

AN ACT concerning government.

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

Section 5. The Illinois Notary Public Act is amended by changing Sections 2-102, 4-101, 6-104, 7-101, and 7-108 as follows:

(5 ILCS 312/2-102) (from Ch. 102, par. 202-102)

Sec. 2-102. Application. Every applicant for appointment and commission as a notary shall complete an application in a format prescribed by the Secretary of State to be filed with the Secretary of State, stating:

(a) the applicant's official name, as it appears on his or her current driver's license or state-issued identification card;

(b) the county in which the applicant resides or, if the applicant is a resident of a state bordering Illinois, the county in Illinois in which that person's principal place of work or principal place of business is located;

(c) the applicant's residence address, as it appears on his or her current driver's license or state-issued identification card, ~~and business address, if any;~~

(c-5) the applicant's business address if different than the applicant's residence address, if performing

notarial acts constitutes any portion of the applicant's job duties;

(d) that the applicant has resided in the State of Illinois for 30 days preceding the application or that the applicant who is a resident of a state bordering Illinois has worked or maintained a business in Illinois for 30 days preceding the application;

(e) that the applicant is a citizen of the United States or an alien lawfully admitted for permanent residence in the United States;

(f) the applicant's date of birth;

(g) that the applicant is able to read and write the English language;

(h) that the applicant has never been the holder of a notary public appointment that was revoked or suspended during the past 10 years;

(i) that the applicant has not been convicted of a felony;

(i-5) that the applicant's signature authorizes the Office of the Secretary of State to conduct a verification to confirm the information provided in the application, including a criminal background check of the applicant, if necessary; and

(j) any other information the Secretary of State deems necessary.

(Source: P.A. 99-112, eff. 1-1-16.)

(5 ILCS 312/4-101) (from Ch. 102, par. 204-101)

Sec. 4-101. Changes causing commission to cease to be in effect. When any notary public legally changes his or her name, changes his or her business address without notifying the Index Department of the Secretary of State in writing within 30 days thereof, ~~or moves from the county in which he or she was commissioned~~ or, if the notary public is a resident of a state bordering Illinois, no longer maintains a principal place of work or principal place of business in the same county in Illinois in which he or she was commissioned, the commission of that notary ceases to be in effect. When the commission of a notary public ceases to be in effect, his or her notarial seal shall and should be surrendered ~~returned~~ to the Secretary of State, and his or her certificate of notarial commission shall be destroyed. These individuals who desire to again become a notary public must file a new application, bond, and oath with the Secretary of State.

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

(5 ILCS 312/6-104) (from Ch. 102, par. 206-104)

Sec. 6-104. Acts prohibited.

(a) A notary public shall not use any name or initial in signing certificates other than that by which the notary was commissioned.

(b) A notary public shall not acknowledge any instrument in

which the notary's name appears as a party to the transaction.

(c) A notary public shall not affix his signature to a blank form of affidavit or certificate of acknowledgment.

(d) A notary public shall not take the acknowledgment of or administer an oath to any person whom the notary actually knows to have been adjudged mentally ill by a court of competent jurisdiction and who has not been restored to mental health as a matter of record.

(e) A notary public shall not take the acknowledgment of any person who is blind until the notary has read the instrument to such person.

(f) A notary public shall not take the acknowledgment of any person who does not speak or understand the English language, unless the nature and effect of the instrument to be notarized is translated into a language which the person does understand.

(g) A notary public shall not change anything in a written instrument after it has been signed by anyone.

(h) No notary public shall be authorized to prepare any legal instrument, or fill in the blanks of an instrument, other than a notary certificate; however, this prohibition shall not prohibit an attorney, who is also a notary public, from performing notarial acts for any document prepared by that attorney.

(i) If a notary public accepts or receives any money from any one to whom an oath has been administered or on behalf of

whom an acknowledgment has been taken for the purpose of transmitting or forwarding such money to another and willfully fails to transmit or forward such money promptly, the notary is personally liable for any loss sustained because of such failure. The person or persons damaged by such failure may bring an action to recover damages, together with interest and reasonable attorney fees, against such notary public or his bondsmen.

