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1 AMENDMENT TO HOUSE BILL 4958

2 AMENDMENT NO. _____. Amend House Bill 4958 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Notary Public Act is amended by
5 changing Sections 1-104, 2-102, 2-103, 2-105, 3-101, 3-102,
6 3-104, 6-101, 6-102, 6-104, 7-105, 7-106, 7-107, 7-108, and
7 7-109 and by adding Section 2-107 as follows:

8 (5 ILCS 312/1-104) (from Ch. 102, par. 201-104)

9 Sec. 1-104. Notary Public and Notarization Defined.

10 (a) The terms "notary public" and "notary" are used
11 interchangeably to mean any individual appointed and
12 commissioned to perform notarial acts.

13 (b) "Notarial act" and "notarization" mean any
14 "Notarization" means the performance of a notarial act that a
15 notary is empowered to perform under this Act.

16 (c) "Accredited immigration representative" means a
17 not-for-profit organization recognized by the Board of
18 Immigration Appeals under 8 C.F.R. 292.2(a) and employees of
19 those organizations accredited under 8 C.F.R. 292.2(d).

20 (Source: P.A. 93-1001, eff. 8-23-04.)

21 (5 ILCS 312/2-102) (from Ch. 102, par. 202-102)

22 Sec. 2-102. Application, course of study, examination,
23 fingerprints.

1 (a) Every applicant for appointment and commission as a
2 notary shall complete an application form furnished by the
3 Secretary of State to be filed with the Secretary of State,
4 stating:

5 (1) ~~(a)~~ the applicant's official name, which contains
6 his or her last name and at least the initial of the first
7 name;

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

13 (3) ~~(c)~~ the applicant's residence address and business
14 address, if any, or any address at which an applicant will
15 use a notary public commission to receive fees;

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

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

24 (6) ~~(f)~~ that the applicant is at least 18 years of age;

25 (7) ~~(g)~~ that the applicant is able to read and write the
26 English language;

27 (8) ~~(h)~~ that the applicant has never been the holder of
28 a notary public appointment that was revoked or suspended
29 in Illinois or any other state or jurisdiction of the
30 United States during the past 10 years;

31 (9) ~~(i)~~ that the applicant has not been convicted of a
32 felony or any crime involving dishonesty, but in no case
33 may a commission be issued to the applicant within 10 years
34 after the conviction or plea; and

1 (10) that the applicant's application for appointment
2 and commission as a notary public contains no material
3 misstatement or omission of fact;

4 (11) that the applicant has not been found liable in a
5 civil lawsuit based on the applicant's deceit; revocation,
6 suspension, restriction, or denial of a notarial
7 commission or professional license by this or any other
8 state or nation, but in no case may a commission be issued
9 to the applicant within 5 years after that disciplinary
10 action; or an official finding that the applicant had
11 engaged in official misconduct, whether or not
12 disciplinary action resulted; and

13 (12) ~~(j)~~ any other information the Secretary of State
14 deems necessary.

15 (b) Prior to granting an appointment as a notary public,
16 the Secretary of State shall determine that the applicant
17 possesses the required honesty, credibility, truthfulness, and
18 integrity to fulfill the responsibilities of the position. To
19 assist in determining the identity of the applicant and whether
20 the applicant has been convicted of a disqualifying crime, the
21 Secretary of State shall require that applicants be
22 fingerprinted and a criminal background check be conducted.

23 (c) For appointments made on or after the effective date of
24 this amendatory Act of the 94th General Assembly, every
25 applicant for appointment and commission or recommission as a
26 notary shall have satisfactorily completed a course of up to 6
27 hours of study approved by the Secretary of State concerning
28 the functions and duties of a notary public. The Secretary of
29 State shall promulgate rules for administering this Section.

30 (d) For appointments made on or after the effective date of
31 this amendatory Act of the 94th General Assembly, every
32 applicant for appointment and commission or recommission as a
33 notary shall have satisfactorily completed a written
34 examination prescribed by the Secretary of State to determine

1 the fitness of the person to exercise the functions and duties
2 of the office of notary public. All questions shall be based on
3 the law of this State as set forth in the booklet of the laws of
4 Illinois relating to notaries public distributed by the
5 Secretary of State.

