

MARYLAND REGISTER

Proposed Action on Regulations	
Date Filed with AELR Committee October 19, 2023	Date Filed with Division of State Documents
	Document Number 23-256-P
	Date of Publication in MD Register

1. Desired date of publication in Maryland Register: November 17, 2023

2. COMAR Codification

Title	Subtitle	Chapter	Regulation
01	02	08	02
01	02	08	03
01	02	08	09
01	02	08	10

3. Promulgating Authority

Division of State Documents

4. Name of Regulations Coordinator

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5. Name of Person to Call About this Document

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6. Check applicable items:

- New Regulations
- Amendments to Existing Regulations
- Repeal of Existing Regulations
- Recodification
- Incorporation by Reference of Documents Requiring DSD Approval

7. Is there Emergency text that is identical to this Proposal:

Yes No

8. Incorporation by Reference

Incorporation by Reference (IBR) approval form(s) attached and 16 copies of documents proposed for incorporation submitted to DSD. (Submit 16 paper copies of IBR document to DSD and one copy to AELR.)

9. Public Body - Open Meeting

OPTIONAL - If promulgating authority is a public body, check to include a sentence in the Notice of Proposed Action that proposed action was considered at an open meeting held pursuant to General Provisions Article, §3-302(c), Annotated Code of Maryland

OPTIONAL - If promulgating authority is a public body, check to include a paragraph that final action will be considered at an open meeting

10. Children's Environmental Health and Protection

Check if the system should send a copy of the proposal to the Children's Environmental Health and Protection Advisory Council

11. Certificate of Authorized Officer

I certify that the attached document is in compliance with the Administrative Procedure Act. I also certify that the attached text has been approved for legality by Josephine Yuzuik, Assistant Attorney General, telephone #410-260-3855, on October 19, 2023. A written copy of the approval is on file at this agency.

Name of Authorized Officer

Susan C. Lee

Title

Secretary of State

Telephone No.

410-260-3868

Date

October 19, 2023

Title 01

EXECUTIVE DEPARTMENT

Subtitle 02 SECRETARY OF STATE

01.02.08 Notary Public General Regulations

Authority: Authority: State Government Article, §§18-103, 18-107, and 18-222, Annotated Code of Maryland

Notice of Proposed Action

[23-256-P]

The Secretary of State proposes to:

amend Regulations .02, .03, .09, and .10 under COMAR 01.02.08 Notary Public: General Regulations

Statement of Purpose

The purpose of this action is to increase the fee notaries public may charge for the performance of notarial acts and remote notarial acts as recently authorized by the enactment of Ch. 715, Acts of 2022, and to increase the application processing fee that a notary public pays to complete their new or renewal application with the Secretary of State. The proposed action increases the fee from \$6 to \$8 for the performance of a notarial act and from \$25 to \$30 for the performance of a remote notarial act. The proposed action also allows the Secretary of State to charge an application fee of \$25 for a notary application. A notary is commissioned for a 4-year term. The increased application fee would be paid once every four 4 years.

Estimate of Economic Impact

I. Summary of Economic Impact. The proposed action increases the amount of revenue received by the Notary Special Fund for Charities and Legal Services Division. While the application fee, paid once every 4 years, will increase for an applicant, a notary will be able to charge more money to perform notarial duties, allowing the notary to make more money from performing notarial acts.

II. Types of Economic Impact.

Impacted Entity	Revenue (R+/R-)	Magnitude
	Expenditure (E+/E-)	
A. On issuing agency:		
(1) Issuing Agency	(R+)	Approximately \$224, 000
B. On other State agencies:		
	NONE	
C. On local governments:		
	NONE	
	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:		
(1) Regulation Industries or Trade Groups	(-)	Unquantifiable
(2) Regulation Industries or Trade Groups	(+)	Unquantifiable
E. On other industries or trade groups:		
	NONE	
F. Direct and indirect effects on public:		
	NONE	

III. Assumptions. (Identified by Impact Letter and Number from Section II.)

A(1). Currently, the notary application fee is \$9 per application. The change in notary regulations will allow the agency to collect \$25 per application. With approximately 14,000 notary applications received last year, the agency will increase revenue by approximately \$224,000 (\$16 more per application x 14,000 applications).

