

ASSEMBLY BILL NO. 533—COMMITTEE ON GOVERNMENT AFFAIRS

(ON BEHALF OF THE SECRETARY OF STATE)

MARCH 26, 2007

Referred to Committee on Government Affairs

SUMMARY—Revises provisions governing notaries public.
(BDR 19-543)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in **bolded italics** is new; matter between brackets ~~fornitted-material~~ is material to be omitted.

AN ACT relating to notaries public; revising provisions pertaining to the training of notaries public; revising provisions governing the notarization of the signature of a person unknown to the notary public; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Under existing law, the Secretary of State is allowed to adopt regulations
2 prescribing the procedure for the voluntary training of notaries public and is
3 allowed to provide courses of study for the voluntary training of notaries public.
4 (NRS 240.017, 240.018) **Sections 1-4** of this bill provide that such training is
5 mandatory for: (1) a person applying for appointment as a notary public for the first
6 time; (2) a person renewing his appointment as a notary public, if his appointment
7 has expired for a period greater than 1 year; and (3) a person renewing his
8 appointment as a notary public, if he has been fined for failing to comply with a
9 statute or regulation of this State relating to notaries public during his immediately
10 preceding period of appointment.

11 Under existing law, a notary public is guilty of a gross misdemeanor if he
12 notarizes the signature of a person in his presence who is unknown to him unless
13 the person provides documentary evidence of his identity. (NRS 240.155) Existing
14 law also provides that a notarial officer has satisfactory evidence that a person is
15 the person whose signature is on a document if, in pertinent part, the person is
16 identified upon the oath and affirmation of a credible witness. (NRS 240.1655) A
17 credible witness is a person who is known personally to the signer of the document
18 and the notarial officer. (NRS 240.0025) **Section 5** of this bill resolves the conflict
19 between those provisions by providing an additional exception to the criminal
20 penalty which allows a notary public to notarize the signature of a person unknown
21 to him who provides a credible witness.



* A B 5 3 3 R 1 *

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 240.010 is hereby amended to read as follows:
2 240.010 1. The Secretary of State may appoint notaries
3 public in this State.

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

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

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

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

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

15 (e) *Who has not submitted to the Secretary of State proof*
16 *satisfactory to the Secretary of State that he has enrolled in and*
17 *successfully completed a course of study provided pursuant to*
18 *NRS 240.018.*

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

21 4. It is unlawful for a person to:

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

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

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

30 **Sec. 2.** NRS 240.017 is hereby amended to read as follows:
31 240.017 The Secretary of State:

32 1. May adopt regulations:

33 (a) Prescribing the procedure for the appointment and
34 ~~voluntary~~ **mandatory** training of a notary public.

35 (b) Establishing procedures for the notarization of digital or
36 electronic signatures.

37 2. Shall adopt regulations prescribing the form of each affidavit
38 required pursuant to subsection 2 of NRS 240.030.

39 **Sec. 3.** NRS 240.018 is hereby amended to read as follows:

40 240.018 1. The Secretary of State may:

41 (a) Provide courses of study for the ~~voluntary~~ **mandatory**
42 training of notaries public . ~~for such times and for such duration as~~



~~he determines appropriate; and~~ *Such courses of study must include at least 4 hours of instruction relating to the functions and duties of notaries public.*

(b) Charge a reasonable fee to each person who enrolls in a course of study for the ~~{voluntary}~~ *mandatory* training of notaries public.

2. A course of study provided pursuant to this section must comply with the regulations adopted pursuant to subsection 1 of NRS 240.017.

3. *The following persons are required to enroll in and successfully complete a course of study provided pursuant to this section:*

(a) *A person applying for appointment as a notary public for the first time.*

(b) *A person renewing his appointment as a notary public, if his appointment as a notary public has expired for a period greater than 1 year.*

(c) *A person renewing his appointment as a notary public, if during the immediately preceding 4 years he has been fined for failing to comply with a statute or regulation of this State relating to notaries public.*

↪ A person who holds a current appointment as a notary public is not required to enroll in and successfully complete a course of study provided pursuant to this section if he is in compliance with all of the statutes and regulations of this State relating to notaries public.

