

Amendment No. 207

Assembly Amendment to Assembly Bill No. 533	(BDR 19-543)
Proposed by: Assembly Committee on Government Affairs	
Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

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"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold* is newly added transitory language.

MSM



Date: 4/9/2007

A.B. No. 533—Revises provisions governing notaries public. (BDR 19-543)



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 ~~omitted 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:

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

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

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

Section 1. 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.

(e) Who has not submitted 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.

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. 2. NRS 240.017 is hereby amended to read as follows:

240.017 The Secretary of State:

1. May adopt regulations:

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

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

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

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

240.018 1. The Secretary of State may:

(a) Provide courses of study for the ~~voluntary~~ **mandatory** training of notaries public. ~~at 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.

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

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

14 240.030 1. Except as otherwise provided in subsection 4, each person
15 applying for appointment as a notary public must:

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

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

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

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

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

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

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

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

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

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

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

48 5. If required, the bond, together with the oath, must be filed and recorded in
49 the office of the county clerk of the county in which the applicant resides when he
50 applies for his appointment or, if the applicant is a resident of an adjoining state,
51 with the clerk of the county in this State in which the applicant maintains a place of
52 business or is employed. On a form provided by the Secretary of State, the county
53 clerk shall immediately certify to the Secretary of State that the required bond and

oath have been filed and recorded. Upon receipt of the application, fee and certification that the required bond and oath have been filed and recorded, the Secretary of State shall issue a certificate of appointment as a notary public to the applicant.

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

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

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

~~Section 1.~~ **Sec. 5.** NRS 240.155 is hereby amended to read as follows:

240.155 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 *a credible witness or* 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.