

## 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

AS REPORTED FROM COMMITTEE ON STATE GOVERNMENT, HOUSE OF  
REPRESENTATIVES, AS AMENDED, MARCH 13, 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, a notary applicant must  
24    complete at least three (3) hours of approved notary education  
25    within the six (6) month period immediately preceding their  
26    application.

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

1 and electronic notarization.

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

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

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

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

29 Section 8. Oath of Office; Bond; Recording.--Every notary,  
30 [on his appointment and before he enters] upon appointment and

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

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

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

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

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

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

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

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

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

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

30 [(c) In addition to the official seal required in subsection

1 (a), a notary public shall also use and keep an embosser upon  
2 which shall be engraved the words "Notary Public, Commonwealth  
3 of Pennsylvania," and the name and surname of the notary. All  
4 documents executed shall bear a legibly embossed impression.]

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

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

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

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

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

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

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



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

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

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

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

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

1 parties to the instrument, and the amount of fee collected for  
2 the service. Each authorization shall be indicated separately.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

officer or employe personally benefits from the transaction  
other than as provided in clause (3); or  
(3) receiving a fee that is not contingent upon the  
completion of the notarized transaction.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 The act of March 13, 1839 (P.L.92, No.44), entitled "A

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

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

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

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

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