D(1). The economic impact is not quantifiable. While an applicant will need to pay more money per application once every 4 years, they will be able to charge more money per notarial act they perform once they become a notary public. This will allow the notary public to cover the increased cost of their application.

D(2). The economic impact is not quantifiable. While an applicant will need to pay more money per application once every 4 years, they will be able to charge more money per notarial act they perform once they become a notary public. This will allow the notary public to cover the increased cost of their application.

Economic Impact on Small Businesses

The proposed action has a meaningful economic impact on small businesses. An analysis of this economic impact follows:

Many small businesses provide notary public services. These regulatory changes allow notaries public to increase the fee for their services; however, the increased application fee will cause a notary to pay \$16 additional for their 4-year term as a notary. The increased notary fee should allow the notary to offset this increased application cost over their 4-year term.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Michael Schlein, Division Administrator, Charities and Legal Services Division, Office of the Secretary of State, 16 Francis Street, Annapolis, MD 21401, or call 410-260-3863, or email to michael.shclein@maryland.gov. Comments will be accepted through December 18, 2023. A public hearing has not been scheduled.

SUSAN C. LEE
Secretary of State

A. Fiscal Year in which regulations will become effective: **FY 2024**

B. Does the budget for the fiscal year in which regulations become effective contain funds to implement the regulations?

Yes

C. If 'yes', state whether general, special (exact name), or federal funds will be used:

Special Funds, however, no funds will be required to implement the regulations.

D. If 'no', identify the source(s) of funds necessary for implementation of these regulations:

E. If these regulations have no economic impact under Part A, indicate reason briefly:

F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.

G. Small Business Worksheet:

Small Business Analysis Worksheet

This worksheet is designed to assist the agency in determining if and how the proposal impacts small businesses. Quantify the number of affected small businesses and estimates of costs and benefits to small businesses if possible. State Government Article, §2-1505.2, includes the following definitions which are relevant to the analysis:

“Economic impact analysis” means an estimate of the cost or the economic benefit to small businesses that may be affected by a regulation proposed by an agency pursuant to Title 10, Subtitle 1 of this article.

“Small business” means a corporation, partnership, sole proprietorship, or other business entity, including its affiliates, that: (i) is independently owned and operated; (ii) is not dominant in its field; and (iii) employs 50 or fewer full-time employees.

1a. Intended Beneficiaries. Who are the intended beneficiaries of the proposed regulation? Are these intended beneficiaries primarily households or businesses? Notaries public are the intended beneficiaries. A notary public is an individual officer of the State. Many of them work at a place of business and do it as a function of their job but they are acting as an individual officer when in their role as a notary.

1b. Intended Beneficiaries: Households. If households are the primary intended beneficiaries, will the proposal affect their income or purchasing power such that the volume or patterns of their consumer spending will change? If so, what directions of change would you anticipate? Will these expected spending changes have a disproportionate impact on small businesses? Can you

descriptively identify the industries or types of business activities that are impacted? The proposal will not affect their income or purchasing power such that the volume of patterns of their consumer spending will change. Notaries public work at a wide range of businesses; they're not limited to a certain industry.

1c. Intended Beneficiaries: Businesses. If businesses are the intended beneficiaries, identify the businesses by industry or by types of business activities. How will businesses be impacted? Are these Maryland establishments disproportionately small businesses? If so, how will these Maryland small businesses be affected? Can you identify or estimate the present number of small businesses affected? Can you estimate the present total payroll or total employment of small businesses affected? Some notaries public perform their duties as a function of their job. In these cases, the business sometimes collects the fee that a notary charges for service. In this case, the business will benefit from collecting a greater fee for the notary's service. This will benefit small business but not to a level that it will impact payroll and overall employment.

