

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, ZIMMERMAN, METCALFE AND WATERS, MARCH 7, 2001

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
JUNE 5, 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

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

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

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

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

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

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

1 dollars (\$25), payable to the order of "State Treasurer," by
2 money order, check, or draft. Each] as set forth in section 618-
3 A of the act of April 9, 1929 (P.L.177, No.175), known as "The
4 Administrative Code of 1929," payable to the order of the
5 "Commonwealth of Pennsylvania." Except as provided in subsection
6 (b) each application shall bear the endorsement of the Senator
7 or House member of the district in which the applicant resides[, ,
8 or, in] or, if the applicant does not reside in this
9 Commonwealth, the endorsement of the Senator or House member of
10 the district in which the applicant is employed. In the case of
11 a vacancy in [that senatorial] either district, the application
12 shall be endorsed by the Senator or House member of an adjacent
13 district.

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

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

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

1 (2) have had a prior notary public commission revoked by the
2 Commonwealth or any other state during the five (5) year period
3 preceding the date of the application.

4 The Secretary of the Commonwealth may, for good cause, reject
5 any application, of any notary public subject to the right of
6 notice, hearing and adjudication and the right of appeal
7 therefrom in accordance with 2 Pa.C.S. Chs. 5 Subch. A (relating
8 to practice and procedure of Commonwealth agencies) and 7 Subch.
9 A (relating to judicial review of Commonwealth agency action),
10 known as the Administrative Agency Law.

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

22 (e) As a condition for the Secretary of the Commonwealth's
23 issuance of a notary commission TO AN APPLICANT NOT APPOINTED TO <—
24 THE OFFICE OF NOTARY PUBLIC AS OF THE EFFECTIVE DATE OF THIS
25 ACT, a notary applicant must complete at least three (3) hours
26 of approved notary education within the six (6) month period
27 immediately preceding their application.

28 (f) Notary education may either be interactive or classroom
29 instruction. All education programs shall be pre-approved by the
30 Secretary of the Commonwealth with a core curriculum that

1 includes the duties and responsibilities of the notary office,
2 and electronic notarization.

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

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

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

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

30 Section 8. Oath of Office; Bond; Recording.--Every notary,

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

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

28 Section 9. Registration of Notary's Signature; Fee.--(a)
29 The official signature of each notary public shall be
30 registered, in the "Notary Register" provided for such purpose

1 in the prothonotary's office of the county wherein [he] the
2 notary maintains an office, within [thirty (30)] forty-five (45)
3 days after appointment or reappointment, and in any county to
4 which [he] the notary may subsequently move [his office, within
5 ten (10)] the notary's office, within thirty (30) days
6 thereafter. In counties of the second class, such signature
7 shall also be registered in the clerk of courts' office within
8 said period.

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

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

13 (d) A county may permit notaries to register their
14 electronic signatures.

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

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

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

1 [(c) In addition to the official seal required in subsection
2 (a), a notary public shall also use and keep an embosser upon
3 which shall be engraved the words "Notary Public, Commonwealth
4 of Pennsylvania," and the name and surname of the notary. All
5 documents executed shall bear a legibly embossed impression.]

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

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

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

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

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

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

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

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

3 The officer notarizing the instrument shall know through
4 personal knowledge or have satisfactory evidence that the person
5 appearing before the notary is the person described in and who
6 executed the instrument. For the purposes of this act and
7 section 5 of the act of July 24, 1941 (P.L.490, No.188), known
8 as the "Uniform Acknowledgment Act," "personal knowledge" means
9 having an acquaintance, derived from association with the
10 individual in relation to other people and based upon a chain of
11 circumstances surrounding the individual, which establishes the
12 individual's identity and "satisfactory evidence" means the
13 reliance on the presentation of a current, government-issued
14 identification card bearing a photograph, signature, physical
15 description and serial or identification number, OR THE <—
16 PRESENTATION OF A VALID WITHOUT PHOTOGRAPH IDENTIFICATION CARD,
17 or the oath or affirmation of a credible witness who is
18 personally known to the notary and who personally knows the
19 individual.

20 (b) In certifying a copy of a document or other item, a
21 notary public shall determine that the proffered copy is a full,
22 true and accurate transcription or reproduction of that which
23 was copied.

24 Section 8. Sections 15 and 16 of the act are amended to
25 read:

26 Section 15. Register; Copies of Records.--(a) Every notary
27 public shall keep [an accurate] and maintain custody and control
28 of an accurate chronological register of all official acts by
29 [him] that notary done by virtue of [his] that notary's office,
30 and shall, when thereunto required, give a certified copy of

1 [any record in his] the register in the notary's office to any
2 person applying for same. [Said] Each register shall contain the
3 date of the act, the character of the act, and the date and
4 parties to the instrument, and the amount of fee collected for
5 the service. Each authorization shall be indicated separately.

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

10 (c) A notary public register is the exclusive property of
11 the notary public, may not be used by any other person and may
12 not be surrendered to any employer of the notary upon
13 termination of employment.

14 (d) Upon a notary public's resignation, death,
15 disqualification, revocation or expiration of a commission, the
16 notary public's register shall be delivered to the office of the
17 recorder of deeds of the proper county.

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

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

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

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

4 Section 19. Limitation on Powers; Fees.--[(a) No director
5 or officer in any bank, banking institution or trust company,
6 holding at the same time the office of notary public, shall do
7 or perform any act or duty as notary public for any bank,
8 banking institution or trust company in which he is a director
9 or officer. Any act or duty performed by any such notary public
10 for any such bank, banking institution or trust company is
11 hereby declared invalid.

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

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

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

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

30 (1) being a shareholder in a publicly traded company that is

1 a party to the notarized transaction;

2 (2) being an officer, director or employe of a company that
3 is a party to the notarized transaction, unless the director,
4 officer or employe personally benefits from the transaction
5 other than as provided in clause (3); or

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

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

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

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

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

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

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

1 impose a civil penalty not to exceed five hundred dollars (\$500)
2 for each act or omission which constitutes a violation of this
3 act.

4 (c) The Secretary of the Commonwealth may, for good cause,
5 order a notary to attend education courses for an act or
6 omission which constitutes a violation of this act.

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

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

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

30 (b) Upon the death of a notary public, the notary's personal

1 representative shall deliver the seal of office to the
2 Department of State within ninety (90) days of the date of the
3 notary's death.

4 [Any person who violates the provisions of this section shall
5 be guilty of a summary offense and upon conviction thereof shall
6 be sentenced to pay a fine not exceeding three hundred dollars
7 (\$300) or to imprisonment not exceeding ninety (90) days, or
8 both.]

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

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

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

22 Section 22.3. Regulations.--The Secretary of the
23 Commonwealth shall have the authority to promulgate such rules
24 and regulations as are necessary to administer and enforce this
25 act.

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

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

30 The act of April 14, 1828 (P.L.447, No.188), entitled "An act

1 to authorise the appointment of commissioners to take the
2 acknowledgement of deeds and instruments of writing under seal."

3 The act of March 13, 1839 (P.L.92, No.44), entitled "A
4 supplement to an act entitled 'An act to authorize the
5 appointment of commissioners to take the acknowledgment of deeds
6 and instruments of writing under seal,' approved on the
7 fourteenth day of April, one thousand eight hundred and twenty-
8 eight."

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

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

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

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