

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 1552

Short Title: Changes to the Notary Public Act.

(Public)

Sponsors: Senator Kerr.

Referred to: Finance.

June 1, 1998

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE LAW REGARDING A NOTARY PUBLIC'S STAMP OR SEAL, TO ALLOW EMPLOYEES OF THE NOTARY DIVISION TO ACT AS NOTARIES EX OFFICIO, AND TO IMPOSE A FEE TO BE CERTIFIED AS AN INSTRUCTOR.

The General Assembly of North Carolina enacts:

Section 1. G.S. 10A-2 reads as rewritten:

"§ 10A-2. Purposes.

This Chapter shall be construed and applied to advance its underlying purposes, which are:

- (1) To promote, serve, and protect the public interests.
- (2) To simplify, clarify, and modernize the law governing notaries.
- (3) To prevent fraud and forgery."

Section 2. G.S. 10A-4 reads as rewritten:

"§ 10A-4. Commissioning.

(a) Except as provided in subsection (c) of this section, the Secretary of State shall commission as a notary any qualified person who submits an application in accordance with this Chapter.

(b) A person qualified for a notarial commission shall meet all of the following requirements:

- 1 (1) Be at least 18 years of age.
- 2 (2) Reside or work in this State.
- 3 (3) Satisfactorily complete a course of study that is approved by the  
4 Secretary of State and consists of not less than three hours nor more  
5 than six hours of classroom instruction provided by community colleges  
6 throughout the State, unless the person is a licensed member of the Bar  
7 of this State.
- 8 (4) Purchase and keep as a reference a manual approved by the Secretary of  
9 State that describes the duties, authority, and ethical responsibilities of  
10 notaries public.
- 11 (5) Submit an application containing no significant misstatement or  
12 omission of fact. The application form shall be provided by the  
13 Secretary of State and be available at the register of deeds office in each  
14 county. Every application shall bear the signature of the applicant  
15 written with pen and ink, and the signature shall be acknowledged by  
16 the applicant before a person authorized to administer oaths. The  
17 applicant shall also obtain the recommendation of one publicly elected  
18 official in North Carolina whose recommendation shall be contained on  
19 the application.

20 (c) The Secretary of State may deny an application for commission or  
21 recommission as a notary if any of the following applies to the applicant:

- 22 (1) The applicant has been convicted of a felony or of a crime involving  
23 dishonesty or moral turpitude.
- 24 (2) The applicant has had a notarial commission or professional license  
25 revoked, suspended, or restricted by this or any other state.
- 26 (3) The applicant has engaged in official misconduct, whether or not  
27 disciplinary action resulted.

28 (d) The course of study required by subsection (b) of this section shall be taught by  
29 an instructor certified in accordance with rules adopted by the Secretary of State. An  
30 instructor must meet the following requirements to be certified to teach a course of study  
31 for notaries public:

- 32 (1) Complete and pass a six-hour instructor's course taught by the notaries  
33 public director or other person approved by the Secretary of State.
- 34 (2) Have six months of active experience as a notary public.
- 35 (3) Maintain a current commission as a notary public.
- 36 (4) Purchase the current notary public guidebook.
- 37 (5) Pay a nonrefundable fee of fifty dollars (\$50.00).

38 Registers of deeds, assistant and deputy registers of deeds, clerks of court, ~~and~~ assistant  
39 and deputy clerks of ~~court~~ court, and the Director and employees of the Notary Division  
40 of the Department of the Secretary of State are exempt from the requirements set forth in  
41 subdivisions (2) and (3) of this subsection while they remain actively employed in the  
42 capacities named.

1 (e) Certification to teach a course of study shall be effective for two years and may  
2 be renewed by passing a recertification course taught by the notaries public director or  
3 other person approved by the Secretary of State. ~~State and by paying a nonrefundable fee~~  
4 of fifty dollars (\$50.00)."

5 Section 3. G.S. 10A-9(b) reads as rewritten:

6 "(b) A notarial act shall be attested by all of the following:

7 (1) The signature of the notary, exactly as shown on the notary's  
8 commission.

9 (2) The readable appearance of the notary's name, either from the notary's  
10 signature or ~~otherwise~~. from the notary's typed or printed name near the  
11 signature, but not contained within the notary's stamp or seal.

12 (3) The clear and legible appearance of the notary's stamp or seal.

13 (4) A statement of the date the notary's commission expires."

14 Section 4. G.S. 10A-11 reads as rewritten:

15 **"§ 10A-11. Notarial stamp or seal.**

16 A notary public shall provide and keep an official stamp or seal. The stamp or seal  
17 shall clearly show and legibly reproduce under photographic methods, when embossed,  
18 stamped, impressed, or affixed to a document, the name of the notary exactly as it  
19 appears on the commission, the name of the county in which appointed and qualified, the  
20 words "North Carolina" or an abbreviation thereof, and the words "Notary Public". The  
21 official stamp or seal may contain the expiration date of the notary's commission so long  
22 as the expiration date is a part of the stamped or embossed seal and is not handwritten or  
23 typed onto the seal. The official stamp or seal, as it appears on any documents shall not  
24 be altered by any typed, printed, drawn, or handwritten material. A notary public shall  
25 replace a seal that has become so worn that it can no longer clearly show or legibly  
26 reproduce under photographic methods the information required by this section. The  
27 stamp or seal is the property and responsibility of the notary whose name appears on it.  
28 However, upon revocation, the notary shall immediately surrender the stamp or seal to  
29 the Secretary of State."

30 Section 5. G.S. 10A-15 reads as rewritten:

31 ~~"§ 10A-15. Registers of deeds are notaries ex officio and may certify own seals.~~  
32 **Notaries ex officio.**

33 (a) Registers of deeds and their assistants and deputies may act as notaries public  
34 in their several counties by virtue of their offices as register of deeds and may certify  
35 their notarial acts under the seals of their respective offices.

36 (b) The Director of the Notary Division of the Department of the Secretary of  
37 State, and the employees of that Division, may act as notaries public by virtue of their  
38 employment by the Secretary of State and may certify their notarial acts under the seal of  
39 the Secretary of State. The Director may charge a fee for a notarial act performed by the  
40 Notary Division in accordance with G.S. 10A-10."

41 Section 6. G.S. 10A-16 reads as rewritten:

42 **"§ 10A-16. Acts of notaries public in certain instances validated.**

1 (a) Any acknowledgment taken and any instrument notarized by a person prior to  
2 qualification as a notary public but after commissioning or recommissioning as a notary  
3 public, or by a person whose notary commission has expired, is hereby validated. The  
4 acknowledgment and instrument shall have the same legal effect as if the person qualified  
5 as a notary public at the time the person performed the act.

6 (b) All documents bearing a notarial seal in which the date of the expiration of the  
7 notary's commission is ~~erroneously~~ stated, whether correctly or erroneously, or having a  
8 notarial seal that does not contain a readable impression of the notary's name, or contains  
9 an incorrect spelling of the notary's name, or contains typed, printed, drawn, or  
10 handwritten material added to the seal, fails to contain the words "North Carolina" or the  
11 abbreviation "N. C.", or contains correct information except that instead of the  
12 abbreviation for North Carolina contains the abbreviation for Georgia, are validated and  
13 given the same legal effect as if the errors had not occurred.

14 (c) All deeds of trust in which the notary was named in the document as a trustee  
15 only are validated.

16 (d) This section applies to notarial acts performed before ~~June 1, 1997.~~ October 1,  
17 1998."

18 Section 7. This act becomes effective July 1, 1998.