

ASSEMBLY BILL NO. 65—COMMITTEE
ON GOVERNMENT AFFAIRS

(ON BEHALF OF THE SECRETARY OF STATE)

PREFILED DECEMBER 20, 2014

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to notaries public.
(BDR 19-445)

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

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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; making various changes relating to the regulation of notaries public; authorizing the Secretary of State to conduct certain examinations of the records of a document preparation service; revising the definition of “document preparation service” to exclude certain nonprofit organizations, commercial resident agents and collection agencies; making various changes relating to the regulation of document preparation services; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law prohibits persons with certain criminal convictions from becoming notaries public and provides for the revocation of the appointment of notaries public who are convicted of certain crimes. (NRS 240.010, 240.150) **Sections 1 and 6** of this bill clarify that those convictions include a conviction that follows a plea of nolo contendere or no contest.

Existing law prohibits a person who has not been appointed as a notary public from representing himself or herself as a notary public. (NRS 240.010) **Section 1** expands this prohibition to include those persons whose appointment has expired or been suspended or revoked, and provides a civil penalty for such a violation.

Existing law requires that applicants for appointment as notaries public complete 4 hours of instruction relating to the functions and duties of notaries public. (NRS 240.018) **Section 3** of this bill shortens the course to 3 hours and requires an examination. **Section 3** also requires a person renewing his or her appointment as a notary public to retake the course, and allows the Secretary of



State to require a notary public who has violated any provision of chapter 240 of NRS to retake the course. Finally, **section 3** authorizes the Secretary of State to use an outside vendor to administer the course and examination.

Existing law prohibits certain actions by a notaries public. (NRS 240.075) **Section 4** of this bill prohibits a notary public from applying his or her stamp to any document which does not contain a notarial certificate.

Existing law prohibits the use of the Spanish term “notario” or “notario publico” in any signage or advertisement by a notary public who is not also an attorney licensed to practice law in this State. (NRS 240.085) **Section 5** of this bill extends this prohibition to the employers of notaries public, and requires the imposition of a civil penalty for violating such a prohibition.

Existing law requires that a person who wishes to register a documentation preparation service must be a citizen or legal resident of the United States. (NRS 240A.100) **Section 9** of this bill allows a person who holds employment authorization from the United States Citizenship and Immigration Services to register a documentation preparation service. **Section 9** also provides that an application for registration that is not completed within 6 months must be denied.

Existing law exempts certain persons from registering as a documentation preparation service. (NRS 240A.030) **Section 8** of this bill clarifies which nonprofit organizations and commercial registered agents are not required to register and adds collection agencies to the list of such persons.

Existing law requires that a document prepared by a documentation preparation service must include the name, address, phone number and registration number of the document preparation service. (NRS 240A.200) **Section 11** of this bill deletes this requirement but requires a document preparation service to provide this information on any document on which the information is requested.

Section 7 of this bill specifically authorizes the Secretary of State to inspect the documents required to be maintained by document preparation services to ensure compliance with the law.

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, except as otherwise provided in subsection 3, has been convicted of ~~felony~~, *or entered a plea of guilty, guilty but mentally ill or nolo contendere to:*

(1) A crime involving moral turpitude; or

(2) Burglary, conversion, embezzlement, extortion, forgery, fraud, identity theft, larceny, obtaining money under false pretenses,



1 robbery or any other crime involving misappropriation of the
2 identity or property of another person or entity,
3 ➔ if the Secretary of State is aware of such a conviction *or plea*
4 before the Secretary of State makes the appointment.

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

7 (e) Who has not submitted to the Secretary of State proof
8 satisfactory to the Secretary of State that the person has enrolled in
9 and successfully completed a course of study provided pursuant to
10 NRS 240.018.

11 3. A person who has been convicted of , *or entered a plea of*
12 *guilty, guilty but mentally ill or nolo contendere to*, a crime
13 involving moral turpitude may apply for appointment as a notary
14 public if the person provides proof satisfactory to the Secretary of
15 State that:

16 (a) More than 10 years have elapsed since the date of the
17 person's release from confinement or the expiration of the period of
18 his or her parole, probation or sentence, whichever is later;

19 (b) The person has made complete restitution for his or her
20 crime involving moral turpitude, if applicable;

21 (c) The person possesses his or her civil rights; and

22 (d) The crime for which the person was convicted *or entered a*
23 *plea* is not one of the crimes enumerated in subparagraph (2) of
24 paragraph (c) of subsection 2.

25 4. A notary public may cancel his or her appointment by
26 submitting a written notice to the Secretary of State.

