

1 AN ACT concerning notaries public.

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 1-104, 2-102, 3-103, and 3-104 as follows:

6 (5 ILCS 312/1-104) (from Ch. 102, par. 201-104)

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

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

11 (b) "Notarization" means the performance of a notarial act.

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

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

17 (5 ILCS 312/2-102) (from Ch. 102, par. 202-102)

18 Sec. 2-102. Application. Every applicant for appointment
19 and commission as a notary shall complete an application form
20 furnished by the Secretary of State to be filed with the
21 Secretary of State, stating:

22 (a) the applicant's official name, which contains his or
23 her last name and at least the initial of the first name;

24 (b) the county in which the applicant resides or, if the
25 applicant is a resident of a state bordering Illinois, the
26 county in Illinois in which that person's principal place of
27 work or principal place of business is located;

28 (c) the applicant's residence address and business
29 address, if any, or any address at which an applicant will use
30 a notary public commission to receive fees;

31 (d) that the applicant has resided in the State of Illinois

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

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

8 (f) that the applicant is at least 18 years of age;

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

11 (h) that the applicant has never been the holder of a
12 notary public appointment that was revoked, suspended, or
13 canceled during the past 10 years ~~the applicant's commission as~~
14 ~~notary (if any) has not been revoked;~~

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

17 (j) any other information the Secretary of State deems
18 necessary.

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

20 (5 ILCS 312/3-103) (from Ch. 102, par. 203-103)

21 Sec. 3-103. Notice.

22 (a) Every notary public who is not an attorney or an
23 accredited immigration representative who advertises the
24 services of a notary public in a language other than English,
25 whether by radio, television, signs, pamphlets, newspapers, or
26 other written communication, with the exception of a single
27 desk plaque, shall include in the document, advertisement,
28 stationery, letterhead, business card, or other comparable
29 written material the following: ~~post or otherwise include with~~
30 ~~such advertisement~~ a notice in English and the language in
31 which the written communication ~~advertisement~~ appears. This
32 notice shall be of a conspicuous size, if in writing, and shall
33 state: "I AM NOT AN ATTORNEY LICENSED TO PRACTICE LAW IN
34 ILLINOIS AND MAY NOT GIVE LEGAL ADVICE OR ACCEPT FEES FOR LEGAL
35 ADVICE". If such advertisement is by radio or television, the

1 statement may be modified but must include substantially the
2 same message.

3 A notary public shall not, in any document, advertisement,
4 stationery, letterhead, business card, or other comparable
5 written material describing the role of the notary public,
6 literally translate from English into another language terms or
7 titles including, but not limited to, notary public, notary,
8 licensed, attorney, lawyer, or any other term that implies the
9 person is an attorney. To illustrate, the word "notario" is
10 prohibited under this provision. ~~Literal translation of the~~
11 phrase "Notary Public" into a language other than English is
12 prohibited. For the purposes of this subsection, "literal
13 translation" of a word or phrase from one language to another
14 means the translation of a word or phrase without regard to the
15 true meaning of the word or phrase in the language which is
16 being translated.

17 Failure to follow the procedures in this Section shall
18 result in a fine of \$1,000 for each written violation. The
19 second violation shall result in suspension of notary
20 authorization. The third violation shall result in permanent
21 revocation of the commission of notary public. Violations shall
22 not preempt or preclude additional appropriate civil or
23 criminal penalties.

24 (b) All notaries public required to comply with the
25 provisions of subsection (a) shall prominently post at their
26 place of business as recorded with the Secretary of State
27 pursuant to Section 2-102 of this Act a schedule of fees
28 established by law which a notary public may charge. The fee
29 schedule shall be written in English and in the non-English
30 language in which notary services were solicited and shall
31 contain the disavowal of legal representation required above in
32 subsection (a), unless such notice of disavowal is already
33 prominently posted.

34 (c) No notary public, agency or any other person who is not
35 an attorney shall represent, hold themselves out or advertise
36 that they are experts on immigration matters or provide any

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

6 (d) Any person who aids, abets or otherwise induces another
7 person to give false information concerning immigration status
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 Any notary public who violates the provisions of this
13 Section shall be guilty of official misconduct and subject to
14 fine or imprisonment.

