



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB2604

by Rep. Al Riley

SYNOPSIS AS INTRODUCED:

5 ILCS 312/3-101	from Ch. 102, par. 203-101
5 ILCS 312/3-103	from Ch. 102, par. 203-103
5 ILCS 312/3-104	from Ch. 102, par. 203-104
5 ILCS 312/6-103	from Ch. 102, par. 206-103
5 ILCS 312/6-104	from Ch. 102, par. 206-104

Amends the Illinois Notary Public Act. Modifies a Section concerning the notary public official seal and signature to remove references to ineffective language concerning the signature. Provides references to the use of "electronic communication" in a Section concerning notice and advertisement of notary public services. Modifies the maximum fees for notarial acts. Modifies the penalty for a violation of certain provisions concerning fees for notarial acts. Requires all notaries public to provide itemized receipts (currently, receipts) and keep records for fees accepted for services provided. Provides that at the time of a notarial act, a notary public shall officially sign every notary certificate and affix the rubber stamp seal clearly and legibly using black ink, so that it is capable of photographic reproduction. Provides that the illegibility of certain required specified information does not affect the validity of a transaction. Modifies a Section concerning prohibited acts by notaries public.

LRB100 10640 RJF 20863 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 3-101, 3-103, 3-104, 6-103, and 6-104 as
6 follows:

7 (5 ILCS 312/3-101) (from Ch. 102, par. 203-101)

8 Sec. 3-101. Official Seal ~~and Signature.~~

9 (a) Each notary public shall, upon receiving the commission
10 from the county clerk, obtain an official rubber stamp seal
11 with which the notary shall authenticate his official acts. The
12 rubber stamp seal shall contain the following information:

13 (1) the words "Official Seal";

14 (2) the notary's official name;

15 (3) the words "Notary Public", "State of Illinois", and
16 "My commission expires _____ (commission expiration
17 date)"; and

18 (4) a serrated or milled edge border in a rectangular
19 form not more than one inch in height by two and one-half
20 inches in length surrounding the information.

21 ~~(b) At the time of the notarial act, a notary public shall~~
22 ~~officially sign every notary certificate and affix the rubber~~
23 ~~stamp seal clearly and legibly using black ink, so that it is~~

1 ~~capable of photographic reproduction. The illegibility of any~~
2 ~~of the information required by this Section does not affect the~~
3 ~~validity of a transaction.~~

4 ~~This subsection does not apply on or after July 1, 2013.~~

5 (Source: P.A. 95-988, eff. 6-1-09.)

6 (5 ILCS 312/3-103) (from Ch. 102, par. 203-103)

7 Sec. 3-103. Notice.

8 (a) Every notary public who is not an attorney or an
9 accredited immigration representative who advertises the
10 services of a notary public in a language other than English,
11 whether by radio, television, signs, pamphlets, newspapers,
12 electronic communications, or other written communication,
13 with the exception of a single desk plaque, shall include in
14 the document, advertisement, stationery, letterhead, business
15 card, or other comparable written or electronic material the
16 following: notice in English and the language in which the
17 written or electronic communication appears. This notice shall
18 be of a conspicuous size, if in writing or electronic
19 communication, and shall state: "I AM NOT AN ATTORNEY LICENSED
20 TO PRACTICE LAW IN ILLINOIS AND MAY NOT GIVE LEGAL ADVICE OR
21 ACCEPT FEES FOR LEGAL ADVICE". If such advertisement is by
22 radio or television, the statement may be modified but must
23 include substantially the same message.

24 A notary public shall not, in any document, advertisement,
25 stationery, letterhead, business card, electronic

1 communication, or other comparable written material describing
2 the role of the notary public, literally translate from English
3 into another language terms or titles including, but not
4 limited to, notary public, notary, licensed, attorney, lawyer,
5 or any other term that implies the person is an attorney. To
6 illustrate, the word "notario" is prohibited under this
7 provision.

8 Failure to follow the procedures in this Section shall
9 result in a fine of \$1,000 for each written violation. The
10 second violation shall result in suspension of notary
11 authorization. The third violation shall result in permanent
12 revocation of the commission of notary public. Violations shall
13 not preempt or preclude additional appropriate civil or
14 criminal penalties.

15 (b) All notaries public required to comply with the
16 provisions of subsection (a) shall prominently post at their
17 place of business as recorded with the Secretary of State
18 pursuant to Section 2-102 of this Act a schedule of fees
19 established by law which a notary public may charge. The fee
20 schedule shall be written in English and in the non-English
21 language in which notary services were solicited and shall
22 contain the disavowal of legal representation required above in
23 subsection (a), unless such notice of disavowal is already
24 prominently posted.

