

HOUSE BILL 1229

P1

2lr2787
CF SB 618

By: **Delegate Szeliga**

Introduced and read first time: February 10, 2012

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **State Government – Notaries Public – Revisions**

3 FOR the purpose of prohibiting an individual, under certain circumstances, from being
4 appointed as a notary public; requiring an out-of-state notary, under certain
5 circumstances, to surrender the notary's commission to the Secretary of State;
6 authorizing a certain notary to apply for appointment as a State resident
7 notary; requiring, under certain circumstances, that a certain notary be
8 appointed and commissioned as a State resident notary; prohibiting a certain
9 individual from being appointed and commissioned by reciprocity as a State
10 resident notary; establishing requirements that a State resident appointed as a
11 notary public must meet; establishing requirements that an out-of-state
12 individual appointed as a notary public must meet; requiring a certain
13 application to be accompanied by a copy of the applicant's green card;
14 prohibiting a certain notary from being required to pay certain fees; providing
15 that an out-of-state notary may exercise certain functions only in the course of
16 the notary's employment; and generally relating to notaries public in the State.

17 BY repealing and reenacting, with amendments,
18 Article – State Government
19 Section 18-101, 18-102, 18-103, and 18-109
20 Annotated Code of Maryland
21 (2009 Replacement Volume and 2011 Supplement)

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

24 **Article – State Government**

25 18-101.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (a) **[The] SUBJECT TO SUBSECTION (C) OF THIS SECTION, THE** Governor,
2 on approval of the application by a Senator representing the senatorial district and
3 subdistrict in which the applicant resides or on approval by any Senator if the
4 senatorial office representing the senatorial district and subdistrict in which the
5 applicant resides is vacant, may appoint and commission individuals as notaries
6 public as provided in this title.

7 (b) (1) **[The] SUBJECT TO SUBSECTION (C) OF THIS SECTION, THE**
8 Governor, on approval of the application by the Secretary of State and a member of the
9 Senate of Maryland, shall appoint and commission out-of-state individuals as
10 notaries public as provided in this title.

11 (2) An out-of-state notary shall be deemed to have irrevocably
12 appointed the Secretary of State as the notary's agent upon whom may be served any
13 summons, subpoena, subpoena duces tecum, or other process.

14 **(C) AN INDIVIDUAL MAY NOT BE APPOINTED AS A NOTARY PUBLIC IF,**
15 **WITHIN 10 YEARS BEFORE THE APPLICATION IS FILED, THE INDIVIDUAL HAS**
16 **HAD AN APPOINTMENT AND COMMISSION REVOKED UNDER § 18-103 OF THIS**
17 **TITLE.**

18 **(D) (1) IF AN OUT-OF-STATE NOTARY RELOCATES TO THE STATE,**
19 **THE NOTARY SHALL SURRENDER THE NOTARY'S COMMISSION TO THE**
20 **SECRETARY OF STATE.**

21 (2) **A NOTARY WHO SURRENDERS THE NOTARY'S COMMISSION AS**
22 **REQUIRED BY PARAGRAPH (1) OF THIS SUBSECTION:**

23 **(I) MAY APPLY FOR APPOINTMENT AS A STATE RESIDENT**
24 **NOTARY; AND**

25 **(II) SHALL BE APPOINTED AND COMMISSIONED AS A STATE**
26 **RESIDENT NOTARY ON MEETING THE REQUIREMENTS OF § 18-102(A) OF THIS**
27 **TITLE.**

28 **(E) AN INDIVIDUAL WHO WAS APPOINTED AND COMMISSIONED AS A**
29 **NOTARY PUBLIC BY ANOTHER STATE AND WHO RELOCATES TO THE STATE MAY**
30 **NOT BE APPOINTED AND COMMISSIONED AS A STATE RESIDENT NOTARY BY**
31 **RECIPROcity.**

32 18-102.

33 **(A) Each [individual] STATE RESIDENT appointed as a notary public shall:**

34 (1) be at least 18 years old;

1 (2) be of good moral character and integrity;

2 (3) [live or work in the State] **BE A REGISTERED VOTER UNLESS**
3 **THE INDIVIDUAL IS A PERMANENT RESIDENT ALIEN;**

4 (4) [if living in the State,] be a **LEGAL** resident of the senatorial
5 district from which appointed; and

6 (5) [if living outside the State, be a resident of a state that allows
7 Maryland residents working in that state to serve as notaries public in that state] **BE**
8 **ABLE TO READ AND WRITE THE ENGLISH LANGUAGE.**

9 **(B) EACH OUT-OF-STATE INDIVIDUAL APPOINTED AS A NOTARY PUBLIC**
10 **SHALL:**

11 **(1) BE AT LEAST 18 YEARS OLD;**

12 **(2) BE OF GOOD MORAL CHARACTER AND INTEGRITY;**

13 **(3) BE A REGISTERED VOTER OF THE STATE IN WHICH THE**
14 **INDIVIDUAL RESIDES UNLESS THE INDIVIDUAL IS A PERMANENT RESIDENT**
15 **ALIEN;**

16 **(4) BE EMPLOYED IN THE STATE AT A LOCATION THAT IS IN THE**
17 **COUNTY FOR WHICH THE INDIVIDUAL IS TO BE APPOINTED;**

18 **(5) BE A RESIDENT OF A STATE THAT ALLOWS MARYLAND**
19 **RESIDENTS WORKING IN THAT STATE TO SERVE AS NOTARIES PUBLIC IN THAT**
20 **STATE; AND**

21 **(6) BE ABLE TO READ AND WRITE THE ENGLISH LANGUAGE.**

22 18-103.