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

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

22 (f) Violation of subsection (e) is a business offense
23 punishable by a fine of 3 times the amount received for
24 services, or \$1,001 minimum, and restitution of the amount paid
25 to the consumer. Nothing in this Section shall be construed to
26 preempt nor preclude additional appropriate civil remedies or
27 criminal charges available under law.

28 (g) If a notary public of this State is convicted of 2 or
29 more business offenses involving a violation of this Act within
30 a 12-month period while commissioned, or of 3 or more business
31 offenses involving a violation of this Act within a 5-year
32 period regardless of being commissioned, the Secretary shall
33 automatically revoke the notary public commission of that
34 person on the date that the person's most recent business
35 offense conviction is entered as a final judgment.

36 (Source: P.A. 85-593.)

1 (5 ILCS 312/3-104) (from Ch. 102, par. 203-104)

2 Sec. 3-104. Maximum Fee.

3 (a) Except as provided in subsection (b) of this Section,
4 the maximum fee in this State is \$1.00 for any notarial act
5 performed.

6 (b) Fees for a notary public, agency, or any other person
7 who is not an attorney or an accredited representative filling
8 out immigration legalization forms ~~or applications related to~~
9 ~~the Immigration Reform and Control Act of 1986~~ shall be limited
10 to the following as follows:

11 (1) \$10 per form completion ~~\$75 per person;~~

12 (2) \$10 per page for the translation of a non-English
13 language into English where such translation is required for
14 immigration forms ~~\$75 per person up to 4 persons per immediate~~
15 ~~family, with no additional charge for a fifth or subsequent~~
16 ~~person where all persons are legally related;~~

17 (3) \$1 for notarizing ~~\$10 per page for the translation of~~
18 ~~a non-English language into English where such translation is~~
19 ~~required for legalization forms;~~

20 (4) \$3 to execute any procedures necessary to obtain a
21 document required to complete immigration forms ~~\$1 for~~
22 ~~notarizing; and~~

23 (5) A maximum of \$75 for one complete application ~~\$3 to~~
24 ~~execute any procedures necessary to obtain a document required~~
25 ~~to complete legalization forms.~~

26 Fees authorized under this subsection shall not include
27 application fees required to be submitted with immigration
28 applications ~~a legalization application in conformity with the~~
29 ~~Immigration and Control Act of 1986.~~

30 Any person who violates the provisions of this subsection
31 shall be guilty of a Class A misdemeanor for a first offense
32 and a Class 3 felony for a second or subsequent offense
33 committed within 5 years of a previous conviction for the same
34 offense.

35 (c) Upon his own information or upon complaint of any

1 person, the Attorney General or any State's Attorney, or their
2 designee, may maintain an action for injunctive relief in the
3 court against any notary public or any other person who
4 violates the provisions of subsection (b) of this Section.
5 These remedies are in addition to, and not in substitution for,
6 other available remedies.

7 If the Attorney General or any State's Attorney fails to
8 bring an action as provided pursuant to this subsection within
9 90 days of receipt of a complaint, any person may file a civil
10 action to enforce the provisions of this subsection and
11 maintain an action for injunctive relief.

12 (d) All notaries public must provide receipts and keep
13 records for fees accepted for services provided. Failure to
14 provide receipts and keep records that can be presented as
15 evidence of no wrongdoing shall be construed as a presumptive
16 admission of allegations raised in complaints against the
17 notary for violations related to accepting prohibited fees.

18 (Source: P.A. 85-593.)

19 Section 10. The Consumer Fraud and Deceptive Business
20 Practices Act is amended by changing Section 2AA as follows:

21 (815 ILCS 505/2AA)

22 Sec. 2AA. Immigration services.

23 (a) "Immigration matter" means any proceeding, filing, or
24 action affecting the nonimmigrant, immigrant or citizenship
25 status of any person that arises under immigration and
26 naturalization law, executive order or presidential
27 proclamation of the United States or any foreign country, or
28 that arises under action of the United States Citizenship and
29 Immigration Services ~~Immigration and Naturalization Service~~,
30 the United States Department of Labor, or the United States
31 Department of State.

