eligible to the office of notary
11 public, if he shall have resided within this Commonwealth for at
12 least one (1) year immediately preceding the date of his
13 appointment, and if he shall be a registered elector in the
14 Commonwealth.] (a) Any person who is eighteen (18) years of age
15 or over, resides or is employed within this Commonwealth and who
16 is of good character, integrity and ability shall be eligible
17 for the office of notary public.

18 (b) Any person who is a notary public and who resides
19 outside this Commonwealth shall be deemed to have irrevocably
20 appointed the Secretary of the Commonwealth as the person's
21 agent upon whom may be served any summons, subpoena, order or
22 other process.

23 Section 3. Section 5 of the act, amended June 30, 1988
24 (P.L.462, No.78), is amended to read:

25 Section 5. Application to Become a Notary Public.--(a)
26 Applications for appointment to the office of notary public
27 shall be made to the Secretary of the Commonwealth, on forms
28 prescribed and furnished by [him] the secretary, and shall be
29 accompanied by a non-refundable filing fee [of twenty-five
30 dollars (\$25), payable to the order of "State Treasurer," by

1 money order, check, or draft. Each] as set forth in section 618-
2 A of the act of April 9, 1929 (P.L.177, No.175), known as "The
3 Administrative Code of 1929," payable to the order of the
4 "Commonwealth of Pennsylvania." Except as provided in subsection
5 (b) each application shall bear the endorsement of the Senator
6 or House member of the district in which the applicant resides[, ,
7 or, in] or, if the applicant does not reside in this
8 Commonwealth, the endorsement of the Senator or House member of
9 the district in which the applicant is employed. In the case of
10 a vacancy in [that senatorial] either district, the application
11 shall be endorsed by the Senator or House member of an adjacent
12 district.

13 (b) The Secretary of the Commonwealth may accept electronic
14 applications from persons seeking appointment to the office of
15 notary public. Electronic applications must contain all
16 information required by the Secretary of the Commonwealth and be
17 accompanied by payment. The legislative endorsement required by
18 subsection (a) is not required to be submitted electronically.

19 (c) Before issuing to any applicant a commission as notary
20 public, the Secretary of the Commonwealth shall [satisfy
21 himself] be satisfied that the applicant is of good moral
22 character, and is familiar with the duties and responsibilities
23 of a notary public. [Such qualifying requirements may be waived]
24 The application must contain no significant misstatement or
25 omission of fact and the applicant shall not:

26 (1) have been convicted of, or pled nolo contendere to a
27 felony or a lesser offense incompatible with the duties of a
28 notary public during the five (5) year period preceding the date
29 of the application; or

30 (2) have had a prior notary public commission revoked by the

Commonwealth or any other state during the five (5) year period
preceding the date of the application.
The Secretary of the Commonwealth may, for good cause, reject
any application, of any notary public subject to the right of
notice, hearing and adjudication and the right of appeal
therefrom in accordance with 2 Pa.C.S. Chs. 5 Subch. A (relating
to practice and procedure of Commonwealth agencies) and 7 Subch.
A (relating to judicial review of Commonwealth agency action),
known as the Administrative Agency Law.

(d) The Secretary of the Commonwealth may waive the
requirements of subsections (a) and (b) in the case of
reappointment or appointments of persons making application
within six (6) months after the expiration of a previous term as
notary public, or appointments of persons who were prevented
from applying for reappointment or from applying for
appointment, within the six (6) month extension period mentioned
above, by reason of their induction or enlistment in the armed
forces of the United States, if application is made within one
(1) year after military discharge of the applicant, under
conditions other than dishonorable.

(e) As a condition for the Secretary of the Commonwealth's
issuance of a notary commission, a notary applicant must
complete at least three (3) hours of approved notary education
within the six (6) month period immediately preceding their
application.

(f) Notary education may either be interactive or classroom
instruction. All education programs shall be pre-approved by the
Secretary of the Commonwealth with a core curriculum that
includes the duties and responsibilities of the notary office,
and electronic notarization.