6 (Source: P.A. 93-1001, eff. 8-23-04.)

7 (5 ILCS 312/2-103) (from Ch. 102, par. 202-103)

8 Sec. 2-103. Appointment Fee. Every applicant for
9 appointment and commission as a notary public shall pay to the
10 Secretary of State a fee of \$20, \$10 of which shall be
11 deposited into the Notary Public Education and Testing Fund, a
12 special fund created in the State treasury for that purpose
13 \$10.

14 (Source: P.A. 85-1396.)

15 (5 ILCS 312/2-105) (from Ch. 102, par. 202-105)

16 Sec. 2-105. Bond. Every application for appointment and
17 commission as a notary public shall be accompanied by an
18 executed bond commencing on the date of the appointment with a
19 term of 4 years, in the sum of \$15,000 ~~\$5,000~~, with, as surety
20 thereon, a company qualified to write surety bonds in this
21 State. The bond shall be conditioned upon the faithful
22 performance of all notarial acts in accordance with this Act.
23 The Secretary of State may prescribe an official bond form.
24 Governmental entity notary applications submitted pursuant to
25 Section 2-107 of this Act by notaries authorized to perform
26 notarizations solely for their government employer shall be
27 accompanied by an executed bond commencing on the date of the
28 appointment with a term of 4 years, in the sum of \$5,000, with,
29 as surety thereon, a company qualified to write surety bonds in
30 this State.

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

1 (5 ILCS 312/2-107 new)

2 Sec. 2-107. State, county, municipal, and school district
3 employees. The Secretary of State may appoint and commission
4 the number of State, county, municipal, and school district
5 employees as notaries public to act for and on behalf of the
6 governmental entity for which appointed as the Secretary of
7 State deems proper. Whenever a notary is so appointed and
8 commissioned, a duly authorized representative of the
9 employing governmental entity shall execute a certificate that
10 the appointment is made solely for the purposes of the
11 employing governmental entity. Whenever the certificate is
12 filed with any State or county officer, no fees shall be
13 charged by the officer for the filing or issuance of any
14 document in connection with the appointment.

15 The State or any county, municipality, or school district
16 for which the notary public is appointed and commissioned
17 pursuant to this Section may pay from any funds available for
18 its support the fees and costs associated with the required
19 course of study and examination, the premiums on any bond, and
20 the cost of any stamps, seals, or other supplies required in
21 connection with the appointment, commission, or performance of
22 the duties of the notary public. Any fees collected or obtained
23 by any notary public whose documents have been filed without
24 charge or for whom bond premiums have been paid by the employer
25 of the notary public shall be remitted by the notary public to
26 the employing entity, which shall deposit the funds to the
27 credit of the fund from which the salary of the notary public
28 is paid.

29 (5 ILCS 312/3-101) (from Ch. 102, par. 203-101)

30 Sec. 3-101. Official Seal and Signature.

31 (a) Each notary public shall, upon receiving the commission
32 from the county clerk, obtain an official rubber stamp seal
33 with which the notary shall authenticate his official acts. The

1 rubber stamp seal shall contain the following information:

2 (1) ~~(a)~~ the words "Official Seal";

3 (2) ~~(b)~~ the notary's official name;

4 (3) ~~(c)~~ the words "Notary Public", "State of Illinois",
5 and "My commission expires _____ (commission
6 expiration date)"; and

7 (4) ~~(d)~~ a serrated or milled edge border in a
8 rectangular form not more than one inch in height by two
9 and one-half inches in length surrounding the information.

10 (b) At the time of notarization, a notary public shall
11 officially sign every notary certificate clearly and legibly
12 using black ink, so that it is capable of photographic
13 reproduction. The illegibility of any of the information
14 required by this Section does not affect the validity of a
15 transaction.

16 (c) At the time of notarization, a notary public shall
17 affix the rubber stamp seal clearly and legibly using black
18 ink, so that it is capable of photographic reproduction. The
19 illegibility of any of the information required by this Section
20 does not affect the validity of a transaction.

