

ASSEMBLY BILL NO. 508—COMMITTEE ON GOVERNMENT AFFAIRS

(ON BEHALF OF THE SECRETARY OF STATE)

MARCH 28, 2005

Referred to Committee on Government Affairs

SUMMARY—Makes various changes to provisions relating to notaries public. (BDR 19-574)

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

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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; requiring certain persons who apply for appointments or reappointments as notaries public to complete a course of study approved, endorsed or provided by the Secretary of State; authorizing the Secretary of State to approve or endorse a course of study under certain circumstances; requiring the Secretary of State to charge a fee to determine whether to approve or endorse a course of study; prohibiting a notary public from notarizing the signature of certain persons; revising the provisions governing the issuance of an authentication by the Secretary of State; authorizing the Secretary of State to request that the Attorney General bring an action to enjoin a person who unlawfully represents himself as a notary public; providing penalties; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** Chapter 240 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 to 6, inclusive, of this
3 act.

4 **Sec. 2. 1.** *Except as otherwise provided in subsection 5, in*
5 *addition to the requirements of NRS 240.030, each person who*



1 *applies for appointment as a notary public must complete a course*
2 *of study that provides at least 6 hours of instruction relating to the*
3 *functions and duties of notaries public and is:*

4 (a) *Approved or endorsed by the Secretary of State pursuant to*
5 *section 3 of this act; or*

6 (b) *Provided by the Secretary of State pursuant to*
7 *NRS 240.018.*

8 2. *Except as otherwise provided in subsection 5, each notary*
9 *public who applies for reappointment must complete a course of*
10 *study that provides:*

11 (a) *At least 3 hours of instruction relating to the functions and*
12 *duties of notaries public, if he applies for reappointment 1 year or*
13 *less before the expiration of his appointment; or*

14 (b) *At least 6 hours of instruction relating to the functions and*
15 *duties of notaries public, if he applies for reappointment more*
16 *than 1 year before the expiration of his appointment.*

17 3. *The course of study described in subsection 2 must be:*

18 (a) *Approved or endorsed by the Secretary of State pursuant to*
19 *section 3 of this act; or*

20 (b) *Provided by the Secretary of State pursuant to*
21 *NRS 240.018.*

22 4. *A notary public who fails to complete the course of study*
23 *required by subsection 2 before his appointment expires may not*
24 *be reappointed until he completes the course of study and pays a*
25 *reinstatement fee of \$20. The reinstatement fee is in addition to*
26 *any renewal fee required by the Secretary of State.*

27 5. *The provisions of subsections 1, 2 and 3 do not apply to a*
28 *court reporter who:*

29 (a) *Applies for appointment as a notary public with limited*
30 *powers pursuant to subsection 4 of NRS 240.030; or*

31 (b) *Receives a certificate of appointment as a notary public*
32 *with limited powers pursuant to subsection 4 of NRS 240.030 and*
33 *who applies for reappointment.*

34 6. *As used in this section, an "hour of instruction" means at*
35 *least 50 minutes of time spent receiving instruction.*

36 **Sec. 3. 1.** *The Secretary of State may approve or endorse*
37 *any course of study to satisfy the requirements of section 2 of this*
38 *act if:*

39 (a) *The course of study provides instruction in the provisions*
40 *of this chapter and the function and duties of notaries public;*

41 (b) *The sponsor of the course of study:*

42 (I) *Provides to the Secretary of the State:*

43 (I) *The curriculum for the course of study; and*

44 (II) *An explanation of the manner in which the sponsor*
45 *will monitor the attendance for the course of study. The sponsor*



1 *must ensure that each person who attends the course of study to*
2 *satisfy the requirements of section 2 of this act is in attendance at*
3 *least 50 minutes of each hour of instruction.*

4 (2) *Agrees to provide to the Secretary of State a certificate*
5 *of attendance for each person who attends the course of study to*
6 *satisfy the requirements of section 2 of this act.*

7 2. *The sponsor of a course of study must:*

8 (a) *Allow a representative of the Secretary of State to attend, at*
9 *no cost, all or part of any course of study approved or endorsed by*
10 *the Secretary of State to observe the curriculum and the*
11 *procedures for taking attendance. A representative of the*
12 *Secretary of State who attends the course of study must pay the fee*
13 *for attendance if he wishes to attend the course of study to satisfy*
14 *the requirements of section 2 of this act.*