1 Section 4. Sections 6, 7 and 8 of the act are amended to
2 read:

3 Section 6. Application for Reappointment.--Applications for
4 reappointment to the office of notary public shall be filed at
5 least [one month] two months prior to the expiration of the
6 commission under which the notary is acting. Persons seeking
7 reappointment must continue to meet the eligibility requirements
8 set forth in section 5 in order to be reappointed.

9 Section 7. Vacation of Office; Change of Residence.--(a) In
10 the event of any change of address within the Commonwealth,
11 notice in writing or electronically shall be given to the
12 Secretary of the Commonwealth and the recorder of deeds of the
13 county of original appointment by a notary public within five
14 (5) days of such change. For the purpose of this [section]
15 subsection, "address" means office address. A notary public
16 vacates his office by removing the notary's residence and
17 business address from the Commonwealth, and such removal shall
18 constitute a resignation from the office of notary public as of
19 the date of removal.

20 (b) If a notary public neither resides nor works in the
21 Commonwealth, that notary public shall be deemed to have
22 resigned from the office of notary public as of the date the
23 residency ceases or employment within the Commonwealth
24 terminates. A notary public who resigns that notary's commission
25 in accordance with this subsection shall notify the Secretary of
26 the Commonwealth in writing of the effective date of the
27 resignation.

28 Section 8. Oath of Office; Bond; Recording.--Every notary,
29 [on his appointment and before he enters] upon appointment and
30 prior to entering upon the duties of the office of notary

1 public, shall take and subscribe the constitutional oath of
2 office, and shall give a surety bond, payable to the
3 Commonwealth of Pennsylvania, in [such amount as shall be fixed
4 by the Secretary of the Commonwealth] the amount of ten thousand
5 dollars (\$10,000), which bond shall, after being recorded, be
6 approved by and filed with the Secretary of the Commonwealth.
7 Every such bond shall have as surety a duly authorized surety
8 company or two sufficient individual sureties, to be approved by
9 the Secretary of the Commonwealth, conditioned for the faithful
10 performance of the duties of the office of notary public and for
11 the delivery of [his register and all other public papers] the
12 notary's register into the office of the recorder of deeds of
13 the proper county in case of [his] the death, resignation[,
14 disqualification, or removal] or disqualification of the notary.
15 Such bond, as well as [his] the commission and oath of office,
16 shall be recorded in the office of the recorder of deeds of the
17 county in which [he] the notary maintains an office at the time
18 of appointment or reappointment. The commission of any notary
19 hereafter appointed who shall, for [the space of thirty (30)]
20 forty-five (45) days after the beginning of [his] the term,
21 neglect to give bond and cause the same and [his] the commission
22 and oath to be recorded, as above directed, shall be null and
23 void.

24 Section 5. Section 9 of the act, amended July 22, 1965
25 (P.L.222, No.122), is amended to read:

26 Section 9. Registration of Notary's Signature; Fee.--(a)
27 The official signature of each notary public shall be
28 registered, in the "Notary Register" provided for such purpose
29 in the prothonotary's office of the county wherein [he] the
30 notary maintains an office, within [thirty (30)] forty-five (45)

1 days after appointment or reappointment, and in any county to
2 which [he] the notary may subsequently move [his office, within
3 ten (10)] the notary's office, within thirty (30) days
4 thereafter. In counties of the second class, such signature
5 shall also be registered in the clerk of courts' office within
6 said period.

7 (b) The fee to be charged by the prothonotary for recording
8 a notary's signature shall be fifty (\$.50) cents.

9 (c) In acting as a notary public, a notary shall sign the
10 notary's name exactly and only as it appears on the commission.

11 (d) A county may permit notaries to register their
12 electronic signatures.

13 Section 6. Section 12 of the act amended June 30, 1988
14 (P.L.462, No.78), is amended to read:

15 Section 12. Notarial Seal.--(a) A notary public shall
16 provide and keep an official seal which shall be used to
17 authenticate all the acts, instruments and attestations of the
18 notary. The seal shall be a rubber stamp and shall show clearly
19 in the following order: the words "Notarial Seal"; the name and
20 surname of the notary and the words "Notary Public"; the name of
21 the political subdivision and county in which the notary
22 maintains an office; and the date the notary's commission
23 expires.