23 (a) (1) An application for original appointment as a notary public shall be
24 made on forms prepared by the Secretary of State and shall be sworn to by the
25 applicant.

26 (2) An application by a resident of the State shall bear or be
27 accompanied by the written approval of a Senator representing the senatorial district
28 and subdistrict in which the applicant resides or, if that office is vacant, by any
29 Senator's written approval.

1 (3) An application by an out-of-state individual shall bear or be
2 accompanied by the written approval of a Maryland State Senator.

3 (4) **AN APPLICATION BY A PERMANENT RESIDENT ALIEN SHALL**
4 **BE ACCOMPANIED BY A COPY OF THE APPLICANT'S GREEN CARD.**

5 ~~[(4)]~~ (5) Completed applications shall be filed with the Secretary of
6 State.

7 (b) When the appointment is made by the Governor, the Secretary of State
8 shall notify the applicant.

9 (c) (1) The term of a notary public commission is 4 years.

10 (2) The Secretary of State shall adopt, by regulation, a staggered
11 system for the expiration and renewal of notary public commissions.

12 (d) (1) Notary public commissions may be renewed from term to term, and
13 the Secretary of State shall issue an application of renewal to the notary public at or
14 prior to the expiration of the term of the existing commission.

15 (2) On receiving of a satisfactory application of renewal from the
16 notary, the Secretary shall issue a notice of renewal to the notary.

17 (3) Within 30 days after the issuance by the Secretary of State of a
18 notice of appointment or renewal, the notary shall qualify before the appropriate clerk
19 of the court and pay the fees prescribed in subsection (e) of this section.

20 (4) An out-of-state individual commissioned as a notary shall qualify
21 before the clerk of the circuit court in any county or Baltimore City and pay the fees
22 prescribed in subsection (e) of this section.

23 (5) The appointment and commission of any notary who fails to qualify
24 and pay the fees within the time required under this subsection shall be revoked.

25 (6) If an appointment and commission is revoked under this
26 subsection, the court clerk shall return the commission to the Secretary of State with a
27 certification that the notary failed to qualify and pay the fees within the required time.

28 (7) The Secretary of State for good cause shown may reinstate the
29 appointment and commission.

30 (e) (1) At the time the notice of appointment or the notice of renewal is
31 issued, the Secretary of State shall forward to the clerk of the circuit court of the
32 county in which the notary resides or in the case of a notary who lives out-of-state, to
33 the clerk of the circuit court in the county where the notary is to qualify, a commission
34 signed by the Governor and Secretary of State under the great seal of the State.

1 (2) The clerk of the court shall deliver the commission to the notary
2 upon qualification and payment of the prescribed fees by the notary.

3 (3) **[Each] EXCEPT AS PROVIDED IN PARAGRAPH (7) OF THIS**
4 **SUBSECTION, EACH** notary shall pay to the clerk:

5 (i) a fee of \$1 for qualifying the notary and registering the
6 name, address, and commission expiration date of the notary; and

7 (ii) a fee of \$10 or a lesser amount as prescribed by the
8 Secretary of State for the commission issued.

9 (4) The fee shall be paid by the clerk to the Treasury of the State.

10 (5) **[The] SUBJECT TO PARAGRAPH (7) OF THIS SUBSECTION, THE**
11 Secretary of State may fix other reasonable fees as required for the processing of
12 applications and the issuance and renewal of notarial commissions and may charge a
13 reasonable fee not exceeding \$25 for checks returned for insufficient funds.

14 (6) (i) 1. Except as provided under subparagraph (ii) of this
15 paragraph, if a payment of a fee under this section is made by a check or other
16 negotiable instrument that is dishonored, the commission shall be revoked by
17 operation of law.

18 2. The revocation is effective beginning on the 60th day
19 after the day on which the notice is sent in accordance with subparagraph (ii) of this
20 paragraph.

21 (ii) When the Secretary of State receives notice that a check or
22 other negotiable instrument, given by an applicant in payment of a fee under this
23 section has been dishonored, the Secretary shall inform the applicant, by regular mail,
24 sent to the last home address the applicant has given to the Secretary, that the
25 commission will be revoked by operation of law if within 60 days after the date of the
26 notice the applicant fails to make payment of the fee and any late charge, or fails to
27 provide evidence that the notice of dishonor was in error.

28 (iii) The removal of a notary public from office under this
29 paragraph is not subject to the provisions applicable to removal under § 18-104 of this
30 title.

31 **(7) A NOTARY WHOSE APPOINTMENT AND COMMISSION IS**
32 **REQUIRED UNDER § 18-101(D) OF THIS TITLE MAY NOT BE REQUIRED TO PAY:**

33 **(I) THE FEES ESTABLISHED UNDER PARAGRAPH (3) OF**
34 **THIS SUBSECTION; OR**

1 **(II) ANY FEE FIXED BY THE SECRETARY OF STATE UNDER**
2 **PARAGRAPH (5) OF THIS SECTION.**

3 (f) The Secretary of State may prepare and adopt forms as required under
4 this section, including the form of original and renewal applications, the form of
5 commissions, and forms for renewal of commissions.

6 18–109.

7 **(A) [A] SUBJECT TO SUBSECTION (B) OF THIS SECTION, A** notary public
8 may exercise all functions of the office of notary in any other county or city than the
9 county or city for which the notary is appointed, with the same power and effect in all
10 respects as if the same were exercised in the county or city for which the notary is
11 appointed.

12 **(B) AN OUT-OF-STATE NOTARY MAY EXERCISE FUNCTIONS OF THE**
13 **OFFICE OF NOTARY ONLY IN THE COURSE OF THE NOTARY'S EMPLOYMENT.**

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
15 October 1, 2012.