32 "Immigration assistance service" means any ~~advice,~~
33 ~~guidance,~~ information, or action provided or offered to
34 customers or prospective customers related to immigration

1 matters, excluding legal advice, recommending a specific
2 course of legal action, or providing any other assistance that
3 requires legal analysis, legal judgment, or interpretation of
4 the law relating to any immigration matter.

5 "Compensation" means money, property, services, promise of
6 payment, or anything else of value.

7 "Employed by" means that a person is on the payroll of the
8 employer and the employer deducts from the employee's paycheck
9 social security and withholding taxes, or receives
10 compensation from the employer on a commission basis or as an
11 independent contractor.

12 "Reasonable costs" means actual costs or, if actual costs
13 cannot be calculated, reasonably estimated costs of such things
14 as photocopying, telephone calls, document requests, and
15 filing fees for immigration forms, and other nominal costs
16 incidental to assistance in an immigration matter.

17 (a-1) The General Assembly finds and declares that private
18 individuals who assist persons with immigration matters have a
19 significant impact on the ability of their clients to reside
20 and work within the United States and to establish and maintain
21 stable families and business relationships. The General
22 Assembly further finds that that assistance and its impact also
23 have a significant effect on the cultural, social, and economic
24 life of the State of Illinois and thereby substantially affect
25 the public interest. It is the intent of the General Assembly
26 to establish rules of practice and conduct for those
27 individuals to promote honesty and fair dealing with residents
28 and to preserve public confidence.

29 (a-5) The following persons are exempt from this Section,
30 provided they prove the exemption by a preponderance of the
31 evidence:

32 (1) An attorney licensed to practice law in any state
33 or territory of the United States, or of any foreign
34 country when authorized by the Illinois Supreme Court, to
35 the extent the attorney renders immigration assistance
36 service in the course of his or her practice as an

1 attorney.

2 (2) A legal intern, as described by the rules of the
3 Illinois Supreme Court, employed by and under the direct
4 supervision of a licensed attorney and rendering
5 immigration assistance service in the course of the
6 intern's employment.

7 (3) A not-for-profit organization recognized by the
8 Board of Immigration Appeals under 8 C.F.R. 292.2(a) and
9 employees of those organizations accredited under 8 C.F.R.
10 292.2(d).

11 (4) Any organization employing or desiring to employ an
12 alien or nonimmigrant alien, where the organization, its
13 employees or its agents provide advice or assistance in
14 immigration matters to alien or nonimmigrant alien
15 employees or potential employees without compensation from
16 the individuals to whom such advice or assistance is
17 provided.

18 Nothing in this Section shall regulate any business to the
19 extent that such regulation is prohibited or preempted by State
20 or federal law.

21 All other persons providing or offering to provide
22 immigration assistance service shall be subject to this
23 Section.

24 (b) Any person who provides or offers to provide
25 immigration assistance service may perform only the following
26 services:

27 (1) Completing a government agency form, requested by
28 the customer and appropriate to the customer's needs, only
29 if the completion of that form does not involve a legal
30 judgment for that particular matter.

31 (2) Transcribing responses to a government agency form
32 which is related to an immigration matter, but not advising
33 a customer as to his or her answers on those forms.

34 (3) Translating information on forms to a customer and
35 translating the customer's answers to questions posed on
36 those forms.

1 (4) Securing for the customer supporting documents
2 currently in existence, such as birth and marriage
3 certificates, which may be needed to be submitted with
4 government agency forms.

5 (5) Translating documents from a foreign language into
6 English.

7 (6) Notarizing signatures on government agency forms,
8 if the person performing the service is a notary public of
9 the State of Illinois.

10 (7) Making referrals, without fee, to attorneys who
11 could undertake legal representation for a person in an
12 immigration matter.

13 (8) Preparing or arranging for the preparation of
14 photographs and fingerprints.

15 (9) Arranging for the performance of medical testing
16 (including X-rays and AIDS tests) and the obtaining of
17 reports of such test results.

18 (10) Conducting English language and civics courses.

19 (11) Other services that the Attorney General
20 determines by rule may be appropriately performed by such
21 persons in light of the purposes of this Section.