21 (d) The seal shall be kept in a locked and secured area,
22 under the direct and exclusive control of the notary. Failure
23 to secure the seal shall be cause for the Secretary of State to
24 take administrative action against the commission held by the
25 notary public.

26 (e) The official seal of a notary public is the exclusive
27 property of that notary public and shall not be surrendered to
28 an employer upon the termination of employment, whether or not
29 the employer paid for the seal, or to any other person. The
30 notary, or his or her representative, shall destroy or deface
31 the seal upon termination, resignation, or revocation of the
32 notary's commission.

33 (f) No notary seal shall be manufactured, duplicated, sold,
34 or offered for sale unless authorized by the Secretary of

1 State.

2 (1) The Secretary of State shall develop and implement
3 procedures and guidelines for the issuance of notary seals.

4 (2) The Secretary of State shall issue a permit with a
5 sequential identification number to each manufacturer or
6 vendor authorized to issue notary seals. The Secretary of
7 State may establish a fee for the issuance of the permit
8 which shall not exceed the actual costs of issuing the
9 permit.

10 (3) The Secretary of State shall develop a certificate
11 of authorization, with a unique number, to purchase a
12 notary stamp from an authorized vendor.

13 (4) The certificate of authorization shall be designed
14 to prevent forgeries and shall contain a unique
15 identification number.

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

17 (5 ILCS 312/3-102) (from Ch. 102, par. 203-102)

18 Sec. 3-102. Official journal ~~Official Signature.~~

19 (a) A notary public shall keep one active sequential
20 journal at a time of all official acts performed as a notary
21 public. The journal may be a permanently bound book or
22 electronic device that satisfies the requirements of this
23 Section.

24 (b) No permanently bound or electronic journal shall be
25 manufactured, sold, or offered for sale unless authorized by
26 the Secretary of State. The Secretary of State shall develop
27 and implement procedures and guidelines for notary journals.

28 (c) The journal shall be kept in a locked and secured area,
29 under the direct and exclusive control of the notary. Failure
30 to secure the journal shall be cause for the Secretary of State
31 to take administrative action against the commission held by
32 the notary.

33 (d) The journal shall include all of the following for each

1 notarial act performed:

2 (1) Date, time, and type of each official act.

3 (2) Type, title, or a description of the document.

4 (3) The signature of each person whose signature is
5 being notarized.

6 (4) A statement as to whether the identity of a person
7 requesting a notarial act was based on personal knowledge
8 or satisfactory evidence. If identity was established by
9 satisfactory evidence, then the journal shall contain the
10 signature of the credible witness swearing or affirming to
11 the identity of the individual or the type of identifying
12 document, the governmental agency issuing the document,
13 the serial or identifying number of the document, and the
14 date of issue or expiration of the document.

15 (5) If the identity of the person requesting a notarial
16 act was established by the oaths or affirmations of 2
17 credible witnesses whose identities are proven upon the
18 presentation of satisfactory evidence, the type of
19 identifying documents, the identifying numbers of the
20 documents, and the dates of issuance or expiration of the
21 documents presented by the witnesses to establish their
22 identity.

23 (6) The fee charged for the notarial service.

24 (7) If the document to be notarized is a deed, deed of
25 trust, or mortgage affecting real property, the notary
26 public shall require the party signing the document to
27 place his or her right thumbprint in the journal. If the
28 right thumbprint is not available, then the notary shall
29 have the party use his or her left thumb, or any available
30 finger, and shall so indicate in the journal. If the party
31 signing the document is physically unable to provide a
32 thumbprint or fingerprint, the notary shall so indicate in
33 the journal and shall also provide an explanation of that
34 physical condition.

1 (e) If a sequential journal of official acts performed by a
2 notary public is stolen, lost, misplaced, destroyed, damaged,
3 or otherwise rendered unusable as a record of notarial acts and
4 information, the notary public shall immediately notify the
5 Secretary of State by certified or registered mail. The
6 notification shall include the period of the journal entries,
7 the expiration date of the notary's commission, and, when
8 applicable, a photocopy of any police report that specifies the
9 theft of the sequential journal of official acts.

