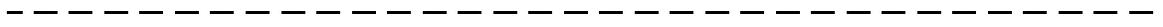


(KEYWORD, SUMMARY, AND DIGEST as amended by Senate committee amendments)

NOTARIES. Provides with respect to notaries.



DIGEST

Present law provides for the appointment, qualifications, and examination of persons in order to be commissioned as a notary public.

Proposed law provides that any person who resides in a parish with a population of less than 40,000, and who has passed the statewide notary examination, except for any performance assessment component, during examinations administered between Dec. 1, 2009, and Dec. 31, 2012, may be provisionally appointed to the office of notary public in and for that parish. Further provides that any person who resides in a parish with a population of less than 40,000 and who passes the examination, except for any performance assessment component, during examinations administered after Jan. 1, 2013, and before Aug. 1, 2016, may be provisionally appointed to the office of notary public in and for that parish.

Proposed law provides that a notary commissioned pursuant to proposed law shall not do any of the following in the course and scope of his employment: 1) draft and prepare a last will and testament or donation mortis causa; 2) draft and prepare a trust; or 3) draft and prepare any instrument that transfers title to immovable property including, but not limited to, an act of sale or act of donation.

Proposed law provides that any notary commissioned pursuant to proposed law shall exercise notarial functions only within the course and scope of his employment and under the direction of a supervisor for the employer, and provides that an "employer" shall only include businesses that are in existence on the effective date of the proposed law, but shall not include a business whose primary function is to provide notary services.

Proposed law provides for those actions which shall be deemed to be within the course and scope of employment, and provides for the jurisdiction of the notary.

Proposed law requires the notary to post and maintain a bond, at the expense of the employer, with a commercial surety licensed in this state, in the amount of \$20,000, and provides that the employer shall hold the notary harmless for any claim made against his bond when the notary is acting in the course and scope of the employment or under the direction of the employer.

Proposed law requires the notary to submit a statement signed by the applicant and the employer, and provides for the contents of the statement.

Proposed law provides for the revocation of the notary commission upon termination from employment, and provides for provisional active or inactive status depending on whether the notary is re-employed or successfully completes the remainder of the notary examination.

Proposed law provides for revocation of the notary commission upon a determination by the court or the secretary of state that the notary exceeded his authority, or upon violation of any other provision of law providing for the revocation or suspension of a notary commission.

Provides that no notarial act executed by a notary commissioned pursuant to proposed law shall be deemed invalid or unenforceable as a notarial act solely on the basis that the execution of the act exceeded the limitations of the notary's authority provided for in proposed law.

Proposed law provides that an employer shall have no liability to any person for any damages caused by the negligent or fraudulent errors or omissions by any notary commissioned

pursuant to proposed law when the notary acts outside the course and scope of his employment.

Proposed law provides that the secretary of state may suspend the commission of a notary upon receipt of a sworn complaint that the notary exceeded his authority or jurisdiction provided for in proposed law. Further provides that if the secretary of state chooses to suspend the notary's commission, then the notary shall have no notarial authority during the period of suspension. Upon notification by the secretary of state through certified mail, return receipt requested, of the suspension, the notary has thirty days to file a written appeal with the secretary of state. If the notary fails to file a written appeal within thirty days of receipt of the notice of suspension, or the secretary of state determines that the suspension should be upheld after receipt of a written appeal, then the secretary of state shall notify the district attorney of the parish in which the notary is commissioned for the purpose of institution of a rule to show cause to revoke the commission pursuant to R.S. 35:15.

Proposed law provides that the provisions of proposed law shall expire on June 30, 2015, and any commission granted pursuant to proposed law shall also expire on that date, except if the notary has, subsequent to issuance of a commission, passed all components of the examination on or before June 30, 2015.

Proposed law provides that the provisions of this Act shall become effective on January 1, 2013.

(Adds R.S. 35:191(W))

Summary of Amendments Adopted by House

House Floor Amendments to the engrossed bill.

1. Added provision that a provisionally inactive notary may have his status changed by the secretary of state if he completes the performance assessment or other portion of the exam.
2. Added provisions for the revocation of the notary commission.
3. Made technical changes.

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary A to the reengrossed bill

1. Changed the requirement for provisional notaries from that they pass two of three of the notary exam sections, to that they pass all but the performance assessment component of the exam.
2. Added that provisional notaries who will exercise notarial functions only within the course and scope of their employment and under the direction of a non-notary employer shall only be able to exercise such functions for businesses that are in existence on the effective date of this Act.
3. Adds a list of acts that these provisional notaries are not authorized to perform in the course and scope of their employment, including: drafting and preparing a last will and testament or donation mortis causa; drafting and preparing a trust; or drafting and preparing any instrument transferring title to immovable property, including an act of sale or act of donation.
4. Deletes language listing three reasons for which a person may have his notary commission revoked, and replaces that with language saying the secretary of state may suspend a person's notary commission if the secretary of state receives a

sworn complaint that the notary has exceeded his authority, and that during that period of suspension, the notary shall have no authority to perform notarial functions. Provides procedures for suspension, appeal and revocation of commission.

5. Changed sunset date from August 1, 2016 to June 30, 2015.
6. Adds effective date of January 1, 2013.