

SENATE BILL NO. 285

BY SENATOR DUPLESSIS

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AN ACT

To amend and reenact R.S. 35:1, 191(A)(1) and (2), (C) and (E), 199(A)(2)(b), and 201(A)(1) and (B) and to enact R.S. 35:2(C), 191.3(A) and (B), and 201(C), and to repeal R.S. 44:184.2, relative to notaries public and issuance of notary public commissions; to provide relative to qualifications, administration and procedures; to provide terms and conditions; to provide for recordation of acts affecting immovable property in the parish of Orleans; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 35:1, 191(A)(1) and (2), (C) and (E), 199(A)(2)(b), and 201(A)(1) and (B) are hereby amended and reenacted and R.S. 35:2(C), 191.3(A) and (B), and 201(C) are hereby enacted to read as follows:

§1. Appointment of notaries public

The governor may appoint, by and with the advice and consent of the Senate, and upon a ~~certificate of competency by the appropriate district court as provided in R.S. 35:191(C)(2)(d);~~ **their meeting the qualifications for office provided for in this Title,** notaries public in the different parishes.

* * *

§2. General powers; administration of certain oaths in any parish

A. * * *

C. Every qualified notary public is authorized to certify true copies of any authentic act or any instrument under private signature hereafter or heretofore passed before him or acknowledged before him, and to make and certify copies, by any method, of any certificate, research, resolution, survey or other document annexed to the original of any authentic acts passed before him, and may certify such copies as true copies of the original document attached to

1 the original passed before him.

2 * * *

3 §191. Appointment; qualifications; examination

4 A.(1) Any ~~resident citizen or alien of the state, eighteen years of age or older,~~
 5 **person** may be appointed a notary public in and for the parish in which he resides
 6 and in and for any one other parish in which he maintains an office, provided that he
 7 meets the requirements established by law for each parish in which he applies.:

8 (a) Is a resident citizen or alien of this state.

9 (b) Is eighteen years of age or older.

10 (c) Reads, writes, speaks, and is sufficiently knowledgeable of the English
 11 language.

12 (d) Is not under interdiction or incapable of serving as a notary because
 13 of mental infirmity.

14 (e) Meets the requirements established by law for each commission
 15 sought.

16 (2) Notwithstanding the provisions of Paragraph A(1) or Subsection C of this
 17 Section, a person validly appointed notary public in the parish of his residence may
 18 exercise any and all of the functions of a notary public in an adjacent parish which
 19 has a population of less than thirty-five thousand and in which he maintains an
 20 office, without additional bonding or further application or examination, but ~~must~~
 21 **shall** file with the ~~district court for the other parish~~ office of the secretary of state
 22 an affidavit giving the location of his office ~~and attesting to his appointment as a~~
 23 ~~notary public in his parish of residence.~~ Additionally, the applicant shall obtain a
 24 dual commission by complying with the procedures established by the office of the
 25 secretary of state.

26 * * *

27 C. Each applicant, otherwise qualified, may be appointed a notary public in
 28 and for a parish upon meeting all of the following conditions:

29 (1)(a) Submitting an application to ~~be appointed a notary public to the~~
 30 ~~appropriate district court~~ the office of the secretary of state together with a

1 certificate establishing his age, residence, location of his office when the applicant
2 seeks to be appointed a notary based on such office, **and** location of the office which
3 was the basis for a current appointment as a notary in any other parish, if any, ~~and~~
4 ~~a statement as to the applicant's good moral character, integrity, competency, and~~
5 ~~sober habits, sworn to and subscribed by two reputable citizens of the parish.~~

6 (b) The application and qualifying process shall be administered by the ~~court~~
7 ~~for each parish through a parish application committee composed of two members~~
8 ~~appointed by the court. Each member of the committee shall be appointed to serve~~
9 ~~a term of two years beginning September 1, 2006, and every two years thereafter~~
10 **office of the secretary of state.**

11 (i) **The application provided by the office of the secretary of state shall**
12 **require the applicant to attest to his good moral character, integrity, and sober**
13 **habits.**

14 (ii) **In the event that any of the applicant's answers or responses call into**
15 **question the applicant's good moral character, integrity, or sober habits, the**
16 **secretary of state shall submit such application to the district court in the parish**
17 **for which the appointment is sought for judicial review and approval. If found**
18 **competent as to character and fitness to serve as a notary public, the court shall**
19 **issue to the secretary of state an appropriate certificate for the applicant signed**
20 **by a judge of the court.**

21 (iii) **The application shall include the sworn statement of the applicant**
22 **declaring the information provided therein is true and correct.**

23 (c) The ~~court~~ **office of the secretary of state** shall ~~not~~ charge any ~~a~~ fee in
24 ~~excess~~ of thirty-five dollars for filing and processing any application, ~~or petition, or~~
25 ~~both,~~ to be appointed a notary public provided for in Subparagraph (C)(1)(a) of this
26 Section.

