

Amendment No. 881

Assembly Amendment to Senate Bill No. 453 Second Reprint	(BDR 7-576)
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Proposed by: Committee on Judiciary**Amendment Box:****Resolves Conflicts with:** N/A**Amends:** Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: No

Adoption of this amendment will MAINTAIN a 2/3s majority vote requirement for final passage of S.B. 453 R2 (§ 37).

ASSEMBLY ACTION	Initial and Date	SENATE ACTION	Initial and Date
Adopted <input type="checkbox"/> Lost <input type="checkbox"/>	_____	Adopted <input type="checkbox"/> Lost <input type="checkbox"/>	_____
Concurred In <input type="checkbox"/> Not <input type="checkbox"/>	_____	Concurred In <input type="checkbox"/> Not <input type="checkbox"/>	_____
Receded <input type="checkbox"/> Not <input type="checkbox"/>	_____	Receded <input type="checkbox"/> Not <input type="checkbox"/>	_____

Amend the bill as a whole by deleting section 1 and renumbering sections 2 through 36 as sections 1 through 35.

Amend sec. 11, page 10, lines 7 and 12, by deleting “8” and inserting “7”.

Amend sec. 12, page 10, lines 25 and 30, by deleting “9” and inserting “8”.

Amend sec. 13, page 10, line 36, by deleting “9” and inserting “8”.

Amend sec. 14, page 11, lines 20, 24, 26 and 29, by deleting “10” and inserting “9”.

Amend the bill as a whole by deleting sections 37 through 40, renumbering sections 41 and 42 as sections 36 and 37.

Amend sec. 41, pages 41 and 42, by deleting lines 41 through 45 on page 41 and lines 1 through 3 on page 42.

MSN/RBL

Date: 5/23/2005

S.B. No. 453—Makes various changes concerning business entities.

Amend the bill as a whole by renumbering sec. 43 as sec. 47 and adding new sections designated sections 38 through 46, following sec. 42, to read as follows:

“**Sec. 38.** Chapter 240 of NRS is hereby amended by adding thereto the provisions set forth as sections 39 and 40 of this act.

Sec. 39. 1. *A notary public who is appointed pursuant to this chapter shall not willfully notarize the signature of a person unless the person is in the presence of the notary public and:*

(a) Is known to the notary public; or

(b) If unknown to the notary public, provides documentary evidence of identification to the notary public.

2. *A person who:*

(a) Violates the provisions of subsection 1; or

(b) Aids and abets a notary public to commit a violation of subsection 1,

↪ is guilty of a gross misdemeanor.

Sec. 40. 1. *Except as otherwise provided in subsection 2, the Secretary of State shall, upon request and payment of a fee of \$20, issue an authentication to verify that the signature of the notarial officer on a document is genuine and that the notarial officer holds the office indicated on the document. If the document:*

(a) Is intended for use in a foreign country that is a participant in the Hague Convention of October 5, 1961, the Secretary of State must issue an apostille in the form prescribed by the Hague Convention of October 5, 1961.

(b) Is intended for use in the United States or in a foreign country that is not a participant in the Hague Convention of October 5, 1961, the Secretary of State must issue a certification.

2. The Secretary of State shall not issue an authentication pursuant to subsection 1 if:

(a) The document has not been notarized in accordance with the provisions of this chapter; or

(b) The Secretary of State has reasonable cause to believe that the document may be used to accomplish any fraudulent, criminal or unlawful purpose.

Sec. 41. NRS 240.001 is hereby amended to read as follows:

240.001 As used in NRS 240.001 to 240.169, inclusive, **and sections 39 and 40 of this act**, unless the context otherwise requires, the words and terms defined in NRS 240.002 to 240.005, inclusive, have the meanings ascribed to them in those sections.

Sec. 42. NRS 240.007 is hereby amended to read as follows:

240.007 1. Except as otherwise provided in subsection 2, information and documents filed with or obtained by the Secretary of State pursuant to NRS 240.001 to 240.169, inclusive, **and sections 39 and 40 of this act** are public information and are available for public examination.

2. Except as otherwise provided in subsections 3 and 4, information and documents obtained by or filed with the Secretary of State in connection with an investigation concerning a possible violation of the provisions of NRS 240.001 to 240.169, inclusive, **and sections 39 and 40 of this act** are not public information and are confidential.

3. The Secretary of State may submit any information or evidence obtained in connection with an investigation concerning a possible violation of the provisions of NRS 240.001 to 240.169, inclusive, **and sections 39 and 40 of this act** to the appropriate district attorney for the purpose of prosecuting a criminal action.

4. The Secretary of State may disclose any information or documents obtained in connection with an investigation concerning a possible violation of the provisions of NRS 240.001 to 240.169,

inclusive, *and sections 39 and 40 of this act* to an agency of this State or a political subdivision of this State.

Sec. 43. NRS 240.010 is hereby amended to read as follows:

240.010 1. The Secretary of State may appoint notaries public in this State.

2. The Secretary of State shall not appoint as a notary public a person:

(a) Who submits an application containing a substantial and material misstatement or omission of fact.

(b) Whose previous appointment as a notary public in this State has been revoked.

(c) Who has been convicted of a crime involving moral turpitude, if the Secretary of State is aware of such a conviction before he makes the appointment.

(d) Against whom a complaint that alleges a violation of a provision of this chapter is pending.