27 5. It is unlawful for a person to:

28 (a) Represent himself or herself as a notary public appointed
29 pursuant to this section if the person has not received a certificate of
30 appointment from the Secretary of State pursuant to this chapter ~~H~~,
31 *or if his or her appointment is expired, revoked or suspended or is*
32 *otherwise not in good standing.*

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

36 6. *Any person who violates a provision of paragraph (a) of*
37 *subsection 5 is liable for a civil penalty of not more than \$2,000*
38 *for each violation, plus reasonable attorney's fees and costs.*

39 7. The Secretary of State may request that the Attorney General
40 bring an action to enjoin any violation of paragraph (a) of subsection
41 5 ~~H~~ *and recover any penalties, attorney's fees and costs.*

42 **Sec. 2.** NRS 240.015 is hereby amended to read as follows:

43 240.015 1. Except as otherwise provided in this section, a
44 person appointed as a notary public must:



(a) During the period of his or her appointment, be a citizen of the United States or lawfully admitted for permanent residency in the United States as verified by the United States Citizenship and Immigration Services.

(b) Be a resident of this State.

(c) Be at least 18 years of age.

(d) Possess his or her civil rights.

(e) Have completed a course of study pursuant to NRS 240.018.

2. If a person appointed as a notary public ceases to be lawfully admitted for permanent residency in the United States during his or her appointment, the person shall, within 90 days after his or her lawful admission has expired or is otherwise terminated, submit to the Secretary of State evidence that the person is lawfully readmitted for permanent residency as verified by the United States Citizenship and Immigration Services. If the person fails to submit such evidence within the prescribed time, the person's appointment expires by operation of law.

3. The Secretary of State may appoint a person who resides in an adjoining state as a notary public if the person:

(a) Maintains a place of business in the State of Nevada that is licensed pursuant to chapter 76 of NRS and any applicable business licensing requirements of the local government where the business is located; or

(b) Is regularly employed at an office, business or facility located within the State of Nevada by an employer licensed to do business in this State.

➔ If such a person ceases to maintain a place of business in this State or regular employment at an office, business or facility located within this State, the Secretary of State may suspend the person's appointment. The Secretary of State may reinstate an appointment suspended pursuant to this subsection if the notary public submits to the Secretary of State, before his or her term of appointment as a notary public expires, the information 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 mandatory training of notaries public. Such courses of study ~~must~~:

(1) Must include at least ~~14~~ 3 hours of instruction and an examination relating to the functions and duties of notaries public ~~14~~; and

(2) May be conducted in person or online by the Secretary of State or a vendor approved by the Secretary of State.

(b) Charge a reasonable fee to each person who enrolls in a course of study for the 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 or her appointment as a notary public ~~if the appointment has expired for a period greater than 1 year.~~

(c) A person ~~renewing his or her appointment as a notary public, if during the immediately preceding 4 years the person 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 the person is in compliance with all of the statutes and regulations of this State relating to notaries public.~~ *who has committed a violation of this chapter or whose appointment has been suspended, and who has been required by the Secretary of State to enroll in a course of study provided pursuant to this section.*

4. The Secretary of State shall deposit the fees collected pursuant to paragraph (b) of subsection 1 in the Notary Public Training Account which is hereby created in the State General Fund. The Account must be administered by the Secretary of State. Any interest and income earned on the money in the Account, after deducting any applicable charges, must be credited to the Account. Any money remaining in the Account at the end of a fiscal year does not revert to the State General Fund, and the balance in the Account must be carried forward. All claims against the Account must be paid as other claims against the State are paid. The money in the Account may be expended:

(a) To pay for expenses related to providing courses of study for the 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; or

(b) For any other purpose authorized by the Legislature.

5. At the end of each fiscal year, the Secretary of State shall reconcile the amount of the fees collected pursuant to paragraph (b) of subsection 1 and the expenses related to administering the training of notaries public pursuant to this chapter and deposit any excess fees received with the State Treasurer for credit to the State General Fund.



Sec. 4. NRS 240.075 is hereby amended to read as follows:

240.075 A notary public shall not:

1. Influence a person to enter or not enter into a lawful transaction involving a notarial act performed by the notary public.

2. Certify an instrument containing a statement known by the notary public to be false.

3. Perform any act as a notary public with intent to deceive or defraud, including, without limitation, altering the journal that the notary public is required to keep pursuant to NRS 240.120.

4. Endorse or promote any product, service or offering if his or her appointment as a notary public is used in the endorsement or promotional statement.