27 (d) **The deadline for the application provided for in Subparagraph**
28 **(C)(1)(a) of this Section and the application fee provided for in Subparagraph**
29 **(C)(1)(c) or to register to take the exam as provided for in R.S. 35:191.1 shall be**
30 **no later than sixty days prior to the date of the examination.**

1 (2)(a) Taking and passing a written examination, as provided in R. S.
2 35:191.1, administered by the secretary of state.

3 (b)(i) The notary examination shall be given twice per year on the first
4 Saturday of June and December. Should the scheduled Saturday be a state holiday,
5 then the next non-holiday Saturday shall be the test date.

6 (ii) To qualify to be examined, the candidate shall have satisfied all
7 requirements to be commissioned as a notary public in the parish, except for passing
8 the examination, ~~and register with the parish application committee on a form~~
9 ~~provided by the secretary of state and have attached thereto the required examination~~
10 ~~fee.~~

11 (iii) The qualified candidate shall be permitted to register for any notary
12 public examinations administered by the secretary of state within one year after the
13 date the ~~parish application committee~~ **secretary of state** notifies the candidate of his
14 approval to take the examination. No further ~~parish~~ application fee shall be required
15 during this period. The required examination fee, however, ~~must~~ **shall** be paid for
16 each examination.

17 ~~(iv) The parish application committee shall notify the secretary of state of the~~
18 ~~number of applicants who have qualified and registered to be examined and forward~~
19 ~~the registration form and check for each candidate attached thereto not later than~~
20 ~~forty-five days prior to the date of the examination.~~

21 ~~(c) The secretary of state shall furnish to each parish application committee~~
22 ~~the results of the examinations for the examinees from the parish and shall notify~~
23 ~~each examinee of the results of his examination.~~

24 ~~(d) If found competent and possessed of the necessary qualifications, the~~
25 ~~court shall issue to the applicant an appropriate certificate, signed by a judge of the~~
26 ~~court.~~

27 ~~(e)~~ The examination provided for in this Paragraph ~~may~~ **shall** be dispensed
28 with ~~by the court~~ if the applicant has been duly admitted to practice law in this state
29 or holds a valid notarial commission in this state.

30 * * *

1 E.~~(1)~~ Notwithstanding any other provision of law to the contrary, any person
 2 who has ~~been a validly appointed notary public~~ **held a valid notarial commission**
 3 in or for any parish either for a period of five years or ~~after taking and passing~~ **who**
 4 **has taken and passed** the written examination, as provided in R.S. 35:191.1 on or
 5 after June 13, 2005, and who changes his residence to another parish, and ~~in the~~
 6 ~~parish of his new residence~~ **who** complies with the laws governing application and
 7 qualifying for appointment to the office of notary public in ~~said parish~~ **the parish of**
 8 **his new residence**, except taking and passing an examination, and who meets the
 9 prerequisites for commission issuance specified in R.S. 35:201, shall be issued a
 10 notarial commission for the parish of his new residence by the governor without
 11 advice and consent of the Senate and may exercise the functions of notary public in
 12 that parish.

13 **(2) A notary who is establishing a residence in a parish other than the**
 14 **parish of his commission and who seeks a commission in the parish of the new**
 15 **residence shall be deemed to be validly commissioned in the parish of his former**
 16 **residence for a period of sixty days, during which time he shall meet all the**
 17 **qualifications for appointment in and for the parish of the new residence.**
 18 **Should such notary desire to remain commissioned in the original parish based**
 19 **on maintaining an office in that parish, he shall file an affidavit to that effect**
 20 **with the secretary of state designating the location of the office and shall**
 21 **otherwise comply with the requirements for maintaining a dual commission as**
 22 **provided for in this Section.**

23 * * *

24 **§191.3. Notary change of address; duty to register**

25 **A. It shall be the duty of every notary public or other person authorized**
 26 **to exercise notarial functions in the state to whom the secretary of state has**
 27 **issued a notary identification number to notify the office of the secretary of state**
 28 **within sixty days after the date of any change in residential address, mailing**
 29 **address, or both.**

30 **B. The secretary of state shall include notice of this requirement on its**

1 notary annual report form.