10 (f) Upon written request of any member of the public, which
11 request shall include the name of the parties, the type of
12 document, and the month and year in which notarized, the notary
13 shall supply a photostatic copy of the line item representing
14 the requested transaction at a cost of not more than \$0.30 per
15 page.

16 (g) The journal may be examined without restriction only by
17 a law enforcement officer in the course of an official
18 investigation, subpoenaed by court order, or surrendered at the
19 direction of the Secretary of State.

20 (h) The journal of notarial acts of a notary public is the
21 exclusive property of that notary public and shall not be
22 surrendered to an employer upon termination of employment,
23 whether or not the employer paid for the journal, or at any
24 other time. A notary public who is an employee shall permit
25 inspection and copying of journal transactions only by a duly
26 designated auditor or agent of the notary public's employer,
27 provided that the inspection and copying are done in the
28 presence of the notary public and the transactions are directly
29 associated with the business purposes of the employer. The
30 notary public, upon the request of the employer, shall
31 regularly provide copies of all transactions that are directly
32 associated with the business purposes of the employer but shall
33 not be required to provide copies of any transaction that is
34 unrelated to the employer's business. Confidentiality and

1 safekeeping of any copies of the journal provided to the
2 employer shall be the responsibility of that employer.

3 (i) A notary shall safeguard the journal and all other
4 notarial records for 7 years and surrender or destroy them only
5 by rule of law, by court order, or at the direction of the
6 Secretary of State.

7 (j) Upon resignation, revocation, or expiration of a notary
8 commission, or death of the notary, the journal and notarial
9 records shall be delivered to the office designated by the
10 Secretary of State.

11 ~~At the time of notarization, a notary public shall officially~~
12 ~~sign every notary certificate and affix the rubber stamp seal~~
13 ~~clearly and legibly using black ink, so that it is capable of~~
14 ~~photographic reproduction. The illegibility of any of the~~
15 ~~information required by this Section does not affect the~~
16 ~~validity of a transaction.~~

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

18 (5 ILCS 312/3-104) (from Ch. 102, par. 203-104)

19 Sec. 3-104. Maximum Fee.

20 (a) Except as provided in subsection (b) of this Section,
21 the maximum fee in this State is \$10 ~~\$1.00~~ for any notarial act
22 performed.

23 (b) Fees for a notary public, agency, or any other person
24 who is not an attorney or an accredited representative filling
25 out immigration forms shall be limited to the following:

26 (1) \$10 per form completion;

27 (2) \$10 per page for the translation of a non-English
28 language into English where such translation is required
29 for immigration forms;

30 (3) \$10 ~~\$1~~ for notarizing;

31 (4) \$3 to execute any procedures necessary to obtain a
32 document required to complete immigration forms; and

33 (5) A maximum of \$75 for one complete application.

1 Fees authorized under this subsection shall not include
2 application fees required to be submitted with immigration
3 applications.

4 Any person who violates the provisions of this subsection
5 shall be guilty of a Class A misdemeanor for a first offense
6 and a Class 3 felony for a second or subsequent offense
7 committed within 5 years of a previous conviction for the same
8 offense.

9 (c) Upon his own information or upon complaint of any
10 person, the Attorney General or any State's Attorney, or their
11 designee, may maintain an action for injunctive relief in the
12 court against any notary public or any other person who
13 violates the provisions of subsection (b) of this Section.
14 These remedies are in addition to, and not in substitution for,
15 other available remedies.

16 If the Attorney General or any State's Attorney fails to
17 bring an action as provided pursuant to this subsection within
18 90 days of receipt of a complaint, any person may file a civil
19 action to enforce the provisions of this subsection and
20 maintain an action for injunctive relief.

21 (d) All notaries public must provide receipts and keep
22 records for fees accepted for services provided. Failure to
23 provide receipts and keep records that can be presented as
24 evidence of no wrongdoing shall be construed as a presumptive
25 admission of allegations raised in complaints against the
26 notary for violations related to accepting prohibited fees.