15 (b) *Report to the Secretary of State any changes in the*
16 *curriculum of a course of study approved or endorsed by the*
17 *Secretary of State.*

18 3. *The Secretary of State may withdraw his approval or*
19 *endorsement of any course of study if:*

20 (a) *The course of study approved or endorsed by the Secretary*
21 *of State does not substantially conform to the description of the*
22 *curriculum provided to the Secretary of State pursuant to*
23 *subsection 1.*

24 (b) *The sponsor does not report changes to the curriculum of*
25 *the course of study approved or endorsed by the Secretary of State*
26 *in a timely manner.*

27 (c) *The sponsor fails to monitor the attendance of any course*
28 *of study approved or endorsed by the Secretary of State.*

29 **Sec. 4.** *The Secretary of State shall require a sponsor to pay*
30 *a fee of \$500 for the Secretary of State to determine whether he*
31 *should approve or endorse a course of study to satisfy the*
32 *requirements of section 2 of this act.*

33 **Sec. 5. 1.** *A notary public who is appointed pursuant to this*
34 *chapter who willfully notarizes the signature of a person who is:*

35 (a) *Not in the presence of the notary public; or*

36 (b) *Unknown to the notary public, if the person does not*
37 *provide documentary evidence of identification to the notary*
38 *public,*

39 *↪ is guilty of a gross misdemeanor, and shall be punished as*
40 *provided in NRS 193.140.*

41 2. *Any person who aids and abets a notary public to commit a*
42 *violation of subsection 1 is guilty of a gross misdemeanor and*
43 *shall be punished as provided in NRS 193.140.*

44 **Sec. 6. 1.** *Except as otherwise provided in subsection 2, the*
45 *Secretary of State shall, upon request and payment of a fee of \$20,*



1 *issue an authentication in one of the following forms to verify that*
2 *the signature of a notarial officer on a document is genuine and*
3 *that the notarial officer holds the indicated office:*

4 *(a) If the document is intended for use in a foreign country*
5 *that is a participant in the Hague Convention of October 5, 1961,*
6 *the Secretary of State must issue an apostille in the form*
7 *prescribed by the Hague Convention of October 5, 1961; or*

8 *(b) If the document is intended for use in the United States or*
9 *a foreign country that is not a participant in the Hague*
10 *Convention of October 5, 1961, the Secretary of State must issue a*
11 *certification.*

12 **2. The Secretary of State shall not issue an authentication**
13 **pursuant to subsection 1 if:**

14 *(a) The document has not been notarized in accordance with*
15 *the provisions of this chapter; or*

16 *(b) The Secretary of State has information that the document*
17 *may be used to accomplish any fraudulent, criminal or other*
18 *unlawful purpose.*

19 **Sec. 7.** NRS 240.001 is hereby amended to read as follows:

20 240.001 As used in NRS 240.001 to 240.169, inclusive, *and*
21 *sections 2 to 6, inclusive, of this act*, unless the context otherwise
22 requires, the words and terms defined in NRS 240.002 to 240.005,
23 inclusive, have the meanings ascribed to them in those sections.

24 **Sec. 8.** NRS 240.010 is hereby amended to read as follows:

25 240.010 1. The Secretary of State may appoint notaries
26 public in this State.

27 2. The Secretary of State shall not appoint as a notary public a
28 person:

29 (a) Who submits an application containing a substantial and
30 material misstatement or omission of fact.

31 (b) Whose previous appointment as a notary public in this State
32 has been revoked.

33 (c) Who has been convicted of a crime involving moral
34 turpitude, if the Secretary of State is aware of such a conviction
35 before he makes the appointment.

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

38 3. A notary public may cancel his appointment by submitting a
39 written notice to the Secretary of State.

40 4. It is unlawful for a person to:

41 (a) Represent himself as a notary public appointed pursuant to
42 this section if he has not received a certificate of appointment from
43 the Secretary of State pursuant to this chapter.

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



1 **5. The Secretary of State may request that the Attorney**
2 **General bring an action to enjoin a person from violating the**
3 **provisions of paragraph (a) of subsection 4.**

4 **Sec. 9.** NRS 240.017 is hereby amended to read as follows:

5 240.017 The Secretary of State:

6 1. May adopt regulations:

7 (a) Prescribing the procedure for the appointment and
8 ~~voluntary~~ training of a notary public.