5. Certify photocopies of a certificate of birth, death or marriage or a divorce decree.

6. Allow any other person to use his or her notary's stamp.

7. Allow any other person to sign the notary's name in a notarial capacity.

8. Perform a notarial act on a document that contains only a signature.

9. Perform a notarial act on a document, including a form that requires the signer to provide information within blank spaces, unless the document has been filled out completely and has been signed.

10. Make or note a protest of a negotiable instrument unless the notary public is employed by a depository institution and the protest is made or noted within the scope of that employment. As used in this subsection, "depository institution" has the meaning ascribed to it in NRS 657.037.

11. Affix his or her stamp to any document which does not contain a notarial certificate.

Sec. 5. NRS 240.085 is hereby amended to read as follows:

240.085 1. Every notary public who is not an attorney licensed to practice law in this State and who advertises his or her services as a notary public in a language other than English by any form of communication, except a single plaque on his or her desk, shall post or otherwise include with the advertisement a notice in the language in which the advertisement appears. The notice must be of a conspicuous size, if in writing, and must appear in substantially the following form:

I AM NOT AN ATTORNEY IN THE STATE OF
NEVADA. I AM NOT LICENSED TO GIVE LEGAL
ADVICE. I MAY NOT ACCEPT FEES FOR GIVING
LEGAL ADVICE.



2. A notary public who is not an attorney licensed to practice law in this State shall not use the term "notario," "notario publico" or any other equivalent non-English term in any form of communication that advertises his or her services as a notary public, including, without limitation, a business card, stationery, notice and sign.

3. If the Secretary of State finds a notary public guilty of violating the provisions of subsection 1 or 2, the Secretary of State shall:

(a) Suspend the appointment of the notary public for not less than 1 year.

(b) Revoke the appointment of the notary public for a third or subsequent offense.

(c) Assess a civil penalty of not more than \$2,000 for each violation.

4. A notary public who is found guilty in a criminal prosecution of violating subsection 1 or 2 shall be punished by a fine of not more than \$2,000.

5. An employer of a notary public shall not:

(a) Prohibit the notary public from meeting the requirements set forth in subsection 1; or

(b) Advertise using the term "notario," "notario publico" or any other equivalent non-English term in any form of communication that advertises notary public services, including, without limitation, a business card, stationery, notice and sign, unless the notary public under his or her employment is an attorney licensed to practice law in this State.

6. If the Secretary of State finds the employer of the notary public guilty of violating a provision of subsection 5, the Secretary of State shall:

(a) Notify the employer in writing of the violation and order the immediate removal of such language.

(b) Assess a civil penalty of not more than \$2,000 for each violation.

7. The employer of a notary public who is found guilty in a criminal prosecution of violating a provision of subsection 5 shall be punished by a fine of not more than \$2,000.

Sec. 6. NRS 240.150 is hereby amended to read as follows:

240.150 1. For misconduct or neglect in a case in which a notary public appointed pursuant to the authority of this State may act, either by the law of this State or of another state, territory or country, or by the law of nations, or by commercial usage, the notary public is liable on his or her official bond to the parties injured thereby, for all the damages sustained.

2. The employer of a notary public may be assessed a civil penalty by the Secretary of State of not more than \$2,000 for each



1 violation specified in subsection 4 committed by the notary public,
2 and the employer is liable for any damages proximately caused by
3 the misconduct of the notary public, if:

4 (a) The notary public was acting within the scope of his or her
5 employment at the time the notary public engaged in the
6 misconduct; and

7 (b) The employer of the notary public consented to the
8 misconduct of the notary public.

9 3. The Secretary of State may refuse to appoint or may suspend
10 or revoke the appointment of a notary public who fails to provide to
11 the Secretary of State, within a reasonable time, information that the
12 Secretary of State requests from the notary public in connection
13 with a complaint which alleges a violation of this chapter.

14 4. Except as otherwise provided in this chapter, for any willful
15 violation or neglect of duty or other violation of this chapter, or
16 upon proof that a notary public has been convicted of , *or entered a*
17 *plea of guilty, guilty but mentally ill or nolo contendere to*, a crime
18 described in paragraph (c) of subsection 2 of NRS 240.010:

19 (a) The appointment of the notary public may be suspended for
20 a period determined by the Secretary of State, but not exceeding the
21 time remaining on the appointment;

22 (b) The appointment of the notary public may be revoked after a
23 hearing; or

24 (c) The notary public may be assessed a civil penalty of not
25 more than \$2,000 for each violation.