27 (Source: P.A. 93-1001, eff. 8-23-04.)

28 (5 ILCS 312/6-101) (from Ch. 102, par. 206-101)

29 Sec. 6-101. Definitions. (a) "Notarial act" means any act
30 that a notary public of this State is authorized to perform and
31 includes taking an acknowledgment, administering an oath or
32 affirmation, taking a verification upon oath or affirmation,
33 and witnessing or attesting a signature.

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

8 (c) "Verification upon oath or affirmation" means a
9 declaration to a notary in the notary's presence that a
10 statement is true made by a person upon oath or affirmation.

11 (d) "Witnessing or attesting a signature" means a notarial
12 act in which a person signs a document in the presence of a
13 notary.

14 (e) ~~(d)~~ "In a representative capacity" means:

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

18 (2) as a public officer, personal representative,
19 guardian, or other representative, in the capacity recited in
20 the instrument;

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

22 (4) in any other capacity as an authorized representative
23 of another.

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

25 (5 ILCS 312/6-102) (from Ch. 102, par. 206-102)

26 Sec. 6-102. Notarial Acts. (a) In taking an acknowledgment,
27 the notary public must determine, either from personal
28 knowledge or from satisfactory evidence, that the person
29 appearing before the notary and making the acknowledgment is
30 the person whose true signature is on the instrument.

31 (b) In taking a verification upon oath or affirmation, the
32 notary public must determine, either from personal knowledge or
33 from satisfactory evidence, that the person appearing before

1 the notary and making the verification is the person whose true
2 signature is on the statement verified.

3 (c) In witnessing or attesting a signature, the notary
4 public must determine, either from personal knowledge or from
5 satisfactory evidence, that the signature is that of the person
6 appearing before the notary and named therein.

7 (d) A notary public has satisfactory evidence that a person
8 is the person whose true signature is on a document if that
9 person:

10 (1) is personally known to the notary;

11 (2) is identified upon the oath or affirmation of (i) an
12 honest, reliable, impartial, and a credible witness who
13 personally knows the individual appearing before a notary and
14 who is personally known to the notary or (ii) 2 credible
15 witnesses who each shows to the notary documentary
16 identification described in paragraph (3) of this subsection;

17 or

18 (3) is identified on the basis of at least one current
19 identification document issued by a federal, State, or tribal
20 government agency bearing the photographic image of the
21 individual's face and signature and a physical description of
22 the individual, though a properly stamped passport without a
23 physical description is acceptable documents.

24 (e) A notary may certify the affixation of a signature by
25 mark on a document presented for notarization if:

26 (1) the mark is affixed in the presence of the notary
27 and of 2 witnesses unaffected by the document;

28 (2) both witnesses sign their own names beside the
29 mark;

30 (3) the notary writes below the mark: "Mark affixed by
31 (name of signer by mark) in presence of (names and
32 addresses of witnesses) and undersigned notary under
33 Section 6-102 of the Illinois Notary Public Act"; and

34 (4) the notary notarizes the signature by mark through

1 an acknowledgment, verification upon oath or affirmation,
2 or signature witnessing.

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

4 (5 ILCS 312/6-104) (from Ch. 102, par. 206-104)

5 Sec. 6-104. Acts Prohibited. (a) A notary public shall not
6 use any name or initial in signing certificates other than that
7 by which the notary was commissioned.

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

10 (c) A notary public shall not affix his signature to a
11 blank form of affidavit or certificate of acknowledgment and
12 deliver that form to another person with intent that it be used
13 as an affidavit or acknowledgment.

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

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

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

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

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

1 attorney.

2 (i) If a notary public accepts or receives any money from
3 any one to whom an oath has been administered or on behalf of
4 whom an acknowledgment has been taken for the purpose of
5 transmitting or forwarding such money to another and willfully
6 fails to transmit or forward such money promptly, the notary is
7 personally liable for any loss sustained because of such
8 failure. The person or persons damaged by such failure may
9 bring an action to recover damages, together with interest and
10 reasonable attorney fees, against such notary public or his
11 bondsmen.

