

SB 1267

THE STATE SENATE
Monday, February 16, 2004

Senate Bill No. 1267

As Amended

SENATE BILL NO. 1267 - By: SMITH of the Senate and HASTINGS of the House.

An Act relating to notaries public; amending 49 O.S. 2001, Sections 2 and 5, as amended by Section 2, Chapter 34, O.S.L. 2002 (49 O.S. Supp. 2003, Section 5), which relate to oath, signature, bond and seal; requiring filing of certain material with Secretary of State; modifying persons eligible to sign certain bond; specifying term of certain bond; increasing certain fee; conforming language; modifying required information on notarial seal; amending 51 O.S. 2001, Section 36.3, which relates to filing oath or affirmation; requiring filing of notary public with Secretary of State; and providing an effective date.

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

SECTION 1. AMENDATORY 49 O.S. 2001, 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 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~~ Secretary of State, the notary's oath of office, the notary's loyalty oath, 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

1 the sum of One Thousand Dollars (\$1,000.00), to be approved by the
2 ~~court clerk~~ Secretary of State, conditioned for the faithful
3 performance of the duties of the notary's office. The bond shall be
4 signed by:

- 5 **1. An** insurance agent licensed by the State of Oklahoma;
- 6 **2. An** attorney-in-fact on behalf of an insurance company with a
7 power of attorney attached; **or**
- 8 **3. One or more individual sureties who are property owners in**
9 **the county of residence of the notary, or if a nonresident, the**
10 **county of employment of the notary.** The bond shall be issued for a
11 term of four (4) years commencing on the commission's effective date
12 and terminating on its expiration date.

13 ~~B. Such commission, bond, and oath shall be recorded in the~~
14 ~~office of such court clerk, as clerk of the district court. The~~
15 ~~commission shall be returned to the notary. The bond and oath shall~~
16 ~~be transmitted by the court clerk to the Secretary of State to be~~
17 ~~filed and recorded in that office. The filing of such commission,~~
18 ~~loyalty oath, bond, official signature, and impression of official~~
19 ~~seal in the office of the court clerk shall be deemed sufficient~~
20 ~~evidence to enable the court clerk to certify that the person so~~
21 ~~commissioned is a notary public, duly commissioned and acting as~~
22 ~~such, during the time such commission is in force. Upon the filing~~
23 of his or her ~~commission~~ bond with the ~~court clerk~~ Secretary of

1 State, every notary public shall pay to the ~~court clerk~~ Secretary of
2 State the sum of ~~Five Dollars (\$5.00)~~ to be held and accounted for
3 ~~by the court clerk as fees of that office~~ Ten Dollars (\$10.00) to be
4 deposited to the credit of the Revolving Fund for the Office of the
5 Secretary of State.

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

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

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

16 SECTION 2. AMENDATORY 49 O.S. 2001, Section 5, as
17 amended by Section 2, Chapter 34, O.S.L. 2002 (49 O.S. Supp. 2003,
18 Section 5), is amended to read as follows:

19 Section 5. Every notary shall obtain a notarial seal containing
20 the words "State of Oklahoma" and "Notary Public"7 and the notary's
21 name, ~~and county of residence or county of employment if the notary~~
22 ~~is a nonresident.~~ This seal may be either a metal seal which leaves
23 an embossed impression or a rubber stamp used in conjunction with a

1 stamp pad and ink. Each notary shall authenticate all official
2 acts, attestations, and instruments with this seal; and shall add to
3 the notary's official signature, the commission number of the notary
4 and the date of expiration of the commission of the notary. Failure
5 to add the commission number or the date of expiration of the
6 commission shall not affect the recordability of the instrument or
7 the notice given by such recording. This date and commission number
8 may be a part of the stamp or seal. If any notary public shall
9 neglect or refuse to attach to the notary's official signature the
10 date of expiration of the notary's commission, the notary shall be
11 deemed guilty of a misdemeanor, and upon conviction thereof shall be
12 fined in any sum not exceeding Fifty Dollars (\$50.00). The maximum
13 fee a notary may charge and collect for each notarial act is Five
14 Dollars (\$5.00).

15 SECTION 3. AMENDATORY 51 O.S. 2001, Section 36.3, is
16 amended to read as follows:

17 Section 36.3 A. The oath or affirmation required by Section
18 36.2A of this title and taken and subscribed to by:

19 1. Every state officer shall be filed with the Secretary of
20 State;

21 2. Every state employee shall be filed with the personnel
22 officer of the state entity employing the state employee;

1 3. All other officers shall be filed with the office of the
2 county clerk of the county of official residence of the officer;

3 4. All other employees shall be filed with the office of the
4 county clerk of the county in which the entity employing the
5 employee is located; and

6 5. Every notary public shall be filed with the office of the
7 ~~court clerk of the county of official residence of the notary, or if~~
8 ~~a nonresident, the county of employment of the notary~~ Secretary of
9 State.

10 B. No fee shall be charged for the filings or for the
11 administration of the oaths or affirmation.

12 C. Blank oath forms will be furnished, without charge, by the
13 Secretary of State to such officers and employees upon request.

14 D. The provisions of paragraphs 3, 4 and 5 of subsection A of
15 this section shall not apply to municipal officers and employees.

16 All oaths or affirmations of municipal officers or employees shall
17 be filed in the office of the municipal clerk of the municipality
18 for which the officer or employee serves or by which the officer or
19 employee is employed.

20 SECTION 4. This act shall become effective November 1, 2004.

21 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 2-3-04 - DO PASS,
22 As Amended and Coauthored.