

MAINE STATE LEGISLATURE

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(New Draft of S.P.450, L.D. 1377)
(New Title)
SECOND REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

No. 2176

S.P. 839

In Senate, February 1, 1988

Reported by Senator Kany of Kennebec for the Committee on Legal Affairs and printed under Joint Rule 2. Original Bill sponsored by Senator Maybury of Penobscot. Cosponsored by: Senator Erwin of Oxford, Representative Murphy of Kennebunk, Representative Cote of Auburn.

JOY J. O'BRIEN, Secretary of the Senate

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-EIGHT

1 **AN ACT to Clarify the Laws Relating to**
2 **Notaries Public.**
3

4 Be it enacted by the People of the State of Maine as
5 follows:

6 Sec. 1. 4 MRSA §954-A is enacted to read:

7 §954-A. Conflict of interest if notary related

1 A notary public shall not perform any notarial act
2 for any person if that person is the notary public's
3 spouse, parent, sibling, child, spouse's parent or
4 child's spouse. This section does not affect or apply
5 to notarial acts performed before the effective date
6 of this section.

7 **Sec. 2. 4 MRSA §955-A, as amended by PL 1981,**
8 **c. 456, Pt. A §10, is repealed and the following**
9 **enacted in its place:**

10 §955-A. Removal from office

11 1. Complaint by Secretary of State. The
12 Secretary of State may file a complaint with the
13 Administrative Court to have a notary public removed
14 from office.

15 2. Action by Administrative Court. If the
16 Administrative Court, upon complaint by the Secretary
17 of State, finds that the notary public has performed
18 in an improper manner any duty imposed upon the notary
19 public by law, or has performed acts not authorized by
20 law, the Administrative Court may remove the notary
21 public from office.

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

23 §955-B. Maintenance of records

24 The Secretary of State shall recommend that every
25 notary public keep and maintain records of all
26 notarial acts performed.

27 **STATEMENT OF FACT**

28 This new draft addresses the 3 main concerns about
29 the current notary public laws.

30 Section 1 clarifies that notaries shall not
31 notarize documents for immediate family because of the
32 potential conflict of interest. Immediate

1 family is specifically defined in the law to mean the
2 notary's husband or wife, mother, father, sister,
3 brother, son, daughter, mother-in-law, father-in-law,
4 son-in-law and daughter-in-law.

5 Section 2 clarifies that a notary public may be
6 removed from office for improper conduct. Current law
7 is apparently unclear because the Secretary of State
8 may commission notaries, but there is no provision
9 giving the Secretary of State the power to revoke the
10 commission. The Secretary of State is given specific
11 authority to file a complaint with the Administrative
12 Court for the removal from office of a notary public.
13 The Administrative Court makes the decision of
14 whether or not to remove the notary public from office.

15 Section 3 requires the Secretary of State to
16 recommend that all notaries keep records of the
17 notarial acts they perform.

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