12 (j) A notary public shall not perform a notarial act if the
13 person requesting the act is not in the notary's presence at
14 the time of notarization.

15 (k) A notary public shall not perform a notarial act if the
16 person requesting the act shows a demeanor that causes the
17 notary to have a compelling doubt about whether the principal
18 knows the consequences of the transaction requiring a notarial
19 act.

20 (l) A notary public shall not perform a notarial act if the
21 person requesting the act, in the notary's judgment, is not
22 acting of his or her own free will.

23 (Source: P.A. 85-421.)

24 (5 ILCS 312/7-105) (from Ch. 102, par. 207-105)

25 Sec. 7-105. Official Misconduct. (a) A notary public who
26 knowingly and willfully commits any official misconduct is
27 guilty of a Class 3 felony ~~A misdemeanor~~.

28 (b) A notary public who recklessly or negligently commits
29 any official misconduct is guilty of a Class A ~~B~~ misdemeanor.

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

31 (5 ILCS 312/7-106) (from Ch. 102, par. 207-106)

32 Sec. 7-106. Willful Impersonation. Any person who acts as,

1 or otherwise willfully impersonates, a notary public while not
2 lawfully appointed and commissioned to perform notarial acts is
3 guilty of a Class 3 felony ~~A misdemeanor~~.

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

5 (5 ILCS 312/7-107) (from Ch. 102, par. 207-107)

6 Sec. 7-107. Wrongful Possession. Any person who unlawfully
7 possesses a notary's official seal is guilty of a Class A
8 misdemeanor and punishable upon conviction by a fine not
9 exceeding \$1,000.

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

11 (5 ILCS 312/7-108) (from Ch. 102, par. 207-108)

12 Sec. 7-108. Grounds for refusal, revocation, or suspension
13 of commission; hearing ~~Revocation of Commission~~. The Secretary
14 of State may refuse to appoint any person as notary public or
15 may revoke or suspend the commission of any notary public upon
16 any of the following grounds ~~who, during the current term of~~
17 ~~appointment:~~

18 (1) Substantial and material misstatement or omission
19 in the application submitted to the Secretary of State.

20 (2) Conviction of a felony, a lesser offense involving
21 dishonesty, or a lesser offense of a nature incompatible
22 with the duties of a notary public, but in no case may a
23 commission be issued to an applicant within 10 years after
24 such conviction or plea.

25 (3) Revocation, suspension, restriction, or denial of
26 a professional license, if the revocation, suspension,
27 restriction, or denial was for misconduct, for dishonesty,
28 or for any cause substantially relating to the duties or
29 responsibilities of a notary public, but in no case may a
30 commission be issued to an applicant within 5 years after
31 such disciplinary action or an official finding that the
32 applicant had engaged in official misconduct, whether or

1 not disciplinary action resulted.

2 (4) Failure to discharge fully and faithfully any of
3 the duties or responsibilities required of a notary public.

4 (5) When adjudged liable for damages in any suit
5 grounded in fraud, misrepresentation, or violation of the
6 state regulatory laws or in any suit based upon a failure
7 to discharge fully and faithfully the duties as a notary
8 public.

9 (6) The use of false or misleading advertising wherein
10 the notary public has represented that the notary public
11 has duties, rights, or privileges that he or she does not
12 possess by law.

13 (7) The unauthorized practice of law.

14 (8) Charging more than the fees prescribed by this Act.

15 (9) Commission of any act involving dishonesty, fraud,
16 or deceit with the intent to benefit the notary public or
17 another or injure another.

18 (10) Failure to complete the acknowledgment at the time
19 the notary's signature and seal are affixed to the
20 document.

21 (11) Execution of any certificate as a notary public
22 containing a statement known to the notary public to be
23 false, or using a title or designation not authorized by
24 this Act or by the Secretary of State.

25 (12) Failure to submit any remittance payable upon
26 demand by the Secretary of State under this Act or failure
27 to satisfy any court-ordered money judgment, including
28 restitution.

29 (13) Failure to secure the sequential journal of
30 official acts, pursuant to Section 3-102, or the official
31 seal, pursuant to Section 3-101.