26 5. If the Secretary of State revokes or suspends the
27 appointment of a notary public pursuant to this section, the
28 Secretary of State shall:

29 (a) Notify the notary public in writing of the revocation or
30 suspension;

31 (b) Cause notice of the revocation or suspension to be published
32 on the website of the Secretary of State; and

33 (c) If a county clerk has issued a certificate of permission to
34 perform marriages to the notary public pursuant to NRS 122.064,
35 notify the county clerk of the revocation or suspension.

36 6. Except as otherwise provided by law, the Secretary of State
37 may assess the civil penalty that is authorized pursuant to this
38 section upon a notary public whose appointment has expired if the
39 notary public committed the violation that justifies the civil penalty
40 before his or her appointment expired.

41 7. The appointment of a notary public may be suspended or
42 revoked by the Secretary of State pending a hearing if the Secretary
43 of State believes it is in the public interest or is necessary to protect
44 the public.



1 **Sec. 7.** Chapter 240A of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 *The Secretary of State may conduct periodic, special or any*
4 *other examinations of any records required to be maintained*
5 *pursuant to this chapter or any other provisions of NRS pertaining*
6 *to the duties of a registrant as the Secretary of State deems*
7 *necessary to determine whether a violation of this chapter or any*
8 *other provision of NRS pertaining to the duties of a registrant has*
9 *occurred.*

10 **Sec. 8.** NRS 240A.030 is hereby amended to read as follows:
11 240A.030 1. "Document preparation service" means a person
12 who:

13 (a) For compensation and at the direction of a client, provides
14 assistance to the client in a legal matter, including, without
15 limitation:

16 (1) Preparing or completing any pleading, application or
17 other document for the client;

18 (2) Translating an answer to a question posed in such a
19 document;

20 (3) Securing any supporting document, such as a birth
21 certificate, required in connection with the legal matter; or

22 (4) Submitting a completed document on behalf of the client
23 to a court or administrative agency; or

24 (b) Holds himself or herself out as a person who provides such
25 services.

26 2. The term does not include:

27 (a) A person who provides only secretarial or receptionist
28 services.

29 (b) An attorney authorized to practice law in this State, or an
30 employee of such an attorney who is paid directly by the attorney or
31 law firm with whom the attorney is associated and who is acting in
32 the course and scope of that employment.

33 (c) A law student certified by the State Bar of Nevada for
34 training in the practice of law.

35 (d) A governmental entity or an employee of such an entity who
36 is acting in the course and scope of that employment.

37 (e) A nonprofit organization *formed pursuant to title 7 of NRS*
38 *which ~~qualifies as~~ the Secretary of the Treasury has determined*
39 *is* a tax-exempt organization pursuant to 26 U.S.C. § 501(c) and
40 which provides legal services to persons free of charge, or an
41 employee of such an organization who is acting in the course and
42 scope of that employment.

43 (f) A legal aid office or lawyer referral service operated,
44 sponsored or approved by a duly accredited law school, a
45 governmental entity, the State Bar of Nevada or any other bar



1 association which is representative of the general bar of the
2 geographical area in which the bar association exists, or an
3 employee of such an office or service who is acting in the course
4 and scope of that employment.

5 (g) A military legal assistance office or a person assigned to
6 such an office who is acting in the course and scope of that
7 assignment.

8 (h) A person licensed by or registered with an agency or entity
9 of the United States Government acting within the scope of his or
10 her license or registration, including, without limitation, an
11 accredited immigration representative and an enrolled agent
12 authorized to practice before the Internal Revenue Service, but not
13 including a bankruptcy petition preparer as defined by section 110
14 of the United States Bankruptcy Code, 11 U.S.C. § 110.

15 (i) A corporation, limited-liability company or other entity
16 representing or acting for itself through an officer, manager,
17 member or employee of the entity, or any such officer, manager,
18 member or employee who is acting in the course and scope of that
19 employment.

20 (j) A commercial wedding chapel.

21 (k) A person who provides legal forms or computer programs
22 that enable another person to create legal documents.

23 (l) A commercial registered agent ~~is~~ *while carrying out his or*
24 *her duties as a commercial registered agent pursuant to chapter 77*
25 *of NRS or acting within the scope of those duties.*

26 (m) A person who holds a license, permit, certificate,
27 registration or any other type of authorization required by chapter
28 645 or 692A of NRS, or any regulation adopted pursuant thereto,
29 and is acting within the scope of that authorization.