2a. Other Direct or Indirect Impacts: Adverse. Businesses may not be the intended beneficiaries of the proposal. Instead, the proposal may direct or otherwise cause businesses to incur additional expenses of doing business in Maryland. Does this proposal require Maryland businesses to respond in such a fashion that they will incur additional work-time costs or monetary costs in order to comply? Describe how Maryland establishments may be adversely affected. Will Maryland small businesses bear a disproportionate financial burden or suffer consequences that affect their ability to compete? Can you estimate the possible number of Maryland small businesses adversely affected? (Note that small business compliance costs in the area of regulation are the sum of out-of-pocket (cash) costs plus time costs — usually expressed as payroll, akin to calculations for legislative fiscal notes. Precise compliance costs may be difficult to estimate, but the general nature of procedures that businesses must accomplish to comply can be described.) The proposal will cost an applicant to become a notary to pay an increased application fee. A notary public's term is 4 years, so the impact is only \$16 once every 4 years. If a business pays for their employee to become a notary, the business would incur that \$16 cost once every 4 years. As mentioned previously though, the notary will be able to charge more for their services so that this cost can easily be recouped over a 4 year commission.

2b. Other Direct or Indirect Impacts: Positive. Maryland businesses may positively benefit by means other than or in addition to changed consumer spending patterns. How may Maryland businesses be positively impacted by this initiative? Will Maryland small businesses share proportionately or disproportionately in these gains? Can you estimate the possible number of Maryland small businesses positively affected? We cannot estimate the possible number of small businesses positively affected. Many different small businesses have someone on staff that is a notary public. It will allow their notary or the business, depending on the relationship between the business and employee to collect a greater fee for notary services.

3. Long-Term Impacts. There are instances where the longer run economic impact effect from regulations differ significantly from immediate impact. For example, regulations may impose immediate burdens on Maryland small businesses to comply, but the overall restructuring of the industry as a consequence of monitoring and compliance may provide offsetting benefits to the affected small businesses in subsequent years. Can you identify any long run economic impact effects on Maryland small businesses that over time (a) may compound or further aggravate the initial economic impact described above, or (b) may mitigate or offset the initial economic impact described above? There is no long-term economic impact other than what is already described above.

4. **Estimates of Economic Impact.** State Government Article, §2-1505.2 requires that an agency include estimates, as appropriate, directly relating to: (1) cost of providing goods and services; (2) effect on the work force; (3) effect on the cost of housing; (4) efficiency in production and marketing; (5) capital investment, taxation, competition, and economic development; and (6) consumer choice. We cannot provide an accurate estimate because we do not know the number of notarial acts performed in the State. Notarial acts performed also vary by individual notary; some perform many notarial acts, some perform them less regularly.

Title 01 EXECUTIVE DEPARTMENT

Subtitle 02 SECRETARY OF STATE

01.02.08 Notary Public: General Regulations

Authority: State Government Article, §§18-103, 18-107, and 18-222, Annotated Code of Maryland

.02 Charges and Fees

A. A notary public may demand and receive a fee of no more than the following for the performance of an original notarial act:

- (1) [§6] \$8 for the performance of a notarial act; or
- (2) [§25] \$30 for the performance of a remote notarial act.

B. When a notary public is requested to notarize more than one copy of the same record, where the copy or copies have been signed at the same time by the same person or persons, the notary may demand and receive [§6] \$8 for notarizing each signature on the original or first copy of the record, and may demand and receive [§3] \$4 for each signature on each additional copy of the same record.

C.—E. (text unchanged)

.03 Processing Fee.

Each application for an original or renewal appointment as a notary public shall be accompanied by a processing fee of [§9] \$25 payable to the Secretary of State.

.09 Change in Name, Address, or Email Information.

Notaries public are required to notify the Office of the Secretary of State within 30 days if, at any time during their commission, a notary public changes their:

A.—D. (text unchanged)

E. [Electronic] *Personal electronic* mail (email) address;

F. Business phone number; [or]

G. *Business address, if one was provided at the time of application;*

H. *Business electronic mail (email) address, if one was provided at the time of application; or*

[G.] I. (text unchanged)

.10 Electronic Mail Communications.

Effective January 1, 2021, and except for correspondence relating to enforcement actions, the Office of the Secretary of State will send all communications to notaries public using electronic mail only. Each notary public is responsible for ensuring the Office of the Secretary of State has a current and active *personal* email address.