32 Prior to a revocation or suspension pursuant to this Act,
33 after a denial of a commission, or prior to the imposition of a
34 civil penalty, the person affected shall have a right to a

1 hearing on the matter and the proceeding shall be conducted in
2 accordance with the Illinois Administrative Procedure Act.

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

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

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

9 (5 ILCS 312/7-109) (from Ch. 102, par. 207-109)

10 Sec. 7-109. Action for Injunction, Unauthorized Practice
11 of Law.

12 (a) Upon his own information or upon complaint of any
13 person, the Attorney General or any State's Attorney, or their
14 designee, may maintain an action for injunctive relief in the
15 circuit court against any notary public who renders, offers to
16 render, or holds himself or herself out as rendering any
17 service constituting the unauthorized practice of the law. Any
18 organized bar association in this State may intervene in the
19 action, at any stage of the proceeding, for good cause shown.
20 The action may also be maintained by an organized bar
21 association in this State. These remedies are in addition to,
22 and not in substitution for, other available remedies.

23 (b) If notarial certificate wording is not provided by the
24 customer or indicated for a document presented by the customer,
25 a non-attorney notary shall not determine the type of notarial
26 act or certificate to be used.

27 (c) A non-attorney notary shall not assist another person
28 in drafting, completing, selecting, or understanding a
29 document or transaction requiring a notarial act.

30 (d) This Section does not preclude a notary who is duly
31 qualified, trained, or experienced in a particular non-legal
32 industry or non-legal professional field from selecting,
33 drafting, completing, or advising on a document or certificate

1 related to a matter within that industry or field.

2 (e) A notary shall not claim to have powers,
3 qualifications, rights, or privileges that the office of notary
4 does not provide, including the power to counsel on immigration
5 matters.

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

7 Section 10. The State Finance Act is amended by adding
8 Section 5.663 as follows:

9 (30 ILCS 105/5.663 new)

10 Sec. 5.663. Notary Public Education and Testing Fund.

11 Section 15. The Conveyances Act is amended by changing
12 Section 20 as follows:

13 (765 ILCS 5/20) (from Ch. 30, par. 19)

14 Sec. 20. Deeds, mortgages, conveyances, releases, powers
15 of attorney or other writings of or relating to the sale,
16 conveyance or other disposition of real estate or any interest
17 therein whereby the rights of any person may be affected, shall
18 ~~may~~ be acknowledged or proven before some one of the following
19 courts or officers, namely:

20 1. When acknowledged or proven within this State, before a
21 notary public, United States commissioner, county clerk, or any
22 court or any judge, clerk or deputy clerk of such court. When
23 taken before a notary public or United States commissioner, the
24 same shall be attested by his official seal; when taken before
25 a court or the clerk thereof, or a deputy clerk thereof, the
26 same shall be attested by the seal of such court.

27 2. When acknowledged or proved outside of this State and
28 within the United States or any of its territories or
29 dependencies or the District of Columbia, before a justice of
30 the peace, notary public in substantial compliance with the

1 Illinois Notary Public Act, master in chancery, United States
2 commissioner, commissioner to take acknowledgments of deeds,
3 mayor of city, clerk of a county, or before any judge, justice,
4 clerk or deputy clerk of the supreme, circuit or district court
5 of the United States, or before any judge, justice, clerk or
6 deputy clerk, prothonotary, surrogate, or registrar of the
7 supreme, circuit, superior, district, county, common pleas,
8 probate, orphan's or surrogate's court of any of the states,
9 territories or dependencies of the United States. In any
10 dependency of the United States such acknowledgment or proof
11 may also be taken or made before any commissioned officer in
12 the military service of the United States. When such
13 acknowledgment or proof is made before a notary public, United
14 States commissioner or commissioner of deeds, it shall be
15 certified under his seal of office. If taken before a mayor of
16 a city it shall be certified under the seal of the city; if
17 before a clerk, deputy clerk, prothonotary, registrar or
18 surrogate, then under the seal of his court; if before a
19 justice of the peace or a master in chancery there shall be
20 added a certificate of the proper clerk under the seal of his
21 office setting forth that the person before whom such proof or
22 acknowledgment was made was a justice of the peace or master in
23 chancery at the time of taking such acknowledgment or proof. As
24 acknowledgment or proof of execution of any instrument above
25 stated, may be made in conformity with the laws of the State,
26 territory, dependency or district where it is made. If any
27 clerk of any court of record within such state, territory,
28 dependency or district shall, under his signature and the seal
29 of such court, certify that such acknowledgment or proof was
30 made in conformity with the laws of such state, territory,
31 dependency or district, or it shall so appear by the laws of
32 such state, territory, dependency or district such instrument
33 or a duly proved or certified copy of the record of such deed,
34 mortgage or other instrument relating to real estate heretofore