3. A notary public may cancel his appointment by submitting a written notice to the Secretary of State.

4. It is unlawful for a person to:

(a) Represent himself as a notary public appointed pursuant to this section if he has not received a certificate of appointment from the Secretary of State pursuant to this chapter.

(b) Submit an application for appointment as a notary public that contains a substantial and material misstatement or omission of fact.

5. *The Secretary of State may request that the Attorney General bring an action to enjoin any violation of paragraph (a) of subsection 4.*

Sec. 44. NRS 240.033 is hereby amended to read as follows:

240.033 1. The bond required to be filed pursuant to NRS 240.030 must be executed by the person applying to become a notary public as principal and by a surety company qualified and authorized to do business in this State. The bond must be made payable to the State of Nevada and be conditioned to provide indemnification to a person determined to have suffered damage as a result of an act by the notary public which violates a provision of NRS 240.001 to 240.169, inclusive ~~[]~~, *and sections 39 and 40 of this act*. The surety company shall pay a final, nonappealable judgment of a court of this State that has jurisdiction, upon receipt of written notice of final judgment. The bond may be continuous but, regardless of the duration of the bond, the aggregate liability of the surety does not exceed the penal sum of the bond.

2. If the penal sum of the bond is exhausted, the surety company shall notify the Secretary of State in writing within 30 days after its exhaustion.

3. The surety bond must cover the period of the appointment of the notary public, except when a surety is released.

4. A surety on a bond filed pursuant to NRS 240.030 may be released after the surety gives 30 days' written notice to the Secretary of State and notary public, but the release does not discharge or otherwise affect a claim filed by a person for damage resulting from an act of the notary public which is alleged to have occurred while the bond was in effect.

5. The appointment of a notary public is suspended by operation of law when the notary public is no longer covered by a surety bond as required by this section and NRS 240.030 or the penal sum of the bond is exhausted. If the Secretary of State receives notice pursuant to subsection 4 that the bond will be released or pursuant to subsection 2 that the penal sum of the bond is exhausted, the Secretary *of State* shall immediately notify the notary public in writing that his appointment will be

suspended by operation of law until another surety bond is filed in the same manner and amount as the bond being terminated.

6. The Secretary of State may reinstate the appointment of a notary public whose appointment has been suspended pursuant to subsection 5, if the notary public, before his current term of appointment expires:

(a) Submits to the Secretary of State:

(1) An application for an amended certificate of appointment as a notary public; and

(2) A certificate issued by the clerk of the county in which the applicant resides or, if the applicant is a resident of an adjoining state, the county in this State in which the applicant maintains a place of business or is employed, which indicates that the applicant filed a new surety bond with the clerk.

(b) Pays to the Secretary of State a fee of \$10.

Sec. 45. NRS 240.161 is hereby amended to read as follows:

240.161 1. NRS 240.161 to 240.169, inclusive, *and section 40 of this act* may be cited as the Uniform Law on Notarial Acts.

2. These sections must be applied and construed to effectuate their general purpose to make uniform the law with respect to the subject of these sections among states enacting them.

Sec. 46. NRS 240.165 is hereby amended to read as follows:

240.165 1. A notarial act has the same effect under the law of this State as if performed by a notarial officer of this State if performed within the jurisdiction of and under authority of a foreign nation or its constituent units or a multinational or international organization by the following persons:

- (a) A notary public;
- (b) A judge, clerk or deputy clerk of a court of record; or
- (c) A person authorized by the law of that jurisdiction to perform notarial acts.

2. ~~[An “apostille” in the form prescribed by the Hague Convention of October 5, 1961, conclusively establishes that the signature of the notarial officer is genuine and that the officer holds the indicated office. The Secretary of State shall, upon request and payment of a fee of \$20, issue an apostille to verify a signature of a notarial officer on a document that is kept in the records of the Secretary of State unless the document had not been notarized in accordance with the provisions of this chapter.~~

~~—3.]~~ A certificate by an officer of the foreign service or consular officer of the United States stationed in the nation under the jurisdiction of which the notarial act was performed, or a certificate by an officer of the foreign service or consular officer of that nation stationed in the United States, conclusively establishes a matter relating to the authenticity or validity of the notarial act set forth in the certificate.

~~[4.]~~ 3. An official stamp or seal of the person performing the notarial act is prima facie evidence that the signature is genuine and that the person holds the indicated title.

~~[5.]~~ 4. An official stamp or seal of an officer listed in paragraph (a) or (b) of subsection 1 is prima facie evidence that a person with the indicated title has authority to perform notarial acts.

~~[6.]~~ 5. If the title of office and indication of authority to perform notarial acts appears either in a digest of foreign law or in a list customarily used as a source for that information, the authority of an officer with that title to perform notarial acts is conclusively established.”.

Amend the title to read as follows:

“AN ACT relating to entities regulated by the Secretary of State; revising various provisions concerning the timing, form and contents of certain filings by various business entities; clarifying that certain corporations and associations which are homeowners’ associations must comply with certain requirements; prohibiting a notary public from willfully notarizing the signature of a person in certain circumstances; making various other changes concerning notaries public; providing that a person who knowingly files a forged or false record is subject to civil liability under certain circumstances; establishing certain fees for services provided to business entities; making various other changes concerning business entities; providing a penalty; and providing other matters properly relating thereto.”.

Amend the summary of the bill to read as follows:

“SUMMARY—Makes various changes concerning business entities and notaries public.
(BDR 7-576)”.