30 *(n) A collection agency that is licensed pursuant to chapter*
31 *649 of NRS.*

32 3. As used in this section:

33 (a) "Commercial registered agent" has the meaning ascribed to it
34 in NRS 77.040.

35 (b) "Commercial wedding chapel" means a permanently affixed
36 structure which operates a business principally for the performance
37 of weddings and which is licensed for that purpose.

38 **Sec. 9.** NRS 240A.100 is hereby amended to read as follows:

39 240A.100 1. A person who wishes to engage in the business
40 of a document preparation service must be registered by the
41 Secretary of State pursuant to this chapter. An applicant for
42 registration must be a citizen or legal resident of the United States
43 *or hold a valid Employment Authorization Document issued by the*
44 *United States Citizenship and Immigration Services, and be* at least
45 18 years of age.



2. The Secretary of State shall not register as a document preparation service any person:

(a) Who is suspended or has previously been disbarred from the practice of law in any jurisdiction;

(b) Whose registration as a document preparation service has previously been revoked by the Secretary of State;

(c) Who has previously been convicted of , *or entered a plea of guilty, guilty but mentally ill or nolo contendere to*, a gross misdemeanor pursuant to paragraph (b) of subsection 1 of NRS 240A.290; or

(d) Who has, within the 10 years immediately preceding the date of the application for registration as a document preparation service, been:

(1) Convicted of , *or entered a plea of guilty, guilty but mentally ill or nolo contendere to*, a crime involving theft, fraud or dishonesty;

(2) Convicted of , *or entered a plea of guilty, guilty but mentally ill or nolo contendere to*, the unauthorized practice of law pursuant to NRS 7.285 or the corresponding statute of any other jurisdiction; or

(3) Adjudged by the final judgment of any court to have committed an act involving theft, fraud or dishonesty.

3. An application for registration as a document preparation service must be made under penalty of perjury on a form prescribed by regulation of the Secretary of State and must be accompanied by a cash bond or surety bond meeting the requirements of NRS 240A.120.

4. After the investigation of the history of the applicant is completed, the Secretary of State shall issue a certificate of registration if the applicant is qualified for registration and has complied with the requirements of this section. Each certificate of registration must bear the name of the registrant and a registration number unique to that registrant. The Secretary of State shall maintain a record of the name and registration number of each registrant.

5. An application for registration as a document preparation service that is not completed within 6 months after the date on which the application was submitted must be denied.

Sec. 10. NRS 240A.110 is hereby amended to read as follows:

240A.110 1. The registration of a document preparation service is valid for 1 year after the date of issuance of the certificate of registration, unless the registration is suspended or revoked. Except as otherwise provided in this section, the registration may be renewed subject to the same conditions as the initial registration. An application for renewal must be made under penalty of perjury on a



1 form prescribed by regulation of the Secretary of State and must be
2 accompanied by a cash bond or surety bond meeting the
3 requirements of NRS 240A.120, unless the bond previously filed by
4 the registrant remains on file and in effect.

5 2. *The registration of a registrant who holds a valid*
6 *Employment Authorization Document issued by the United States*
7 *Citizenship and Immigration Services must expire on the date on*
8 *which that person's employment authorization expires.*

9 3. The Secretary of State may:

10 (a) Conduct any investigation of a registrant that the Secretary
11 of State deems appropriate.

12 (b) Require a registrant to submit a complete set of fingerprints
13 and written permission authorizing the Secretary of State to forward
14 the fingerprints to the Central Repository for Nevada Records of
15 Criminal History for submission to the Federal Bureau of
16 Investigation for its report.

17 ~~[3.]~~ 4. After any investigation of the history of a registrant is
18 completed, unless the Secretary of State elects or is required to deny
19 renewal pursuant to this section or NRS 240A.270, the Secretary of
20 State shall renew the registration if the registrant is qualified for
21 registration and has complied with the requirements of this section.

22 Sec. 11. NRS 240A.200 is hereby amended to read as follows:

23 240A.200 ~~[Any]~~ *If a* document prepared for a client by a
24 registrant ~~[must include, below any required signature of the client,]~~
25 *includes a place on the document for the registrant to provide*
26 *information, including, without limitation,* the name, business
27 address , ~~[and]~~ telephone number and registration number of the
28 registrant ~~[]~~ , *the registrant shall include the requested*
29 *information on the document.*

30 Sec. 12. The provisions of NRS 240.018, as amended by
31 section 3 of this act, do not apply to a notary public whose
32 appointment as a notary public expires before October 1, 2015.

33 Sec. 13. This act becomes effective on July 1, 2015.

