

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE
4

5 Legislative Document

No. 379

6
7 S.P. 140

In Senate, January 31, 1985

8 Referred to the Committee on State Government and ordered printed.
9 Sent down for concurrence.

10 JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator Maybury of Penobscot.

11 Cosponsored by Senator Chalmers of Knox and Representative Stetson of Damariscotta.

12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-FIVE
16

17 AN ACT to Clarify the Laws Relating to
18 Notary Public.
19

20 Be it enacted by the People of the State of Maine as
21 follows:

22 Sec. 1. 4 MRSA §951, as amended by PL 1981, c.
23 456, Pt. A, §7, is repealed.

24 Sec. 2. 4 MRSA §951-A is enacted to read:

25 §951-A. Definitions

26 As used in this chapter, unless the context oth-
27 erwise indicates, the following terms have the fol-
28 lowing meanings.

29 1. Acknowledgement. "Acknowledgment" means a
30 notarial act in which a notary certifies that a sign-
31 er, whose identity is personally known to the notary
32 or proven on the basis of satisfactory evidence, has
33 admitted, in the notary's presence, having signed a
34 document voluntarily for its stated purpose.

1 2. Commission. "Commission" means to empower to
2 perform notarial acts and the written authority to
3 perform those acts.

4 3. Copy certification. "Copy certification"
5 means a notarial act in which a notary certifies hav-
6 ing made a photocopy of a document that is neither a
7 public record nor publicly recordable.

8 4. Jurat. "Jurat" means a notarial act in which
9 a notary certifies that a signer, whose identity is
10 personally known to the notary or proven on the basis
11 of satisfactory evidence, has made, in the notary's
12 presence a voluntary signature and taken an oath or
13 affirmation vouching for the truthfulness of the
14 signed document.

15 5. Notarial act and notarization. "Notarial
16 act" and "notarization" means any act that a notary
17 is empowered to perform under section 951-B.

18 6. Notarial certificate and certifi-
19 cate. "Notarial certificate" and "certificate" means
20 the part of or attachment to a notarized document for
21 completion by the notary and bearing the notary's
22 signature or seal, or both.

23 7. Notary public or notary. "Notary public" or
24 "notary" means any person commissioned to perform no-
25 tarial acts under this chapter.

26 8. Oath and affirmation. "Oath" and "affirma-
27 tion" means a notarial act or part thereof in which a
28 notary certifies that a person made a vow in the
29 presence of the notary on penalty of perjury, with
30 reference made to a Supreme Being for an oath.

31 9. Official misconduct. "Official misconduct"
32 means:

33 A. A notary's performance of or failure to per-
34 form any act prohibited or mandated respectively
35 by this chapter or by any other law in connection
36 with a notarization; or

37 B. A notary's performance of a notarial act in a
38 manner found by the Secretary of State to be neg-
39 ligent or against the public interest.

1 10. Personal knowledge of identity. "Personal
2 knowledge of identity" means familiarity with an in-
3 dividual resulting from interactions with that indi-
4 vidual over a period of time sufficient to eliminate
5 every reasonable doubt that the individual has the
6 identity claimed.

7 11. Satisfactory evidence of identi-
8 ty. "Satisfactory evidence of identity" means iden-
9 tification of an individual based on the following:

10 A. At least 2 current documents, one issued by
11 the Federal Government or State Government, with
12 the individual's photograph, signature and physi-
13 cal description, and the other by an institution,
14 business entity, the Federal Government or State
15 Government, with at least the individual's signa-
16 ture; or

17 B. The oath or affirmation of a credible person
18 who is personally known to the notary and who
19 personally knows the individual.

20 Sec. 3. 4 MRSA §951-B is enacted to read:

21 §951-B. Seal; authority

22 1. Seal of office. A notary public may keep a
23 seal of office whereon is engraved his name and the
24 words "Notary Public" and "Maine" or its abbreviation
25 "Me.," with the arms of state or such other device as
26 he chooses.

