

Regular Session, 2008

ACT No. 904

HOUSE BILL NO. 781

BY REPRESENTATIVE WADDELL

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AN ACT

To amend and reenact R.S. 35:191(P)(1) and 407(B) and to enact Chapter 9 of Title 35 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 35:601 through 604, relative to notaries public; to provide relative to the unlawful exercise of notarial powers; to provide for certain prohibitions; to provide for penalties; to provide for the filing of complaints; to provide for notice; to provide relative to evidence; to provide for the development of forms; to provide for applicability to attorneys licensed to practice law in this state; to provide for the authority of certain municipal ex officio notaries public; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 35:191(P)(1) is hereby amended and reenacted to read as follows:

§191. Appointment; qualifications; examination

* * *

P.(1)(a) Notwithstanding any other provision of law to the contrary including but not limited to the provisions of Subsection E of this Section and the duties imposed in that Subsection as a result of a change in residence, each person who is licensed to practice law in this state who is a notary public in and for any parish in this state ~~or~~ may exercise the functions of a notary public in every parish in this state.

(b) Notwithstanding any other provision of law to the contrary, each person who is a validly appointed notary public in and for any parish in this state and who has taken and passed the written examination, as provided in R.S. 35:191.1 on or after June 13, 2005, may exercise the functions of a notary public in every parish in this state.

1 (c) The expanded jurisdictional limits authorized by this Subsection are
 2 additional to other provisions of law. No additional bonding or further application
 3 or examination shall be required due to the expanded jurisdictional limits authorized
 4 by this Subsection.

5 Section 2. Chapter 9 of Title 35 of the Louisiana Revised Statutes of 1950,
 6 comprised of R.S. 35:601 through 604, is hereby enacted to read as follows:

7 CHAPTER 9. UNAUTHORIZED EXERCISE OF NOTARIAL POWERS

8 §601. Unlawful exercise of notarial powers; penalties

9 A. A person, who has not first been duly authorized to exercise notarial
 10 powers in this state or whose authority to exercise notarial powers in this state has
 11 been judicially revoked, shall not perform any of the following actions:

12 (1) Exercise or purport to exercise any notarial function.

13 (2) Hold himself out to the public as being entitled to exercise notarial
 14 functions.

15 (3) Render or furnish notarial services.

16 (4) Take any acknowledgment, administer any oath, or execute any
 17 instrument purportedly as a notary public or as a person purportedly authorized to
 18 exercise notarial power and authority.

19 (5) Assume to be a notary public or to be authorized to exercise notarial
 20 functions.

21 (6) Assume, use, or advertise the title of notary public or ex officio notary
 22 or equivalent terms in any language, or any similar title in such a manner as to
 23 convey the impression that he is authorized to exercise notarial powers.

24 B.(1) Any person who violates any provision of this Section shall be fined
 25 not more than one thousand dollars or imprisoned for not more than two years, or
 26 both.

27 (2) In addition to the penalties provided by Paragraph (1) of this Subsection,
 28 the person shall be required to make full restitution for all costs required to
 29 authenticate, confirm, or ratify any instruments that fail to qualify as notarial acts due

1 to the lack of proper authority of the notary or purported notary, including all costs
 2 of recordation and all damages each affected party may suffer.

3 §602. Unlawful exercise of prior authorized or limited notarial powers; penalties

4 A. No person who has been duly appointed to the office of notary public or
 5 who has been otherwise authorized to exercise notarial functions in this state shall
 6 exercise any notarial function in this state during any period when:

7 (1) His commission or authority to exercise notarial functions is either:

8 (a) Statutorily or judicially suspended.

9 (b) Statutorily or administratively revoked.

10 (2) He is no longer validly commissioned in this state.

11 (3) He has elected to place his commission in retirement status under the
 12 provisions of R.S. 35:202(G).

13 (4) He is no longer validly possessed of the office or position from which his
 14 authority to exercise notarial functions was derived.

15 (5) He has been convicted of a felony and has not been pardoned.

16 (6) He is not authorized by law to exercise that particular notarial function.

17 B.(1) Any person who knowingly violates any provision of this Section shall
 18 be fined not more than one thousand dollars and shall be required to make full
 19 restitution for all costs required to authenticate, confirm, or ratify any instruments
 20 that fail to qualify as notarial acts due to the lack of proper authority of the notary or
 21 purported notary, including all costs of recordation and all damages each affected
 22 party may suffer.

23 (2) In addition to the penalties provided in Paragraph (1) of this Subsection,
 24 the person shall also be subject to a suspension or revocation of his commission and
 25 shall be subject to being permanently enjoined from exercising any notarial function
 26 in any capacity.

27 §603. Secretary of state; duties upon receipt of sworn complaint

28 A. The secretary of state, upon receipt of a sworn complaint alleging a
 29 violation of the provisions of R.S. 35:601 or 602, shall proceed as follows:

1 administer oaths and execute affidavits, acknowledgments, traffic tickets, and other
 2 documents, all limited to matters within the official functions of the municipal police
 3 department for the enforcement of the provisions of any statute which provides for
 4 criminal penalties and of the municipal ordinances which the police department is
 5 charged with enforcing, and any affidavit required for the enforcement of R.S.
 6 32:661 through 669.

7 * * *

8 Section 4. Section 3 of this Act shall become effective upon signature by the
 9 governor or, if not signed by the governor, upon expiration of the time for bills to become
 10 law without signature by the governor, as provided by Article III, Section 18 of the
 11 Constitution of Louisiana. If vetoed by the governor and subsequently approved by the
 12 legislature, this Act shall become effective on the day following such approval.

13 Section 5. The provisions of Section 2 of this Act shall be applied retroactively in
 14 application.

15 Section 6. The provisions of Sections 1, 5, and this Section of this Act shall become
 16 effective upon signature by the governor or, if not signed by the governor, upon expiration
 17 of the time for bills to become law without signature by the governor, as provided by Article
 18 III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently
 19 approved by the legislature, this Act shall become effective on the day following such
 20 approval.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____