



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

SB3443

Introduced 2/16/2018, by Sen. Don Harmon

SYNOPSIS AS INTRODUCED:

5 ILCS 312/2-102	from Ch. 102, par. 202-102
5 ILCS 312/4-101	from Ch. 102, par. 204-101
5 ILCS 312/6-104	from Ch. 102, par. 206-104
5 ILCS 312/7-101	from Ch. 102, par. 207-101
5 ILCS 312/7-108	from Ch. 102, par. 207-108

Amends the Illinois Notary Public Act. Provides that the application for appointment and commission as a notary public shall include the applicant's business address if different than the applicant's residence address. Provides that an applicant's signature on a notary public application authorizes the Secretary of State to conduct a criminal background check of the applicant. Modifies provisions concerning changes causing a notary's commission to cease to be in effect. Provides that the performance of a notarial act while the commission of a notary is suspended or revoked is a prohibited act. Provides that upon the filing of any claim against a notary public or upon payment to any individual harmed as a result of a breach of duty by the notary public, the entity that has issued the bond for the notary shall notify the Secretary of whether payment was made and the circumstances which led to the claim. Adds provisions and requirements concerning reprimand, suspension, and revocation of a notary's Commission. Effective January 1, 2019.

LRB100 15693 RJF 30795 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 2-102, 4-101, 6-104, 7-101, and 7-108 as
6 follows:

7 (5 ILCS 312/2-102) (from Ch. 102, par. 202-102)

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

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

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

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

22 (c-5) the applicant's business address if different
23 than the applicant's residence address;

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

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

9 (f) the applicant's date of birth;

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

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

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

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

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

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

24 (5 ILCS 312/4-101) (from Ch. 102, par. 204-101)

25 Sec. 4-101. Changes causing commission to cease to be in

1 effect. When any notary public legally changes his or her name,
2 changes his or her business address without first notifying the
3 Index Department of the Secretary of State in writing, or moves
4 from the county in which he or she was commissioned or, if the
5 notary public is a resident of a state bordering Illinois, no
6 longer maintains a principal place of work or principal place
7 of business in the same county in Illinois in which he or she
8 was commissioned, the commission of that notary ceases to be in
9 effect, his or her notarial seal shall ~~and should~~ be returned
10 to the Secretary of State, and his or her certificate of
11 notarial commission shall be destroyed. These individuals who
12 desire to again become a notary public must file a new
13 application, bond, and oath with the Secretary of State.
14 (Source: P.A. 91-818, eff. 6-13-00.)

15 (5 ILCS 312/6-104) (from Ch. 102, par. 206-104)
16 Sec. 6-104. Acts prohibited.

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

20 (b) A notary public shall not acknowledge any instrument in
21 which the notary's name appears as a party to the transaction.

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

24 (d) A notary public shall not take the acknowledgment of or
25 administer an oath to any person whom the notary actually knows

1 to have been adjudged mentally ill by a court of competent
2 jurisdiction and who has not been restored to mental health as
3 a matter of record.

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

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

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

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

20 (i) If a notary public accepts or receives any money from
21 any one to whom an oath has been administered or on behalf of
22 whom an acknowledgment has been taken for the purpose of
23 transmitting or forwarding such money to another and willfully
24 fails to transmit or forward such money promptly, the notary is
25 personally liable for any loss sustained because of such
26 failure. The person or persons damaged by such failure may

1 bring an action to recover damages, together with interest and
2 reasonable attorney fees, against such notary public or his
3 bondsmen.

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

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

9 (5 ILCS 312/7-101) (from Ch. 102, par. 207-101)

10 Sec. 7-101. Liability of Notary and Surety. A notary public
11 and the surety on the notary's bond are liable to the persons
12 involved for all damages caused by the notary's official
13 misconduct. Upon the filing of any claim against a notary
14 public or upon payment to any individual harmed as a result of
15 a breach of duty by the notary public, the entity that has
16 issued the bond for the notary shall notify the Secretary of
17 State of whether payment was made and the circumstances which
18 led to the claim.

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

20 (5 ILCS 312/7-108) (from Ch. 102, par. 207-108)

21 Sec. 7-108. Reprimand, Suspension, and Revocation of
22 Commission.

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

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

4 (2) ~~(b)~~ is convicted of any felony, misdemeanor as set
5 forth in administrative rule, or official misconduct under
6 this Act.

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

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

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

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

26 (1) a notary's official misconduct;

1 (2) any ground for which an application for appointment
2 as a notary may be denied;

3 (3) any prohibited act provided under Section 6-104 of
4 this Act; or

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

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

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

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

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

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

21 (5) refer the allegations to the Illinois Attorney
22 Registration and Disciplinary Commission for disciplinary
23 proceedings.

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

1 Secretary.

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

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

14 (j) A notary that has received notice of suspension or
15 revocation from the Secretary of State is entitled to an
16 administrative hearing.

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

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

21 Section 99. Effective date. This Act takes effect January
22 1, 2019.