



Sen. Don Harmon

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1 AMENDMENT TO SENATE BILL 3443

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 3443 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 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,

1 the county in Illinois in which that person's principal  
2 place of work or principal place of business is located;

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

6 (c-5) the applicant's business address if different  
7 than the applicant's residence address, if performing  
8 notarial acts constitutes any portion of the applicant's  
9 job duties;

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

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

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

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

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22 notary public appointment that was revoked or suspended  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

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

26 (i-5) that the applicant's signature authorizes the

1 Office of the Secretary of State to conduct a verification  
2 to confirm the information provided in the application,  
3 including a criminal background check of the applicant, if  
4 necessary; and

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

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

8 (5 ILCS 312/4-101) (from Ch. 102, par. 204-101)

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

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

1 (5 ILCS 312/6-104) (from Ch. 102, par. 206-104)

2 Sec. 6-104. Acts prohibited.

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

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

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

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

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

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

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

25 (h) No notary public shall be authorized to prepare any

1 legal instrument, or fill in the blanks of an instrument, other  
2 than a notary certificate; however, this prohibition shall not  
3 prohibit an attorney, who is also a notary public, from  
4 performing notarial acts for any document prepared by that  
5 attorney.

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

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

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

21 (5 ILCS 312/7-101) (from Ch. 102, par. 207-101)

22 Sec. 7-101. Liability of Notary and Surety. A notary public  
23 and the surety on the notary's bond are liable to the persons  
24 involved for all damages caused by the notary's official  
25 misconduct. Upon the filing of any claim against a notary

1 public, the entity that has issued the bond for the notary  
2 shall notify the Secretary of State of whether payment was made  
3 and the circumstances which led to the claim.

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

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

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

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

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

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

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

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

1 revocation of the notary's commission.

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

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

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

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

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

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

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

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

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

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

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

7           (5) refer the allegations to the Illinois Attorney  
8           Registration and Disciplinary Commission for disciplinary  
9           proceedings.

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

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

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

26          (j) Upon a determination by a sworn law enforcement officer



1 that the allegations raised by the complaint are founded, and  
2 the notary has received notice of suspension or revocation from  
3 the Secretary of State, the notary is entitled to an  
4 administrative hearing.

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

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

9 Section 99. Effective date. This Act takes effect January  
10 1, 2019.".