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**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

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: January 23, 1996

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CHAPTER \_\_\_\_\_

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~~ is required to follow when acting as a witness to the execution of a  
9 document in the notary's official capacity; providing that the commission of a notary  
10 public may be suspended after notice and an opportunity for a hearing; clarifying  
11 that a hearing for removal or suspension of a notary public is not a contested case  
12 under the Administrative Procedure Act; providing that the Governor may delegate  
13 to the Secretary of State and Assistant Secretary of State the authority to terminate  
14 or suspend a notary commission; and generally 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)

2

1 BY adding to  
2 Article 68 - Notaries Public  
3 Section 11  
4 Annotated Code of Maryland  
5 (1995 Replacement Volume)

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

8 **Article - State Government**

9 10-617.

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

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

16 (I) THE NAME OF THE NOTARY PUBLIC;

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

18 (III) THE ISSUE AND EXPIRATION DATES OF THE NOTARY PUBLIC'S  
19 COMMISSION;

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

22 (V) THE SIGNATURE OF THE NOTARY PUBLIC.

23 (3) A CUSTODIAN MAY PERMIT INSPECTION OF OTHER INFORMATION  
24 ABOUT A NOTARY PUBLIC IF THE CUSTODIAN FINDS A COMPELLING PUBLIC  
25 PURPOSE.

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

29 (I) INTERFERE WITH A VALID AND PROPER LAW ENFORCEMENT  
30 PROCEEDING;

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

33 (III) CONSTITUTE AN UNWARRANTED INVASION OF PERSONAL  
34 PRIVACY;

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

36 (V) DISCLOSE AN INVESTIGATIVE TECHNIQUE OR PROCEDURE;

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1 (VI) PREJUDICE AN INVESTIGATION; OR

2 (VII) ENDANGER THE LIFE OR PHYSICAL SAFETY OF AN  
3 INDIVIDUAL.

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

7 **Article 68 - Notaries Public**

8 2.

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

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

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

24 11.

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

30 (B) A NOTARY ACTING AS A WITNESS IN THE NOTARY'S OFFICIAL CAPACITY  
31 UNDER SUBSECTION (A) OF THIS SECTION SHALL:

32 (1) OBTAIN SATISFACTORY PROOF OF THE ~~IDENTIFY~~ IDENTITY OF THE  
33 PERSON SIGNING THE DOCUMENT;

34 (2) OBSERVE THE SIGNING OF THE DOCUMENT;

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

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

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