24 (b) The seal shall have a maximum height of one (1) inch and
25 width of three and one-half (3 1/2) inches, with a plain border.
26 It shall be stamped in a prominent place on the official
27 notarial [act] certificate near the notary's signature in such a
28 manner as to be capable of photographic reproduction.

29 [(c) In addition to the official seal required in subsection
30 (a), a notary public shall also use and keep an embosser upon

1 which shall be engraved the words "Notary Public, Commonwealth
2 of Pennsylvania," and the name and surname of the notary. All
3 documents executed shall bear a legibly embossed impression.]

4 (d) The notary public seal is the exclusive property of the
5 notary to whom it is issued and a notary shall be responsible at
6 all times for maintaining custody and control of the seal. No
7 public notary shall permit the use of the seal by another
8 person.

9 (e) The use of a notary public seal by a person who is not
10 the notary public named on the seal shall be deemed an
11 impersonation of a notary public under and shall be subject to
12 the penalties set forth in 18 Pa.C.S. § 4913 (relating to
13 impersonating a notary public).

14 (f) Notwithstanding other provisions of this section, in
15 accordance with the act of December 16, 1999 (P.L.971, No.69),
16 known as the "Electronic Transactions Act," a notary public may
17 use an electronic seal for the notarization, acknowledgment or
18 verification of electronic records and electronic signatures.
19 The electronic seal shall contain the following information in
20 order:

21 (1) The full name of the notary along with the words "Notary
22 Public."

23 (2) The name of the political subdivision and the county in
24 which the notary maintains an office.

25 (3) The date the notary's commission is due to expire.
26 The notary's electronic signature and the required information
27 shall be attached to or logically associated with the electronic
28 signature or electronic record.

29 Section 7. The act is amended by adding a section to read:

30 Section 12.1. Determining Identity of Person Appearing.--(a)

1 The officer notarizing the instrument shall know through
2 personal knowledge or have satisfactory evidence that the person
3 appearing before the notary is the person described in and who
4 executed the instrument. For the purposes of this act and
5 section 5 of the act of July 24, 1941 (P.L.490, No.188), known
6 as the "Uniform Acknowledgment Act," "personal knowledge" means
7 having an acquaintance, derived from association with the
8 individual in relation to other people and based upon a chain of
9 circumstances surrounding the individual, which establishes the
10 individual's identity and "satisfactory evidence" means the
11 reliance on the presentation of a current, government-issued
12 identification card bearing a photograph, signature, physical
13 description and serial or identification number or the oath or
14 affirmation of a credible witness who is personally known to the
15 notary and who personally knows the individual.

16 (b) In certifying a copy of a document or other item, a
17 notary public shall determine that the proffered copy is a full,
18 true and accurate transcription or reproduction of that which
19 was copied.

20 Section 8. Sections 15 and 16 of the act are amended to
21 read:

22 Section 15. Register; Copies of Records.--(a) Every notary
23 public shall keep [an accurate] and maintain custody and control
24 of an accurate chronological register of all official acts by
25 [him] that notary done by virtue of [his] that notary's office,
26 and shall, when thereunto required, give a certified copy of
27 [any record in his] the register in the notary's office to any
28 person applying for same. [Said] Each register shall contain the
29 date of the act, the character of the act, and the date and
30 parties to the instrument, and the amount of fee collected for

1 the service. Each authorization shall be indicated separately.

2 (b) The register and other public [papers] records of such
3 notary shall not in any case be liable to be [sized] seized,
4 attached or taken in execution for debt or for any demand
5 whatsoever.

6 (c) A notary public register is the exclusive property of
7 the notary public, may not be used by any other person and may
8 not be surrendered to any employer of the notary upon
9 termination of employment.