2 * * *

3 §199. Recordation of acts affecting immovable property

4 A. Notaries public shall record all acts of sale, exchange, donation, and
5 mortgage of immovable property passed before them, together with all resolutions,
6 powers of attorney, and other documents annexed to or made part of the acts, in their
7 proper order, and after first making a careful record of the acts in record books to be
8 kept for that purpose as follows:

9 * * *

10 (2)(a) * * *

11 (b) If the instrument is an act of sale or any other act evidencing a transfer of
12 real property situated in the parish of Orleans, it shall be the duty of the notary to:

13 (i) ~~file~~ **File** a copy of the instrument with the board of assessors for the parish
14 of Orleans within fifteen days from the date of sale or transfer. Whenever there is
15 annexed to such act any sketch, blueprint, or survey that forms part of the act, the
16 copy filed with the board of assessors shall have attached a copy of the sketch,
17 blueprint, or survey.

18 **(ii) Cause the act to be registered with the office of the clerk as the**
19 **recorder for the parish of Orleans, within forty-eight hours after the passage of**
20 **the act.**

21 * * *

22 §201. Granting of commission; prerequisites

23 A. Before the governor shall issue to the applicant a commission of notary
24 public for any parish, he shall require of him the production of all of the following:

25 (1) The certificate provided by ~~R.S. 35:191(C)(2)(d)~~ **R.S.**
26 **35:191(C)(1)(b)(ii), if applicable.**

27 * * *

28 B. Upon the issuing of the commission, all of the above shall be deposited in
29 the office of the secretary of state and annexed in the margin of a book to be kept for
30 that purpose by the secretary of state, ~~provided however, for the parish of Orleans,~~

1 the secretary of state shall keep a book to be styled "The Notarial Book of Orleans
2 Parish."

3 C. Notwithstanding any other provision of law to the contrary, an
4 appointment to the office of notary public that requires the advice and consent
5 of the Senate shall be an interim appointment subject to Senate confirmation as
6 follows:

7 (1) If the legislature is in regular session at the time the appointment is
8 made, the secretary of state on behalf of the governor shall submit for Senate
9 confirmation the name of a qualified appointee within forty-eight hours after
10 the appointment is made. Failure of the Senate to confirm the appointment
11 prior to the end of the session shall constitute a rejection of the appointment and
12 the interim appointment shall terminate.

13 (2) If the legislature is not in regular session at the time the appointment
14 is made, the appointment shall expire at the end of the next regular session,
15 unless the Senate confirms the appointment during that session.

16 (3) Any person whose appointment is not confirmed by the Senate shall
17 not be appointed to the office of notary public in any parish during any recess
18 of the legislature.

19 (4)(a) Notwithstanding any other provision of this Section to the
20 contrary, if it is discovered prior to the time that the appointment is submitted
21 to the Senate for confirmation that the interim appointee to hold the office for
22 which a commission has been issued does not meet the qualifications for
23 appointment, the secretary of state on behalf of the governor shall notify the
24 appointee by certified mail that the appointee will not be submitted for Senate
25 confirmation until the appointee meets the qualifications for appointment. The
26 appointee shall thereafter exercise no notarial duties or functions until the
27 appointee meets the qualifications for appointment. If the appointee fails to
28 meet the qualifications for appointment and the appointment terminates or
29 expires as provided in this Subsection, the commission shall be rescinded and
30 the appointee shall surrender his commission to the secretary of state.

1 **(b) Notwithstanding any other provision of this Section to the contrary,**
2 **if it is discovered after the appointment has been submitted to the Senate for**
3 **confirmation, that the interim appointee to hold the office for which a**
4 **commission has been issued does not meet the qualifications for appointment,**
5 **the secretary of state on behalf of the governor shall notify the appointee by**
6 **certified mail that the appointee does not meet the qualifications for**
7 **appointment. The appointee shall thereafter exercise no notarial duties or**
8 **functions until the appointee meets the qualifications for appointment. If the**
9 **appointee fails to meet the qualifications for appointment and the appointment**
10 **terminates or expires as provided herein, the commission shall be rescinded and**
11 **the appointee shall surrender his commission to the secretary of state.**

12 Section 2. R.S. 44:184.2 is hereby repealed.

13 Section 3. This Act shall become effective on August 15, 2008, but only in the event
14 that sufficient monies are appropriated to fully fund the provisions of this Act in the Act
15 introduced as House Bill No. 1 of the 2008 Regular Session of the Legislature.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____