(j) A notary public shall not perform any notarial act when his or her commission is suspended or revoked, nor shall he or she fail to comply with any term of suspension which may be imposed for violation of this Section.

(Source: P.A. 100-81, eff. 1-1-18.)

(5 ILCS 312/7-101) (from Ch. 102, par. 207-101)

Sec. 7-101. Liability of Notary and Surety. A notary public and the surety on the notary's bond are liable to the persons involved for all damages caused by the notary's official misconduct. Upon the filing of any claim against a notary public, the entity that has issued the bond for the notary shall notify the Secretary of State of whether payment was made and the circumstances which led to the claim.

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

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

Sec. 7-108. Reprimand, Suspension, and Revocation of

Commission.

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

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

(2) ~~(b)~~ is convicted of any felony, misdemeanors, including those defined in Part C, Articles 16, 17, 18, 19, and 21, and Part E, Articles 31, 32, and 33 of the Criminal Code of 2012, or official misconduct under this Act.

(b) Whenever the Secretary of State believes that a violation of this Article has occurred, he or she may investigate any such violation. The Secretary may also investigate possible violations of this Article upon a signed written complaint on a form designated by the Secretary.

(c) A notary's failure to cooperate or respond to an investigation by the Secretary of State is a failure by the notary to fully and faithfully discharge the responsibilities and duties of a notary and shall result in suspension or revocation of the notary's commission.

(d) All written complaints which on their face appear to establish facts which, if proven true, would constitute an act of misrepresentation or fraud in notarization or on the part of the notary shall be investigated by the Secretary of State to determine whether cause exists to reprimand, suspend, or revoke the commission of the notary.

(e) The Secretary of State may deliver a written official warning and reprimand to a notary, or may revoke or suspend a notary's commission, for any of the following:

(1) a notary's official misconduct, as defined under Section 7-104;

(2) any ground for which an application for appointment as a notary may be denied for failure to complete application requirements as provided under Section 2-102;

(3) any prohibited act provided under Section 6-104; or

(4) a violation of any provision of the general statutes.

(f) After investigation and upon a determination by the Secretary of State that one or more prohibited acts has been performed in the notarization of a document, the Secretary shall, after considering the extent of the prohibited act and the degree of culpability of the notary, order one or more of the following courses of action:

(1) issue a letter of warning to the notary, including the Secretary's findings;

(2) order suspension of the commission of the notary for a period of time designated by the Secretary;

(3) order revocation of the commission of the notary;

(4) refer the allegations to the appropriate State's Attorney's Office or the Attorney General for criminal investigation; or

(5) refer the allegations to the Illinois Attorney

Registration and Disciplinary Commission for disciplinary proceedings.

(g) After a notary receives notice from the Secretary of State that his or her commission has been revoked, that notary shall immediately deliver his or her official seal to the Secretary.

(h) A notary whose appointment has been revoked due to a violation of this Act shall not be eligible for a new commission as a notary public in this State for a period of at least 5 years from the date of the final revocation.

(i) A notary may voluntarily resign from appointment by notifying the Secretary of State in writing of his or her intention to do so, and by physically returning his or her stamp to the Secretary. A voluntary resignation shall not stop or preclude any investigation into a notary's conduct, or prevent further suspension or revocation by the Secretary, who may pursue any such investigation to a conclusion and issue any finding.

(j) Upon a determination by a sworn law enforcement officer that the allegations raised by the complaint are founded, and the notary has received notice of suspension or revocation from the Secretary of State, the notary is entitled to an administrative hearing.

(k) The Secretary of State shall adopt administrative hearing rules applicable to this Section that are consistent with the Illinois Administrative Procedure Act.

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

Section 99. Effective date. This Act takes effect January 1, 2019.