22 Fees for a notary public, agency, or any other person who
23 is not an attorney or an accredited representative filling out
24 immigration forms shall be limited to the maximum fees set
25 forth in subsections (a) and (b) of Section 3-104 of the Notary
26 Public Act (5 ILCS 312/3-104). ~~The Attorney General may~~
27 ~~promulgate rules establishing maximum fees that may be charged~~
28 ~~for the services described in this subsection. The maximum fees~~
29 ~~must be reasonable in light of the costs of providing those~~
30 ~~services and the degree of professional skill required to~~
31 ~~provide the services.~~

32 No person subject to this Act shall charge fees directly or
33 indirectly for referring an individual to an attorney or for
34 any immigration matter not authorized by this Article, provided
35 that a person may charge a fee for notarizing documents as
36 permitted by the Illinois Notary Public Act.

1 (c) Any person performing such services shall register with
2 the Illinois Attorney General and submit verification of
3 malpractice insurance or of a surety bond.

4 (d) Except as provided otherwise in this subsection, before
5 providing any assistance in an immigration matter a person
6 shall provide the customer with a written contract that
7 includes the following:

8 (1) An explanation of the services to be performed.

9 (2) Identification of all compensation and costs to be
10 charged to the customer for the services to be performed.

11 (3) A statement that documents submitted in support of
12 an application for nonimmigrant, immigrant, or
13 naturalization status may not be retained by the person for
14 any purpose, including payment of compensation or costs.

15 This subsection does not apply to a not-for-profit
16 organization that provides advice or assistance in immigration
17 matters to clients without charge beyond a reasonable fee to
18 reimburse the organization's or clinic's reasonable costs
19 relating to providing immigration services to that client.

20 (e) Any person who provides or offers immigration
21 assistance service and is not exempted from this Section, shall
22 post signs at his or her place of business, setting forth
23 information in English and in every other language in which the
24 person provides or offers to provide immigration assistance
25 service. Each language shall be on a separate sign. Signs shall
26 be posted in a location where the signs will be visible to
27 customers. Each sign shall be at least 11 inches by 17 inches,
28 and shall contain the following:

29 (1) The statement "I AM NOT AN ATTORNEY LICENSED TO
30 PRACTICE LAW AND MAY NOT GIVE LEGAL ADVICE OR ACCEPT FEES
31 FOR LEGAL ADVICE."

32 (2) The statement "I AM NOT ACCREDITED TO REPRESENT YOU
33 BEFORE THE UNITED STATES IMMIGRATION AND NATURALIZATION
34 SERVICE AND THE IMMIGRATION BOARD OF APPEALS."

35 (3) The fee schedule.

36 (4) The statement that "You may cancel any contract

1 within 3 working days and get your money back for services
2 not performed."

3 (5) Additional information the Attorney General may
4 require by rule.

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

22 Any person who provides or offers immigration assistance
23 service and is not exempted from this Section shall not, in any
24 document, advertisement, stationery, letterhead, business
25 card, or other comparable written material, literally
26 translate from English into another language terms or titles
27 including, but not limited to, notary public, notary, licensed,
28 attorney, lawyer, or any other term that implies the person is
29 an attorney. To illustrate, the word "notario" is prohibited
30 under this provision. ~~Literal translation of the word~~
31 ~~"licensed" into a language other than English is prohibited.~~
32 ~~For the purposes of this Section, "literal translation" of a~~
33 ~~word or phrase from one language to another means the~~
34 ~~translation of a word or phrase without regard to the true~~
35 ~~meaning of the word or phrase in the language which is being~~
36 ~~translated.~~

1 If not subject to penalties under subsection (a) of Section
2 3-103 of the Notary Public Act (5 ILCS 312/3-103), violations
3 of this subsection shall result in a fine of \$1,000. Violations
4 shall not preempt or preclude additional appropriate civil or
5 criminal penalties.

6 (f) The written contract shall be in both English and in
7 the language of the customer.

8 (g) A copy of the contract shall be provided to the
9 customer upon the customer's execution of the contract.

10 (h) A customer has the right to rescind a contract within
11 72 hours after his or her signing of the contract.

12 (i) Any documents identified in paragraph (3) of subsection
13 (c) shall be returned upon demand of the customer.

14 (j) No person engaged in providing immigration services who
15 is not exempted under this Section shall do any of the
16 following:

17 (1) Make any statement that the person can or will
18 obtain special favors from or has special influence with
19 the United States Immigration and Naturalization Service
20 or any other government agency.

