

MAINE STATE LEGISLATURE

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1 (After Deadline)
2 SECOND REGULAR SESSION
3

4 ONE HUNDRED AND TWELFTH LEGISLATURE
5

6 Legislative Document

No. 2137

8 S.P. 843

In Senate, March 4, 1986

9 Approved for introduction by a majority of the Legislative Council
10 pursuant to Joint Rule 27.

11 Referred to the Committee on Legal Affairs and ordered printed.

JOY J. O'BRIEN, Secretary of the Senate

12 Presented by Senator Maybury of Penobscot.

Cosponsored by Senator Carpenter of Aroostook, Representative Paradis
of Augusta and Representative Stetson of Damariscotta.

13 STATE OF MAINE
14

15 IN THE YEAR OF OUR LORD
16 NINETEEN HUNDRED AND EIGHTY-SIX
17

18 AN ACT to Clarify the Duties of Notaries
19 Public and Notarial Officers.
20

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

23 Sec. 1. 4 MRSA §951-A is enacted to read:

24 §951-A. Notaries; disqualification; reprimand; re-
25 moval

26 1. Definition. As used in this section, the
27 term "notarial act" means an acknowledgment, the ad-
28 ministration of an oath or affirmation, a jurat or
29 the copying of a certificate.

30 2. Disqualification. A notary is disqualified
31 from performing a notarial act if the notary:

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

1 B. Is related to the person whose signature is
2 to be notarized as a spouse, sibling or lineal
3 ascendant or descendant; or

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

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

19 Sec. 2. 4 MRSA §955-A, as amended by PL 1981, c.
20 456, Pt. A, §10, is repealed.

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

22 §955-B. Reprimand; removal

23 1. Definition. As used in this section, the
24 term "official misconduct" means:

25 A. A notary's performance of or failure to per-
26 form any act prohibited or mandated respectively
27 by this chapter or by any other law in connection
28 with a notarization; or

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

32 2. Reprimand or removal; procedure. A notary
33 may be reprimanded or removed from office according
34 to the following procedures.

35 A. Notice of alleged misconduct must:

36 (1) Be in writing to the Secretary of
37 State;

1 (2) Detail the specific behavior considered
2 misconduct; and

3 (3) Cite the law, if any, which appears to
4 have been violated.

5 B. The Secretary of State shall review such no-
6 tices and determine what further action should be
7 taken.

8 C. The following actions may be taken with re-
9 spect to notices of misconduct.

10 (1) The Secretary of State shall notify the
11 notary accused of misconduct, indicating the
12 circumstances of the allegations. He shall
13 allow the notary a reasonable opportunity to
14 reply to the allegations.

15 (2) The Secretary of State may deliver a
16 written advisory notice to clarify proper
17 conformity to the requirements of this chap-
18 ter and to indicate possible areas of mis-
19 conduct.

20 (3) The Secretary of State may deliver a
21 written official warning to cease misconduct
22 to any notary whose actions he judges to be
23 official misconduct.

24 (4) The Secretary of State may request the
25 Attorney General's office to investigate no-
26 tices of alleged misconduct and to determine
27 whether a particular case should be brought
28 before the Administrative Court.

29 D. Whenever the Administrative Court, upon com-
30 plaint by the Secretary of State, after due no-
31 tice and hearing, finds that a notary public has
32 performed any duty imposed upon him by law in an
33 improper manner, or has performed acts not autho-
34 rized by law, the Administrative Court may remove
35 the notary public from office.

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STATEMENT OF FACT

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The purpose of this bill is to identify situations in the law dealing with notaries public which would constitute a conflict of interest in which the notary should not perform a notarial act.

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The bill also revises the procedure for the reprimand or removal of notaries.

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