
By: Chairman, Judicial Proceedings Committee (Departmental - Secretary of State)

Requested: October 4, 1995

Introduced and read first time: January 10, 1996

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Notaries Public**

3 FOR the purpose of specifying the conditions under which a custodian shall, may, and
4 may not allow inspection of a public record containing information about the
5 application and commission of a notary public; providing that in certain cases a
6 notary may act as a witness to the execution of a document in the notary's official
7 capacity without taking an oath or acknowledgment; providing for the procedure a
8 notary follows when acting as a witness to the execution of a document in the
9 notary's official capacity; providing that the commission of a notary public may be
10 suspended after notice and an opportunity for a hearing; clarifying that a hearing
11 for removal or suspension of a notary public is not a contested case; providing that
12 the Governor may delegate to the Secretary of State and Assistant Secretary of
13 State the authority to terminate or suspend a notary commission; and generally
14 relating to notaries public.

15 BY adding to

16 Article - State Government
17 Section 10-617(j)
18 Annotated Code of Maryland
19 (1995 Replacement Volume)

20 BY repealing and reenacting, with amendments,

21 Article 68 - Notaries Public
22 Section 2(a)
23 Annotated Code of Maryland
24 (1995 Replacement Volume)

25 BY adding to

26 Article 68 - Notaries Public
27 Section 11
28 Annotated Code of Maryland
29 (1995 Replacement Volume)

2

1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
2 MARYLAND, That the Laws of Maryland read as follows:

3 **Article - State Government**

4 10-617.

5 (J) (1) SUBJECT TO PARAGRAPHS (2) THROUGH (5) OF THIS SUBSECTION, A
6 CUSTODIAN SHALL DENY INSPECTION OF THE PART OF A PUBLIC RECORD THAT
7 CONTAINS INFORMATION ABOUT THE APPLICATION AND COMMISSION OF A PERSON
8 AS A NOTARY PUBLIC.

9 (2) A CUSTODIAN SHALL PERMIT INSPECTION OF THE PART OF A
10 PUBLIC RECORD THAT GIVES:

11 (I) THE NAME OF THE NOTARY PUBLIC;

12 (II) THE HOME ADDRESS OF THE NOTARY PUBLIC;

13 (III) THE ISSUE AND EXPIRATION DATES OF THE NOTARY PUBLIC'S
14 COMMISSION;

15 (IV) THE DATE THE PERSON TOOK THE OATH OF OFFICE AS A
16 NOTARY PUBLIC; OR

17 (V) THE SIGNATURE OF THE NOTARY PUBLIC.

18 (3) A CUSTODIAN MAY PERMIT INSPECTION OF OTHER INFORMATION
19 ABOUT A NOTARY PUBLIC IF THE CUSTODIAN FINDS A COMPELLING PUBLIC
20 PURPOSE.

21 (4) A CUSTODIAN MAY DENY INSPECTION OF A RECORD BY A NOTARY
22 PUBLIC OR ANY OTHER PERSON IN INTEREST ONLY TO THE EXTENT THAT THE
23 INSPECTION COULD:

24 (I) INTERFERE WITH A VALID AND PROPER LAW ENFORCEMENT
25 PROCEEDING;

26 (II) DEPRIVE ANOTHER PERSON OF A RIGHT TO A FAIR TRIAL OR
27 AN IMPARTIAL ADJUDICATION;

28 (III) CONSTITUTE AN UNWARRANTED INVASION OF PERSONAL
29 PRIVACY;

30 (IV) DISCLOSE THE IDENTITY OF A CONFIDENTIAL SOURCE;

31 (V) DISCLOSE AN INVESTIGATIVE TECHNIQUE OR PROCEDURE;

32 (VI) PREJUDICE AN INVESTIGATION; OR

33 (VII) ENDANGER THE LIFE OR PHYSICAL SAFETY OF AN
34 INDIVIDUAL.

3

1 (5) A CUSTODIAN WHO SELLS LISTS OF NOTARIES PUBLIC SHALL OMIT
2 FROM THE LISTS THE NAME OF ANY NOTARY PUBLIC, ON WRITTEN REQUEST OF THE
3 NOTARY PUBLIC.

4 **Article 68 - Notaries Public**

5 2.

6 (a) (1) Any notary public may be removed OR SUSPENDED from office by the
7 Governor for good cause either on his own initiative or upon a request made to him in
8 writing by the senator who approved the appointment. After notice to the notary and the
9 opportunity for a hearing before the Secretary of State OR THE SECRETARY OF STATE'S
10 DESIGNEE, the Secretary of State shall submit his recommendation to the Governor for
11 action as the Governor determines to be required in the case.

12 (2) THE GOVERNOR MAY DELEGATE TO THE SECRETARY OF STATE OR
13 THE ASSISTANT SECRETARY OF THE STATE, OR BOTH, THE AUTHORITY TO REMOVE
14 OR SUSPEND A NOTARY PUBLIC FROM OFFICE UNDER THIS SECTION. THE
15 SECRETARY OF STATE OR ASSISTANT SECRETARY OF STATE SHALL GIVE THE
16 NOTARY NOTICE AND AN OPPORTUNITY FOR A HEARING AS PROVIDED IN
17 PARAGRAPH (1), BUT IS NOT REQUIRED TO SUBMIT A RECOMMENDATION TO THE
18 GOVERNOR BEFORE ACTING UNDER THIS PARAGRAPH.

19 (3) A HEARING UNDER THIS SECTION IS NOT A CONTESTED CASE
20 UNDER TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

21 11.

22 (A) IF A DOCUMENT PRESENTED FOR NOTARIZATION DOES NOT CONTAIN A
23 NOTARIAL CERTIFICATE REFLECTING THE TAKING OF AN OATH OR
24 ACKNOWLEDGMENT, A NOTARY MAY NEVERTHELESS WITNESS THE SIGNING OF
25 THE DOCUMENT IN THE NOTARY'S OFFICIAL CAPACITY, IN ACCORDANCE WITH
26 SUBSECTION (B) OF THIS SECTION.

27 (B) A NOTARY ACTING AS A WITNESS IN THE NOTARY'S OFFICIAL CAPACITY
28 UNDER SUBSECTION (A) SHALL:

29 (1) OBTAIN SATISFACTORY PROOF OF THE IDENTIFY OF THE PERSON
30 SIGNING THE DOCUMENT;

31 (2) OBSERVE THE SIGNING OF THE DOCUMENT;

32 (3) DATE, SIGN, AND SEAL OR STAMP THE DOCUMENT; AND

33 (4) RECORD THE ACT IN THE NOTARY'S FAIR REGISTER.

34 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
35 October 1, 1996.