21 (2) Retain any compensation for service not performed.

22 (2.5) Accept payment in exchange for providing legal
23 advice or any other assistance that requires legal
24 analysis, legal judgment, or interpretation of the law.

25 (3) Refuse to return documents supplied by, prepared on
26 behalf of, or paid for by the customer upon the request of
27 the customer. These documents must be returned upon request
28 even if there is a fee dispute between the immigration
29 assistant and the customer.

30 (4) Represent or advertise, in connection with the
31 provision assistance in immigration matters, other titles
32 of credentials, including but not limited to "notary
33 public" or "immigration consultant," that could cause a
34 customer to believe that the person possesses special
35 professional skills or is authorized to provide advice on
36 an immigration matter; provided that a notary public

1 appointed by the Illinois Secretary of State may use the
2 term "notary public" if the use is accompanied by the
3 statement that the person is not an attorney; the term
4 "notary public" may not be translated to another language;
5 for example "notario" is prohibited.

6 (5) Provide ~~Give any~~ legal advice, recommend a specific
7 course of legal action, or provide any other assistance
8 that requires legal analysis, legal judgment, or
9 interpretation of the law concerning an immigration
10 matter.

11 (6) Make any misrepresentation of false statement,
12 directly or indirectly, to influence, persuade, or induce
13 patronage.

14 (k) (Blank)

15 (l) (Blank)

16 (m) Any person who violates any provision of this Section,
17 or the rules and regulations issued under this Section, shall
18 be guilty of a Class A misdemeanor for a first offense and a
19 Class 3 felony for a second or subsequent offense committed
20 within 5 years of a previous conviction for the same offense.

21 Upon his own information or upon the complaint of any
22 person, the Attorney General or any State's Attorney, or a
23 municipality with a population of more than 1,000,000, may
24 maintain an action for injunctive relief and also seek a civil
25 penalty not exceeding \$50,000 in the circuit court against any
26 person who violates any provision of this Section. These
27 remedies are in addition to, and not in substitution for, other
28 available remedies.

29 If the Attorney General or any State's Attorney or a
30 municipality with a population of more than 1,000,000 fails to
31 bring an action as provided under this Section any person may
32 file a civil action to enforce the provisions of this Article
33 and maintain an action for injunctive relief, for compensatory
34 damages to recover prohibited fees, or for such additional
35 relief as may be appropriate to deter, prevent, or compensate
36 for the violation. In order to deter violations of this

1 Section, courts shall not require a showing of the traditional
2 elements for equitable relief. A prevailing plaintiff may be
3 awarded 3 times the prohibited fees or a minimum of \$1,000 in
4 punitive damages, attorney's fees, and costs of bringing an
5 action under this Section. It is the express intention of the
6 General Assembly that remedies for violation of this Section be
7 cumulative.

8 (n) No unit of local government, including any home rule
9 unit, shall have the authority to regulate immigration
10 assistance services unless such regulations are at least as
11 stringent as those contained in this amendatory Act of 1992. It
12 is declared to be the law of this State, pursuant to paragraph
13 (i) of Section 6 of Article VII of the Illinois Constitution of
14 1970, that this amendatory Act of 1992 is a limitation on the
15 authority of a home rule unit to exercise powers concurrently
16 with the State. The limitations of this Section do not apply to
17 a home rule unit that has, prior to the effective date of this
18 amendatory Act, adopted an ordinance regulating immigration
19 assistance services.

20 (o) This Section is severable under Section 1.31 of the
21 Statute on Statutes.

22 (p) The Attorney General shall issue rules not inconsistent
23 with this Section for the implementation, administration, and
24 enforcement of this Section by January 1, 1995. The rules may
25 provide for the following:

26 (1) The content, print size, and print style of the
27 signs required under subsection (e). Print sizes and styles
28 may vary from language to language.

29 (2) Standard forms for use in the administration of
30 this Section.

31 (3) Any additional requirements deemed necessary.

32 (Source: P.A. 87-1211; 88-45; 88-644, eff. 9-9-94.)

33 Section 99. Effective date. This Act takes effect upon
34 becoming law.