10 (d) Upon a notary public's resignation, death,
11 disqualification, revocation or expiration of a commission, the
12 notary public's register shall be delivered to the office of the
13 recorder of deeds of the proper county.

14 Section 16. Power to Administer Oaths and Affirmations.--(a)
15 Notaries shall have power to administer oaths and affirmations,
16 certify copies and take depositions, affidavits, verifications,
17 upon oath or affirmation and acknowledgments according to law,
18 in all matters belonging or incident to the exercise of their
19 notarial office.

20 (b) Any person who shall be convicted of having wilfully and
21 knowingly made or taken a false oath [or affirmation],
22 affirmation, deposition, affidavit, certification or
23 acknowledgment before any notary in any matters within their
24 official duties shall be guilty of perjury under and shall be
25 subject to the penalties [in such case made and provided] set
26 forth in 18 Pa.C.S. § 4902 (relating to perjury).

27 Section 9. Sections 17 and 18 of the act are repealed.

28 Section 10. Sections 19, 21 and 22 of the act are amended to
29 read:

30 Section 19. Limitation on Powers; Fees.--[(a) No director

1 or officer in any bank, banking institution or trust company,
2 holding at the same time the office of notary public, shall do
3 or perform any act or duty as notary public for any bank,
4 banking institution or trust company in which he is a director
5 or officer. Any act or duty performed by any such notary public
6 for any such bank, banking institution or trust company is
7 hereby declared invalid.

8 (b) No clerk in any bank, banking institution or trust
9 company, holding at the same time the office of notary public,
10 shall be authorized to protest checks, notes, drafts, bill of
11 exchange, or any commercial paper, for any bank, banking
12 institution or trust company in which he is employed.

13 (c) The fees of any such notary for other services rendered
14 shall be the property of such notary and in no case belong to or
15 be received by the corporation of which he is a director or
16 clerk.]

17 (d) No [justice of the peace, magistrate or alderman,]
18 district justice, holding at the same time the office of notary
19 public, shall have jurisdiction in cases arising on papers or
20 documents containing acts by him done in the office of notary
21 public.

22 (e) No notary public may act as such in any transaction in
23 which he is a party directly or pecuniarily interested. For the
24 purpose of this section, none of the following shall constitute
25 a direct or pecuniary interest:

26 (1) being a shareholder in a publicly traded company that is
27 a party to the notarized transaction;

28 (2) being an officer, director or employe of a company that
29 is a party to the notarized transaction, unless the director,
30 officer or employe personally benefits from the transaction

1 other than as provided in clause (3); or

2 (3) receiving a fee that is not contingent upon the
3 completion of the notarized transaction.

4 Section 21. Fees of Notaries Public.--(a) The fees of
5 notaries public shall be fixed by the Secretary of the
6 Commonwealth with the approval of the Attorney General.

7 (b) A notary public shall not charge, attempt to charge or
8 receive a notary public fee that is in excess of the fees fixed
9 by the Secretary of the Commonwealth.

10 (c) The fees of notaries public shall be displayed in a
11 conspicuous location in the notary's place of business or be
12 provided to any person requesting the services of the notary.
13 The fees of the notary shall be separately stated. A notary
14 public may waive the right to charge a fee, in which case the
15 requirements of this subsection regarding the display or
16 provision of fees shall not apply.

17 (d) The fee for any notary public employed by a bank,
18 banking institution or trust company shall be the property of
19 the notary and in no case belong to or be received by the
20 corporation for whom the notary is employed.

21 Section 22. Rejection of Application; Removal.--(a) The
22 Secretary of the Commonwealth may, for good cause, reject any
23 application, issue a written reprimand, suspend or revoke the
24 commission of any notary public[, but such action shall be
25 taken].

26 (b) The Secretary of the Commonwealth may, for good cause,
27 impose a civil penalty not to exceed five hundred dollars (\$500)
28 for each act or omission which constitutes a violation of this
29 act.

30 (c) The Secretary of the Commonwealth may, for good cause,

1 order a notary to attend education courses for an act or
2 omission which constitutes a violation of this act.