27 2. Notarial acts. When authorized by the laws
28 of this State or any other state or country to do any
29 official act, a notary may administer any oath neces-
30 sary to the completion or validity thereof. Specifi-
31 cally, a notary is empowered to perform the following
32 acts:

33 A. Acknowledgments;

34 B. Oaths and affirmations;

35 C. Jurat; and

36 D. Copy certificates.

1 3. Disqualification. A notary is disqualified
2 from performing a notarial act if the notary:

3 A. Is a signer of or named in the document that
4 is to be notarized;

5 B. Is related to the person whose signature is
6 to be notarized as a spouse, sibling or lineal
7 ascendant or descendant; and

8 C. Will receive directly from a transaction con-
9 ected with the notarial act any commission, fee,
10 advantage, right, title, interest, cash, property
11 or other consideration exceeding in value the
12 usual fees charged by the notary in those cases.

13 Any notary public who is a stockholder, director, of-
14 ficer or employee of a bank or other corporation may
15 take the acknowledgment of any party to any written
16 instrument executed to or by the corporation, or may
17 administer an oath to any other stockholder, direc-
18 tor, officer, employee or agent of the corporation,
19 or may protest for nonacceptance or nonpayment bills
20 of exchange, drafts, checks, notes and other negotia-
21 ble instruments which may be owned or held for col-
22 lection by a bank or other corporation.

23 4. Impartiality. A notary:

24 A. May not influence a person to enter into or
25 not to enter into a lawful transaction involving
26 a notarial act by the notary;

27 B. Shall perform notarial acts in lawful trans-
28 actions for any requesting person who tenders the
29 usual fee charged by the notary in those cases;
30 or

31 C. May not refuse to perform notarial acts in
32 lawful transactions because of any personal, po-
33 litical, religious or moral beliefs.

34 5. False certificate. A notary may not execute
35 a certificate containing a statement known by the no-
36 tary to be false or perform any official action with
37 intent to deceive or defraud.

1 Sec. 4. 4 MRSA §955-A, as amended by PL 1981, c.
2 456, Pt. A, §10, is repealed.

3 Sec. 5. 4 MRSA §955-B is enacted to read:

4 §955-B. Reprimand; removal

5 A notary may be reprimanded or removed from of-
6 fice according to the following procedures.

7 1. Notice. Notice of alleged misconduct must:

8 A. Be in writing to the Secretary of State;

9 B. Detail the specific behavior considered mis-
10 conduct; and

11 C. Cite the law, if any, which appears to have
12 been violated.

13 2. Review. The Secretary of State shall review
14 these notices and determine what further action
15 should be taken.

16 3. Actions. The following actions may be taken
17 with respect to notices of misconduct.

18 A. The Secretary of State shall notify the nota-
19 ry accused of misconduct, indicating the circum-
20 stances of the allegations. He shall allow the
21 notary a reasonable opportunity to reply to the
22 allegations.

23 B. The Secretary of State may deliver a written
24 advisory notice to clarify proper conformity to
25 the requirements of this chapter and to indicate
26 possible areas of misconduct.

27 C. The Secretary of State may deliver a written
28 official warning to cease misconduct to any nota-
29 ry whose actions he judges to be official miscon-
30 duct.

31 D. The Secretary of State may request the Attor-
32 ney General's Office to investigate notices of
33 alleged misconduct and to determine whether a
34 particular case should be brought before the Ad-
35 ministrative Court.

1 Whenever the Administrative Court, upon complaint
2 by the Secretary of State, after due notice and hear-
3 ing, finds that a notary public has performed any du-
4 ty imposed upon him by law in an improper manner, or
5 has performed acts not authorized by law, the Admin-
6 istrative Court may remove the notary public from of-
7 fice.

8 STATEMENT OF FACT

9 The purpose of this bill is to clarify certain
10 provisions concerning notaries public and provides
11 clearer guidelines concerning the duties and respon-
12 sibilities of notary's public, including the require-
13 ment of impartiality in performance of notarial acts.

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