

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE

Senate Bill 618 (Senator Jennings)
Judicial Proceedings

State Government - Notaries Public - Revisions

This bill makes several changes to the appointment of notaries public.

Fiscal Summary

State Effect: Potential minimal decrease in general fund revenues as a result of the bill's provisions exempting relocated notaries from paying application/commission fees and barring certain individuals from reapplying for commissions for 10 years. The Secretary of State can meet the bill's requirements with existing resources.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary:

Individuals Whose Appointments as Notaries Public Were Revoked

An individual whose appointment as a Maryland notary public was revoked for the following reasons may not be appointed as a notary public if less than 10 years have passed between the revocation and the filing of his/her application: (1) the individual failed to qualify for renewal of his/her appointment; (2) the individual did not pay the required fee for appointment or renewal on time; or (3) the individual paid the renewal fee with a check or negotiable instrument that was dishonored and did not pay the fee or

correct the situation within 60 days of receiving notice by the Secretary of State that the check or instrument was dishonored.

Out of State Notary Public Relocating to Maryland

The bill adds new requirements for out-of-state applicants. An out-of-state notary public who is relocating to Maryland (1) must surrender his/her out-of-state commission to the Secretary of State; (2) may apply to be a Maryland notary public as a State resident. An applicant in this category must be appointed if he/she meets the requirements for a State resident notary public but does not need to pay the statutory fees to the clerk of the court or the Secretary of State when applying for an appointment in Maryland due to relocation. These applicants are prohibited from being appointed through reciprocity.

Requirements for Maryland Resident Notaries

The bill preserves the current statutory requirements that each person appointed as a Maryland resident notary public be at least 18 years old and be of good moral character and integrity. However, the bill also specifies that each applicant must (1) be a registered voter unless the person is a permanent resident alien; (2) be a legal resident of the State senatorial district from which the person is appointed; and (3) be able to read and write the English language.

Appointment of an Out-of-state Resident to be a Maryland Notary Public

The bill preserves the current statutory requirements that each out-of-state individual appointed as a Maryland notary public be at least 18 years old, be of good moral character and integrity, be employed in Maryland, and be a resident of a state that allows Maryland residents working in that state to serve as notaries public in that state. However, the bill also requires each out-of-state individual appointed as a Maryland notary public to (1) be a registered voter of the state in which the individual resides unless the person is a permanent resident alien; (2) be employed at a location that is in the county for which the individual is to be appointed; and (3) be able to read and write the English language.

An out-of-state individual appointed as a Maryland notary public is allowed to exercise the functions of a notary public only in the course of the individual's employment.

Applications by Permanent Resident Aliens for Appointment as Notaries Public

An application by a permanent resident alien for appointment as a notary public must be accompanied by a copy of the applicant's green card.

Current Law: Notaries public are appointed by the Governor upon the approval of their application by the Senator representing the senatorial district in which they reside. Applications by individuals who live outside of Maryland but work in the State may be approved by any Senator. Applicants pay a processing fee of \$20 to the Secretary of State and various fees to the appropriate clerk of court for the commission, which is paid by the clerk to the State Treasury. Notaries must be at least 18 years of age, be of good moral character and integrity, and live or work in the State. An out-of-state notary public must live in a state that allows Maryland residents working in that state to serve as notaries public in that state.

Notary public commissions last for four years, after which they may apply for reappointment by the Secretary of State. A notary public's appointment and commission must be revoked if the notary public fails to qualify for renewal and pay the renewal fee within 30 days after the issuance of a notice of appointment or renewal by the Secretary of State. If a notary public pays a required fee by a check or other negotiable instrument that is dishonored, the notary public's commission must be revoked. When the Secretary of State is notified that an applicant has paid a fee with a check or negotiable instrument that has been dishonored, the Secretary of State must notify the applicant that his/her commission will be revoked by operation of law if the applicant fails to pay the fee and any late charge within 60 days after the date of the notice or fails to provide evidence that the notice of dishonor was in error. The revocation of an appointment or commission is effective beginning on the sixtieth day after the day on which the notice is sent.

State Fiscal Effect: General fund revenues may decrease minimally to the extent that (1) out-of-state notary publics who relocate to Maryland do not have to pay fees to apply for Maryland commissions; and (2) individuals who would normally apply for reappointment are prohibited from being reappointed for 10 years under the bill.

According to the Secretary of State, there are currently 2,791 out-of-state active notaries in Maryland. Data is not available on how many out-of-state notaries relocated to Maryland. Out-of-state notary publics are authorized to keep their out-of-state commissions, but they do have to register in Maryland and pay the appropriate fees (\$20 to the Secretary of State and \$11 to the circuit court clerk), payable to the State Treasury. Under the bill, out-of-state notary publics who relocate to Maryland are required to surrender their out-of-state commissions and may apply to be notary publics as Maryland residents. These individuals do not have to pay the fees listed above.

The bill also prohibits an individual from being reappointed as a notary if his/her commission was revoked due to payment of a fee with a returned check or a failure to meet certain application deadlines or pay certain fees. The Secretary of State advises that 153 notaries have had their commissions revoked during the past 10 years, mainly due to denials by State senators. Twenty-seven individuals have had their checks returned.

Data is not available on how many of these individuals had their commissions revoked by failing to make a valid payment within the grace period prescribed by law after having a check returned.

Additional Information

Prior Introductions: None.

Cross File: HB 1229 (Delegate Szeliga) - Health and Government Operations.

Information Source(s): Judiciary (Administrative Office of the Courts), Secretary of State, Department of Legislative Services

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Analysis by: Amy A. Devadas

Direct Inquiries to:
(410) 946-5510
(301) 970-5510