25 (c) No notary public, agency or any other person who is not
26 an attorney shall represent, hold themselves out or advertise

1 that they are experts on immigration matters or provide any
2 other assistance that requires legal analysis, legal judgment,
3 or interpretation of the law unless they are a designated
4 entity as defined pursuant to Section 245a.1 of Part 245a of
5 the Code of Federal Regulations (8 CFR 245a.1) or an entity
6 accredited by the Board of Immigration Appeals.

7 (d) Any person who aids, abets or otherwise induces another
8 person to give false information concerning immigration status
9 shall be guilty of a Class A misdemeanor for a first offense
10 and a Class 3 felony for a second or subsequent offense
11 committed within 5 years of a previous conviction for the same
12 offense.

13 Any notary public who violates the provisions of this
14 Section shall be guilty of official misconduct and subject to
15 fine or imprisonment.

16 Nothing in this Section shall preclude any consumer of
17 notary public services from pursuing other civil remedies
18 available under the law.

19 (e) No notary public who is not an attorney or an
20 accredited representative shall accept payment in exchange for
21 providing legal advice or any other assistance that requires
22 legal analysis, legal judgment, or interpretation of the law.

23 (f) Violation of subsection (e) is a business offense
24 punishable by a fine of 3 times the amount received for
25 services, or \$1,001 minimum, and restitution of the amount paid
26 to the consumer. Nothing in this Section shall be construed to

1 preempt nor preclude additional appropriate civil remedies or
2 criminal charges available under law.

3 (g) If a notary public of this State is convicted of 2 or
4 more business offenses involving a violation of this Act within
5 a 12-month period while commissioned, or of 3 or more business
6 offenses involving a violation of this Act within a 5-year
7 period regardless of being commissioned, the Secretary shall
8 automatically revoke the notary public commission of that
9 person on the date that the person's most recent business
10 offense conviction is entered as a final judgment.

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

12 (5 ILCS 312/3-104) (from Ch. 102, par. 203-104)

13 Sec. 3-104. Maximum Fee.

14 (a) Except as provided in subsection (b) of this Section,
15 the maximum fee in this State is \$5.00 ~~\$1.00~~ for any notarial
16 act performed and, until July 1, 2018, up to \$25 for any
17 notarial act performed pursuant to Section 3-102.

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

21 (1) \$10 per form completion;

22 (2) \$10 per page for the translation of a non-English
23 language into English where such translation is required
24 for immigration forms;

25 (3) \$5 ~~\$1~~ for notarizing;

1 (4) \$3 to execute any procedures necessary to obtain a
2 document required to complete immigration forms; and

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

4 Fees authorized under this subsection shall not include
5 application fees required to be submitted with immigration
6 applications.

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

12 (c) 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 court against any notary public or any other person who
16 violates the provisions of subsection (b) of this Section.
17 These remedies are in addition to, and not in substitution for,
18 other available remedies.

19 If the Attorney General or any State's Attorney fails to
20 bring an action as provided pursuant to this subsection within
21 90 days of receipt of a complaint, any person may file a civil
22 action to enforce the provisions of this subsection and
23 maintain an action for injunctive relief.

24 (d) All notaries public must provide itemized receipts and
25 keep records for fees accepted for services provided. Failure
26 to provide itemized receipts and keep records that can be

1 presented as evidence of no wrongdoing shall be construed as a
2 presumptive admission of allegations raised in complaints
3 against the notary for violations related to accepting
4 prohibited fees.

5 (Source: P.A. 98-29, eff. 6-21-13.)

6 (5 ILCS 312/6-103) (from Ch. 102, par. 206-103)

7 Sec. 6-103. Certificate of Notarial Acts.

8 (a) A notarial act must be evidenced by a certificate
9 signed and dated by the notary public. The certificate must
10 include identification of the jurisdiction in which the
11 notarial act is performed and the official seal of office.

12 (b) A certificate of a notarial act is sufficient if it
13 meets the requirements of subsection (a) and it:

14 (1) is in the short form set forth in Section 6-105;

15 (2) is in a form otherwise prescribed by the law of
16 this State; or

17 (3) sets forth the actions of the notary public and
18 those are sufficient to meet the requirements of the
19 designated notarial act.

20 (c) At the time of a notarial act, a notary public shall
21 officially sign every notary certificate and affix the rubber
22 stamp seal clearly and legibly using black ink, so that it is
23 capable of photographic reproduction. The illegibility of any
24 of the information required under this Section does not affect
25 the validity of a transaction.

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

2 (5 ILCS 312/6-104) (from Ch. 102, par. 206-104)

3 Sec. 6-104. Acts Prohibited.

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

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

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

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

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

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

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

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

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

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