



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

SB3550

Introduced 2/10/2010, by Sen. Mattie Hunter

#### SYNOPSIS AS INTRODUCED:

5 ILCS 312/3-105	from Ch. 102, par. 203-105
5 ILCS 312/6-101	from Ch. 102, par. 206-101
5 ILCS 312/6-102	from Ch. 102, par. 206-102
5 ILCS 312/7-108	from Ch. 102, par. 207-108

Amends the Illinois Notary Public Act. Removes the notary public's personal knowledge of an individual as a means of verifying the individual's identity. Defines a "credible witness". Authorizes the Secretary of State to suspend a notary public's commission pending criminal investigation of alleged fraud by the notary or pending administrative review of the notary's suspected violations of the Act or suspected actions in bad faith. Makes other changes. Effective immediately.

LRB096 20497 JAM 36165 b

1 AN ACT concerning government.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Notary Public Act is amended by  
5 changing Sections 3-105, 6-101, 6-102, and 7-108 as follows:

6 (5 ILCS 312/3-105) (from Ch. 102, par. 203-105)

7 Sec. 3-105. Authority. A notary public shall have authority  
8 to perform notarial acts throughout the State so long as the  
9 notary resides in the same county in which the notary was  
10 commissioned or, if the notary is a resident of a state  
11 bordering Illinois, so long as the notary's principal place of  
12 work or principal place of business is in the same county in  
13 Illinois in which the notary was commissioned. Such authority  
14 shall remain in effect for the duration of the notary  
15 commission unless such commission is suspended or revoked in  
16 accordance with Section 7-108.

17 (Source: P.A. 91-818, eff. 6-13-00.)

18 (5 ILCS 312/6-101) (from Ch. 102, par. 206-101)

19 Sec. 6-101. Definitions. (a) "Notarial act" means any act  
20 that a notary public of this State is authorized to perform and  
21 includes taking an acknowledgment, administering an oath or  
22 affirmation, taking a verification upon oath or affirmation,

1 and witnessing or attesting a signature.

2 (b) "Acknowledgment" means a declaration by a person that  
3 the person has executed an instrument for the purposes stated  
4 therein and, if the instrument is executed in a representative  
5 capacity, that the person signed the instrument with proper  
6 authority and executed it as the act of the person or entity  
7 represented and identified therein.

8 (c) "Verification upon oath or affirmation" means a  
9 declaration that a statement is true made by a person upon oath  
10 or affirmation.

11 (d) "In a representative capacity" means:

12 (1) for and on behalf of a corporation, partnership, trust,  
13 or other entity, as an authorized officer, agent, partner,  
14 trustee, or other representative;

15 (2) as a public officer, personal representative,  
16 guardian, or other representative, in the capacity recited in  
17 the instrument;

18 (3) as an attorney in fact for a principal; or

19 (4) in any other capacity as an authorized representative  
20 of another.

21 (e) "Credible witness" means an honest, reliable, and  
22 impartial person who personally knows the individual appearing  
23 before a notary and takes an oath or affirmation from the  
24 notary to vouch for that individual's identity.

25 (Source: P.A. 84-322.)

1 (5 ILCS 312/6-102) (from Ch. 102, par. 206-102)

2 Sec. 6-102. Notarial Acts.

3 (a) In taking an acknowledgment, the notary public must  
4 determine, ~~either from personal knowledge or~~ from satisfactory  
5 evidence, that the person appearing before the notary and  
6 making the acknowledgment is the person whose true signature is  
7 on the instrument.

8 (b) In taking a verification upon oath or affirmation, the  
9 notary public must determine, ~~either from personal knowledge or~~  
10 from satisfactory evidence, that the person appearing before  
11 the notary and making the verification is the person whose true  
12 signature is on the statement verified.

13 (c) In witnessing or attesting a signature, the notary  
14 public must determine, ~~either from personal knowledge or~~ from  
15 satisfactory evidence, that the signature is that of the person  
16 appearing before the notary and named therein.

17 (d) A notary public has satisfactory evidence that a person  
18 is the person whose true signature is on a document if that  
19 person:

20 (1) (blank) ~~is personally known to the notary;~~

21 (2) is identified upon the oath or affirmation of a  
22 credible witness who is identified on the basis of  
23 identification documents as defined in this Section and who  
24 is personally known to the notary; or

25 (3) is identified on the basis of identification  
26 documents. Identification ~~Until July 1, 2013,~~

1 ~~identification~~ documents are documents that are valid at  
2 the time of the notarial act, issued by a state or federal  
3 government agency, and bearing the photographic image of  
4 the individual's face and signature of the individual.

5 (Source: P.A. 95-988, eff. 6-1-09.)

6 (5 ILCS 312/7-108) (from Ch. 102, par. 207-108)

7 Sec. 7-108. Suspension or revocation of commission  
8 ~~Revocation of Commission.~~

9 (a) The Secretary of State may suspend the commission of  
10 any notary public who, during the current term of appointment:

11 (1) is the subject of a criminal investigation into  
12 allegations of fraud; the suspension shall commence upon  
13 receipt of official written notice from a law enforcement  
14 agency by the Secretary of a pending fraud investigation  
15 against the notary and shall continue until receipt of  
16 official written notice from that law enforcement agency  
17 that the investigation has been concluded and that no  
18 further action will be taken or until adjudication by a  
19 court of competent jurisdiction of criminal charges  
20 against the notary in the notary's favor; or

21 (2) has, in the reasonable belief of the Secretary, (i)  
22 violated one or more provisions of this Act, (ii) acted in  
23 bad faith, or (iii) violated one or more provisions of this  
24 Act and acted in bad faith; the suspension shall continue  
25 pending administrative review.

1        (b) The Secretary of State may revoke the commission of any  
2 notary public who, during the current term of appointment:

3            (1) ~~(a)~~ submits an application for commission and  
4 appointment as a notary public which contains substantial  
5 and material misstatement or omission of fact; ~~or~~

6            (2) ~~(b)~~ is convicted of any felony or official  
7 misconduct under this Act; or -

8            (3) is found upon administrative review to (i) have  
9 violated this Act, (ii) have acted in bad faith, or (iii)  
10 have violated this Act and acted in bad faith.

11 (Source: P.A. 84-322.)

12        Section 99. Effective date. This Act takes effect upon  
13 becoming law.