9 (b) Establishing procedures for the notarization of digital or
10 electronic signatures.

11 2. Shall adopt regulations prescribing the form of each affidavit
12 required pursuant to subsection 2 of NRS 240.030.

13 **Sec. 10.** NRS 240.018 is hereby amended to read as follows:

14 240.018 1. The Secretary of State may:

15 (a) Provide courses of study for the ~~voluntary~~ training of
16 notaries public at such times and for such duration as he determines
17 appropriate; and

18 (b) Charge a reasonable fee to each person who enrolls in a
19 course of study for the ~~voluntary~~ training of notaries public.

20 2. A course of study provided pursuant to this section must
21 comply with the regulations adopted pursuant to subsection 1 of
22 NRS 240.017.

23 3. The Secretary of State shall deposit the fees collected
24 pursuant to paragraph (b) of subsection 1 in the Notary Public
25 Training Fund which is hereby created as a special revenue fund in
26 the State Treasury. The Fund must be administered by the Secretary
27 of State. Any interest and income earned on the money in the Fund,
28 after deducting any applicable charges, must be credited to the
29 Fund. Any money remaining in the Fund at the end of a fiscal year
30 does not revert to the State General Fund and the balance in the
31 Fund must be carried forward. All claims against the Fund must be
32 paid as other claims against the State are paid. The money in the
33 Fund may be expended only to pay for expenses related to providing
34 courses of study for the ~~voluntary~~ training of notaries public,
35 including, without limitation, the rental of rooms and other facilities,
36 advertising, travel and the printing and preparation of course
37 materials.

38 **Sec. 11.** NRS 240.161 is hereby amended to read as follows:

39 240.161 1. NRS 240.161 to 240.169, inclusive, **and section 6**
40 **of this act** may be cited as the Uniform Law on Notarial Acts.

41 2. These sections must be applied and construed to effectuate
42 their general purpose to make uniform the law with respect to the
43 subject of these sections among states enacting them.



1 **Sec. 12.** NRS 240.165 is hereby amended to read as follows:

2 240.165 1. A notarial act has the same effect under the law of
3 this State as if performed by a notarial officer of this State if
4 performed within the jurisdiction of and under authority of a foreign
5 nation or its constituent units or a multinational or international
6 organization by the following persons:

7 (a) A notary public;

8 (b) A judge, clerk or deputy clerk of a court of record; or

9 (c) A person authorized by the law of that jurisdiction to
10 perform notarial acts.

11 2. ~~{An "apostille" in the form prescribed by the Hague~~
12 ~~Convention of October 5, 1961, conclusively establishes that the~~
13 ~~signature of the notarial officer is genuine and that the officer holds~~
14 ~~the indicated office. The Secretary of State shall, upon request and~~
15 ~~payment of a fee of \$20, issue an apostille to verify a signature of a~~
16 ~~notarial officer on a document that is kept in the records of the~~
17 ~~Secretary of State unless the document had not been notarized in~~
18 ~~accordance with the provisions of this chapter.~~

19 ~~—3.} A certificate by an officer of the foreign service or consular~~
20 ~~officer of the United States stationed in the nation under the~~
21 ~~jurisdiction of which the notarial act was performed, or a certificate~~
22 ~~by an officer of the foreign service or consular officer of that nation~~
23 ~~stationed in the United States, conclusively establishes a matter~~
24 ~~relating to the authenticity or validity of the notarial act set forth in~~
25 ~~the certificate.~~

26 ~~[4.]~~ 3. An official stamp or seal of the person performing the
27 notarial act is prima facie evidence that the signature is genuine and
28 that the person holds the indicated title.

29 ~~[5.]~~ 4. An official stamp or seal of an officer listed in
30 paragraph (a) or (b) of subsection 1 is prima facie evidence that a
31 person with the indicated title has authority to perform notarial acts.

32 ~~[6.]~~ 5. If the title of office and indication of authority to
33 perform notarial acts appears either in a digest of foreign law or in a
34 list customarily used as a source for that information, the authority
35 of an officer with that title to perform notarial acts is conclusively
36 established.

37 **Sec. 13.** 1. This section and sections 5 to 8, inclusive, 11 and
38 12 of this act become effective on October 1, 2005.

39 2. Sections 2, 3, 4, 9 and 10 of this act become effective on
40 October 1, 2006.



