

Regular Session, 2012

HOUSE BILL NO. 929

BY REPRESENTATIVE MILLER

1 AN ACT

2 To amend and reenact R.S. 35:191(A)(1)(d) and (e), 191.2(3), 191.4(B) through (H), and
3 192(A) and to enact R.S. 35:15, 15.1, 191(A)(1)(f) and (g), 191.1(C), and 191.4(I),
4 relative to notaries; to provide for qualifications of notaries; to provide for education
5 of notaries; to provide for fees; to provide for requirements for instructors; to provide
6 for bonding requirements for certain notaries; to provide for revocation or suspension
7 of notarial commissions and powers under certain circumstances; to provide terms,
8 conditions, procedures and requirements; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 35:191(A)(1)(d) and (e), 191.2(3), 191.4(B) through (H), and 192(A)
11 are hereby amended and reenacted and R.S. 35:15, 15.1, 191(A)(1)(f) and (g), 191.1(C), and
12 191.4(I) are hereby enacted to read as follows:

13 §15. Revocation or suspension of notarial commission or authority to exercise
14 notarial powers

15 A. A notary public who is not an attorney may have his notarial commission
16 and powers revoked or suspended when it is demonstrated, by clear and convincing
17 evidence after a rule to show cause, that the notary has engaged in any of the
18 following:

- 19 (1) Dishonesty, fraud, deceit, or misrepresentation.
20 (2) A felony for which he has been convicted and no pardon has been issued.
21 (3) Gross misconduct or malfeasance in the exercise of his notarial powers.
22 (4) Certifying as true what he knew or should have known was false.
23 (5) Violation of any provision of this Title, or any other law governing the
24 office of notary public or the exercise of any notarial power or duty.
25 (6) Ceasing to possess any qualification required for holding his commission
26 as a notary public.

1 (7) Abandonment of his commission.

2 B. The rule to show cause shall be instituted by the district attorney or the
 3 attorney general in the district court of either the parish in which the notary is
 4 commissioned or the parish where the conduct complained of occurred. Such rule to
 5 show cause shall be tried in summary proceeding.

6 C.(1) If after a hearing the court finds that the notary public was convicted
 7 of a felony for which no pardon has been issued, or engaged in an act of gross
 8 misconduct or malfeasance in the exercise of his notarial powers, or ceased to
 9 possess any qualification required for holding his commission, the court shall order
 10 the revocation of the notary's commission and shall prohibit the notary from the
 11 further exercise of notarial powers.

12 (2) If after a hearing the court finds that the notary public committed any
 13 other act set forth in Subsection A of this Section, the court may revoke the notary's
 14 commission and prohibit the notary from further exercise of notarial powers, or may
 15 suspend his commission and authority to exercise notarial powers for a specific
 16 period of time, to be determined by the court.

17 D. A court ordering the revocation of a notary's commission or the
 18 suspension of his notarial powers shall further cast the notary in judgment for
 19 attorney fees and court costs. The court may additionally order restitution to be paid
 20 by the notary public to such persons as the court determines were damaged by the
 21 conduct giving rise to the suspension of notarial powers or the revocation of
 22 commission.

23 E. When the rule to show cause is instituted against a person for his actions
 24 as an ex-officio notary public, or for his performance of notarial powers on behalf
 25 of an employer as authorized by law, then the person appointing the ex-officio notary
 26 or the person's employer, as applicable, shall also be named as a defendant and
 27 required to show cause why the notarial powers or commission should not be
 28 revoked. Any additional defendant named pursuant to this Subsection shall not be
 29 cast in judgment for attorney fees, costs, or restitution.

1 B.C. Each provider shall submit an annual registration statement to the
 2 secretary of state on or before January first of each year beginning January 1, 2010.
 3 The secretary of state shall provide the form to be used for registration with the
 4 secretary of state and all registrations shall be submitted on the form provided by the
 5 secretary of state.

6 C.D. Each provider, except an educational institution that operates under the
 7 oversight of the Board of Regents, Board of Supervisors for the University of
 8 Louisiana System, Board of Supervisors of Louisiana State University and
 9 Agricultural and Mechanical College, Board of Supervisors of Southern University
 10 and Agricultural and Mechanical College, or Board of Supervisors of Community
 11 and Technical Colleges, shall annually post a bond guaranteed by a commercial
 12 surety licensed to do business in this state with the secretary of state in the amount
 13 of twenty-five thousand dollars. The bond shall be to ~~insure~~ ensure the performance
 14 of the provider's obligation to deliver any educational services contracted for and
 15 shall remain in effect for a period of one year.

16 D.E. Beginning in 2010, each provider shall submit a ~~semi-annual~~
 17 semiannual report to the secretary of state on or before June thirtieth and December
 18 thirty-first listing the name and address of each person who received a course or
 19 courses of instruction or study from the provider for the training and instruction for
 20 the Louisiana notary public examination required for the office of notary public
 21 during the time period covered by the report. The secretary of state shall provide the
 22 form to be used for the ~~semi-annual~~ semiannual report and all reports shall be
 23 submitted on the form provided by the secretary of state or on a form which contains
 24 the same information as required by the report provided by the secretary of state.

25 E.F.(1) The secretary of state may impose a penalty of not more than one
 26 thousand dollars per day against a provider who is not in compliance with the
 27 requirements of this Section.

28 (2) If a penalty imposed under the provisions of this Section is not timely
 29 paid by a provider within thirty days of imposition of the penalty by the secretary of

1 state, the attorney general shall institute proceedings against the provider to collect
2 such penalty.

3 F.G. Each provider shall be exempt from the licensing requirements of R.S.
4 17:3141.1 et seq., pertaining to such educational programs or instruction.

5 G.H. The secretary of state may establish and require an annual professional
6 development and education program for providers.

7 H.I. The secretary of state may promulgate rules and regulations, where
8 necessary, for implementation of the provisions of this Section, in accordance with
9 the Administrative Procedure Act.

10 §192. Execution and recordation of bond; filing of certificate of competency

11 A. The bond required of notaries by R.S. 35:191 shall be submitted to the
12 clerk of court and ~~ex officio~~ ex officio recorder of mortgages for the parish where the
13 notary will exercise the functions of his office, and, together with the certificate of
14 competency above provided for, shall be filed in the office of the secretary of state.
15 The bond shall be subscribed in favor of the governor, approved by the clerk, ~~except~~
16 ~~in Orleans Parish~~, and if secured by personal surety, recorded in the mortgage office
17 of the said parish. ~~in a special book kept for that purpose. In Orleans Parish, the~~
18 ~~bond shall be approved by the custodian of notarial records.~~

19 * * *

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____