4. The Secretary of State shall deposit the fees collected pursuant to paragraph (b) of subsection 1 in the Notary Public Training Fund which is hereby created as a special revenue fund in the State Treasury. The Fund must be administered by the Secretary of State. Any interest and income earned on the money in the Fund, after deducting any applicable charges, must be credited to the Fund. Any money remaining in the Fund at the end of a fiscal year does not revert to the State General Fund and the balance in the Fund must be carried forward. All claims against the Fund must be paid as other claims against the State are paid. The money in the Fund may be expended only to pay for expenses related to providing courses of study for the ~~{voluntary}~~ *mandatory* training of notaries public, including, without limitation, the rental of rooms and other facilities, advertising, travel and the printing and preparation of course materials.

Sec. 4. NRS 240.030 is hereby amended to read as follows:

240.030 1. Except as otherwise provided in subsection 4, each person applying for appointment as a notary public must:



(a) At the time he submits his application, pay to the Secretary of State \$35.

(b) Take and subscribe to the oath set forth in Section 2 of Article 15 of the Constitution of the State of Nevada as if he were a public officer.

(c) *Submit to the Secretary of State proof satisfactory to the Secretary of State that he has enrolled in and successfully completed a course of study provided pursuant to NRS 240.018.*

(d) Enter into a bond to the State of Nevada in the sum of \$10,000, to be filed with the clerk of the county in which the applicant resides or, if the applicant is a resident of an adjoining state, with the clerk of the county in this State in which the applicant maintains a place of business or is employed. The applicant shall submit to the Secretary of State a certificate issued by the appropriate county clerk which indicates that the applicant filed the bond required pursuant to this paragraph.

2. In addition to the requirements set forth in subsection 1, an applicant for appointment as a notary public, including, without limitation, a court reporter, who resides in an adjoining state must submit to the Secretary of State with his application:

(a) An affidavit setting forth the adjoining state in which he resides, his mailing address and the address of his place of business or employment that is located within the State of Nevada; and

(b) Unless the applicant is self-employed, an affidavit from his employer setting forth the facts that show:

(1) The employer is licensed to do business in the State of Nevada; and

(2) The employer regularly employs the applicant at an office, business or facility which is located within the State of Nevada.

3. In completing an application, bond, oath or other document necessary to apply for appointment as a notary public, an applicant must not be required to disclose his residential address or telephone number on any such document which will become available to the public.

4. A court reporter who has received a certificate of registration pursuant to NRS 656.180 may apply for appointment as a notary public with limited powers. Such an applicant is not required to enter into a bond to obtain the limited power of a notary public to administer oaths or affirmations.

5. If required, the bond, together with the oath, must be filed and recorded in the office of the county clerk of the county in which the applicant resides when he applies for his appointment or, if the applicant is a resident of an adjoining state, with the clerk of the county in this State in which the applicant maintains a place of



1 business or is employed. On a form provided by the Secretary of
2 State, the county clerk shall immediately certify to the Secretary of
3 State that the required bond and oath have been filed and recorded.
4 Upon receipt of the application, fee and certification that the
5 required bond and oath have been filed and recorded, the Secretary
6 of State shall issue a certificate of appointment as a notary public to
7 the applicant.

8 6. Except as otherwise provided in subsection 7, the term of a
9 notary public commences on the effective date of the bond required
10 pursuant to paragraph ~~(c)~~ (d) of subsection 1. A notary public shall
11 not perform a notarial act after the effective date of the bond unless
12 he has been issued a certificate of appointment.

13 7. The term of a notary public with limited powers commences
14 on the date set forth in his certificate of appointment.

15 8. Except as otherwise provided in this subsection, the
16 Secretary of State shall charge a fee of \$10 for each duplicate or
17 amended certificate of appointment which is issued to a notary. If
18 the notary public does not receive an original certificate of
19 appointment, the Secretary of State shall provide a duplicate
20 certificate of appointment without charge if the notary public
21 requests such a duplicate within 60 days after the date on which the
22 original certificate was issued.

23 **Sec. 5.** NRS 240.155 is hereby amended to read as follows:

24 240.155 1. A notary public who is appointed pursuant to this
25 chapter shall not willfully notarize the signature of a person unless
26 the person is in the presence of the notary public and:

27 (a) Is known to the notary public; or

28 (b) If unknown to the notary public, provides *a credible witness*
29 *or* documentary evidence of identification to the notary public.

30 2. A person who:

31 (a) Violates the provisions of subsection 1; or

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

34 ➔ is guilty of a gross misdemeanor.

