

STATE OF OKLAHOMA

2nd Session of the 47th Legislature (2000)

SENATE BILL 1136

By: Morgan

AS INTRODUCED

An Act relating to notaries public; amending 49 O.S. 1991, Sections 1, 2, and 5, as amended by Sections 1, 2, and 3, Chapter 77, O.S.L. 1997, and 113 (49 O.S. Supp. 1999, Sections 1, 2, and 5), which relate to notarial appointment, oath, signature, bond, seal, and duties; increasing certain notarial fees; increasing amount of notarial bond; making failure to attach a date to a notarial act subject to administrative penalty; increasing penalty; updating statutory reference; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 49 O.S. 1991, Section 1, as amended by Section 1, Chapter 77, O.S.L. 1997 (49 O.S. Supp. 1999, Section 1), is amended to read as follows:

Section 1. The Secretary of State shall appoint and commission in this state notaries public, who shall hold ~~their~~ office for four (4) years. An applicant for a notary commission shall be eighteen (18) years of age or older, a citizen of the United States, and employed within this state or a legal resident of this state. All notary commissions shall run in the name and by the authority of ~~the State of Oklahoma~~ this state, be signed by the Secretary of State, and be sealed with the Great Seal of the State of Oklahoma. Commissions shall not be attested. Any person filing an application for a new notary commission shall pay Twenty-five Dollars (\$25.00) to the Secretary of State with the application. Any person filing an application for a renewal of a notary commission shall pay ~~Twenty~~

~~Dollars (\$20.00)~~ Twenty-five Dollars (\$25.00) to the Secretary of State with the application. These funds shall be deposited in the Revolving Fund created for the Secretary of State pursuant to the provisions of Section 276.1 of Title 62 of the Oklahoma Statutes.

SECTION 2. AMENDATORY 49 O.S. 1991, Section 2, as amended by Section 2, Chapter 77, O.S.L. 1997 (49 O.S. Supp. 1999, Section 2), is amended to read as follows:

Section 2. A. Before entering upon the duties of his or her office every notary public so appointed and commissioned shall file in the office of the court clerk, in his or her capacity as clerk of the district court, of the county in which ~~such~~ the notary resides or is employed, if the notary is a nonresident, at the time he or she is commissioned, the commission issued to him or her, the notary's oath of office, the notary's official signature, an impression of the notary's official seal, and a good and sufficient bond to the State of Oklahoma, in the sum of ~~One Thousand Dollars (\$1,000.00)~~ Ten Thousand Dollars (\$10,000.00), with one or more sureties to be approved by the court clerk, conditioned for the faithful performance of the duties of the notary's office.

B. ~~Such~~ The notary's commission, bond, and oath shall be recorded in the office of ~~such~~ the court clerk, as clerk of the district court. The commission shall be returned to the notary. The bond and oath shall be transmitted by the court clerk to the Secretary of State to be filed and recorded in that office. The filing of ~~such~~ the commission, bond, official signature, and impression of official seal in the office of the court clerk shall be deemed sufficient evidence to enable the court clerk to certify that the person so commissioned is a notary public, duly commissioned and acting as such, during the time ~~such~~ the commission is in force. Upon the filing of his or her commission with the court clerk, every notary public shall pay to the court clerk the

sum of ~~Five Dollars (\$5.00)~~ Ten Dollars (\$10.00) to be held and accounted for by the court clerk as fees of that office.

C. The Secretary of State shall record and file the bond and oath of each notary of this state.

D. Upon the receipt of a final judgment against an Oklahoma notary public for performing a false or fraudulent notarial act from an Oklahoma District Court or its equivalent from a foreign jurisdiction, the Secretary of State shall revoke the appointment of ~~said the~~ notary and notify the clerk of the district court of the county in which the notary resides of ~~said the~~ revocation.

E. The court clerk shall charge a fee of ~~Three Dollars (\$3.00)~~ Ten Dollars (\$10.00) for authenticating a notary commission.

SECTION 3. AMENDATORY 49 O.S. 1991, Section 5, as amended by Section 3, Chapter 77, O.S.L. 1997 (49 O.S. Supp. 1999, Section 5), is amended to read as follows:

Section 5. A. Every notary shall provide a notarial seal containing the notary's name and county of residence or county of employment, if the notary is a non-resident. This seal may be either a metal seal which leaves an embossed impression or a rubber stamp used in conjunction with a stamp pad and ink. Each notary shall authenticate all official acts, attestations, and instruments with this seal; and shall add to the notary's official signature the date of expiration of his or her commission as such notary public. If a rubber stamp is used, this date may be a part of the stamp.

B. If any notary public shall neglect or refuse to attach to the notary's official signature the date of expiration of the notary's commission, the notary ~~shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined~~ subject to an administrative penalty in an individual proceeding by the Secretary of State, pursuant to the Administrative Procedures Act, in any sum not exceeding ~~Fifty Dollars (\$50.00)~~ One Hundred Dollars (\$100.00).

SECTION 4. AMENDATORY 49 O.S. 1991, Section 113, is amended to read as follows:

Section 113. A. In taking an acknowledgment, the notarial officer ~~must~~ shall determine, either from personal knowledge or from satisfactory evidence, that the person appearing before the officer and making the acknowledgment is the person whose true signature is on the instrument.

B. In taking a verification upon oath or affirmation, the notarial officer ~~must~~ shall determine, either from personal knowledge or from satisfactory evidence, that the person appearing before the officer and making the verification is the person whose true signature is on the statement verified.

C. In witnessing or attesting a signature the notarial officer ~~must~~ shall determine, either from personal knowledge or from satisfactory evidence, that the signature is that of the person appearing before the officer and named therein.

D. In certifying or attesting a copy of a document or other item, the notarial officer ~~must~~ shall determine that the proffered copy is a full, true, and accurate transcription or reproduction of that which was copied. In the case of official records, only the custodian of the official records may issue an official certified copy.

E. In making or noting a protest of a negotiable instrument the notarial officer ~~must~~ shall determine the matters set forth in subsection (b) of Section 3-509 ~~3-509~~ 3-505 of the Uniform Commercial Code.

F. A notarial officer has satisfactory evidence that a person is the person whose true signature is on a document if that person is personally known to the notarial officer, is identified upon the oath or affirmation of a credible witness personally known to the notarial officer, or is identified on the basis of identification documents.

SECTION 5. This act shall become effective November 1, 2000.

47-2-1870

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