1 or hereafter made and recorded in the proper county may be
2 admitted in evidence as in other cases involving the admission
3 of evidence of certified copies.

4 3. When acknowledged or proven outside of the United States
5 before any court of any republic, dominion, state, kingdom,
6 empire, colony, territory, or dependency having a seal, or
7 before any judge, justice or clerk thereof or before any mayor
8 or chief officer of any city or town having a seal, or before a
9 notary public or commissioner of deeds, or any ambassador,
10 minister or secretary of legation or consul of the United
11 States or vice consul, deputy consul, commercial agent or
12 consular agent of the United States in any foreign republic,
13 dominion, state, kingdom, empire, colony, territory or
14 dependency attested by his official seal or before any officer
15 authorized by the laws of the place where such acknowledgment
16 or proof is made to take acknowledgments of conveyances of real
17 estate or to administer oaths in proof of the execution of
18 conveyances of real estate. Such acknowledgments are to be
19 attested by the official seal, if any, of such court or
20 officer, and in case such acknowledgment or proof is taken or
21 made before a court or officer having no official seal, a
22 certificate shall be added by an ambassador, minister,
23 secretary of legation, consul, vice consul, deputy consul,
24 commercial agent or consular agent of the United States
25 residing in such republic, dominion, state, kingdom, empire,
26 colony, territory, or dependency under his official seal,
27 showing that such court or officer was duly elected, appointed
28 or created and acting at the time such acknowledgment or proof
29 was made.

30 4. Any person serving in or with the armed forces of the
31 United States, within or outside of the United States, and the
32 spouse or former spouse of any such person, may acknowledge the
33 instruments wherever located before any commissioned officer
34 in active service of the armed forces of the United States with

1 the rank of Second Lieutenant or higher in the Army, Air Force
 2 or Marine Corps, or Ensign or higher in the Navy or United
 3 States Coast Guard. The instrument shall not be rendered
 4 invalid by the failure to state therein the place of execution
 5 or acknowledgment. No authentication of the officer's
 6 certificate of acknowledgment shall be required and such
 7 certificate need not be attested by any seal but the officer
 8 taking the acknowledgment shall indorse thereon or attach
 9 thereto a certificate substantially in the following form:

10 On (insert date), the undersigned officer, personally
 11 appeared before me, known to me (or satisfactorily proven) to
 12 be serving in or with the armed forces of the United States
 13 (and/or the spouse or former spouse of a person so serving) and
 14 to be the person whose name is subscribed to the instrument and
 15 acknowledged that he executed the same as free
 16 and voluntary act for the purposes therein contained, and the
 17 undersigned further certifies that he is at the date of this
 18 certificate a commissioned officer of the rank stated below and
 19 is in the active service of the armed forces of the United
 20 States.

21
 22 Signature of Officer
 23
 24 Rank of Officer and Command to
 25 which attached.

26 5. All deeds or other instruments or copies of the record
 27 thereof duly certified or proven which have been acknowledged
 28 or proven prior to August 30, 1963, before either of the courts
 29 or officers mentioned in this Act and in the manner herein
 30 provided, shall be deemed to be good and effectual in law and
 31 the same may be introduced in evidence without further proof of
 32 their execution, with the same effect as if this amendatory Act
 33 of 1963 had been in force at the date of such acknowledgment or
 34 proof.

1 (Source: P.A. 91-357, eff. 7-29-99.)".