3 (d) Any action taken under this section shall be subject to
4 the right of notice, hearing and adjudication, and the right of
5 appeal therefrom, in accordance with [the provisions of the
6 Administrative Agency Law, approved the fourth day of June, one
7 thousand nine hundred forty-five (Pamphlet Laws 1388), or any
8 amendment or reenactment thereof, relating to adjudication
9 procedure.] 2 Pa.C.S. Chs. 5 Subch. A (relating to practice and
10 procedure of Commonwealth agencies) and 7 Subch. A (relating to
11 judicial review of Commonwealth agency action), known as the
12 Administrative Agency Law.

13 Section 11. Section 22.1 of the act, added June 9, 1978
14 (P.L.462, No.61), is amended to read:

15 Section 22.1. Surrender of Seal.--(a) Should an application
16 or renewal be rejected, or should a commission be revoked or
17 recalled for any reason, or should a notary public resign, the
18 applicant or notary shall deliver the seal of office to the
19 Department of State within ten (10) days after notice from the
20 department[.] or from the date of resignation, as the case may
21 be. Any person who violates the provisions of this subsection
22 shall be guilty of a summary offense and upon conviction thereof
23 shall be sentenced to pay a fine not exceeding three hundred
24 dollars (\$300) or to imprisonment not exceeding ninety (90)
25 days, or both.

26 (b) Upon the death of a notary public, the notary's personal
27 representative shall deliver the seal of office to the
28 Department of State within ninety (90) days of the date of the
29 notary's death.

30 [Any person who violates the provisions of this section shall

1 be guilty of a summary offense and upon conviction thereof shall
2 be sentenced to pay a fine not exceeding three hundred dollars
3 (\$300) or to imprisonment not exceeding ninety (90) days, or
4 both.]

5 Section 12. The act is amended by adding sections to read:

6 Section 22.2. Revocation of Commission for Certain Personal
7 Checks.--(a) The Secretary of the Commonwealth may revoke the
8 notary public commission of a notary public who issues to the
9 order of any State agency or the Commonwealth a personal check
10 without sufficient funds on deposit.

11 (b) Any action taken by the Secretary of the Commonwealth
12 under this section shall be subject to the right of notice,
13 hearing and adjudication and right of appeal therefrom in
14 accordance with 2 Pa.C.S. Chs. 5 Subch. A (relating to practice
15 and procedure of Commonwealth agencies) and 7 Subch. A (relating
16 to judicial review of Commonwealth agency action), known as the
17 Administrative Agency Law.

18 Section 22.3. Regulations.--The Secretary of the
19 Commonwealth shall have the authority to promulgate such rules
20 and regulations as are necessary to administer and enforce this
21 act.

22 Section 13. Section 24 of the act is amended to read:

23 Section 24. [General Repeal.--All other] Repeals.--(a) The
24 following acts and parts of acts are repealed [in so far as they
25 are inconsistent with the provisions of this act.]:

26 The act of April 14, 1828 (P.L.447, No.188), entitled "An act
27 to authorise the appointment of commissioners to take the
28 acknowledgement of deeds and instruments of writing under seal."

29 The act of March 13, 1839 (P.L.92, No.44), entitled "A
30 supplement to an act entitled 'An act to authorize the

1 appointment of commissioners to take the acknowledgment of deeds
2 and instruments of writing under seal,' approved on the
3 fourteenth day of April, one thousand eight hundred and twenty-
4 eight."

5 The act of April 6, 1843 (P.L.175, No.83), entitled "A
6 supplement to an act entitled 'An Act to authorize the
7 appointment of Commissioners to take the acknowledgment of deeds
8 and instruments of writing under seal.'"

9 Section 15 of the act of April 9, 1849 (P.L.524, No.354),
10 entitled "A supplement to an act relative to the venders of
11 mineral waters; and an act relative to the Washington coal
12 company; to sheriffs' sales of real estate; to the substitution
13 of executors and trustees when plaintiffs; to partition in the
14 courts of common pleas, and for other purposes."

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

17 Section 14. This act shall take effect in 180 days.