

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

SECOND REGULAR SESSION-1998

Legislative Document

No. 2098

S.P. 771

In Senate, January 20, 1998

An Act to Improve the Integrity of Notaries Public.

Submitted by the Secretary of State pursuant to Joint Rule 204.

Reference to the Committee on State and Local Government suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator NUTTING of Androscoggin.

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

2 Sec. 1. 4 MRSA §955-A, as repealed and replaced by PL 1987,
4 c. 573, §2, is repealed.

6 Sec. 2. 4 MRSA §955-C is enacted to read:

8 §955-C. Disciplinary action; grounds; procedure; complaints

10 1. Grounds. The Secretary of State may suspend, revoke or
12 refuse to renew the commission of a notary public in the State.
14 The Secretary of State's actions may be based on any of the
16 following grounds:

18 A. The notary public has performed in an improper manner
20 any duty imposed upon the notary public by law;

22 B. The notary public has performed acts not authorized by
24 law;

C. The notary public is in violation of section 954-A; or

D. The notary public has been convicted of a crime.

26 2. Procedure. A notary public commission may not be
28 suspended, revoked or refused for renewal for the reasons set
30 forth in subsection 1 without prior written notice and
32 opportunity for hearing. A notary public commission may not be
34 suspended, revoked or refused for renewal under this section
36 except by a decision by the Secretary of State or the Secretary
38 of State's designee.

40 3. Complaints. Any person may file a complaint with the
42 Secretary of State seeking disciplinary action against a notary
44 public. Complaints must be in writing in a form prescribed by
46 the Secretary of State. The Secretary of State may also bring a
complaint against a notary public if the Secretary of State
determines that the notary public may have violated the
provisions of subsection 1. If the Secretary of State determines
that a complaint alleges facts that, if true, would require
revocation, suspension or nonrenewal of commission or other
disciplinary action, the Secretary of State shall conduct a
hearing pursuant to the Maine Administrative Procedure Act.
Whenever the Secretary of State establishes that a complaint does
not state facts that warrant a hearing, the complaint may be
dismissed. Persons making complaints must be advised in writing
of all formal decisions made by the Secretary of State regarding

2 that complaint. Any person whose notary public commission has
4 been suspended, revoked or refused for renewal may apply to the
6 Secretary of State in writing for the reinstatement of the notary
8 public commission or as set by rule for convictions pursuant to
10 subsection 1, paragraph D at a time specified in the decision of
12 the Secretary of State, and, in the case of revocation, any
14 person may apply for a new commission one year from the date of
16 the Secretary of State's original action.

10 **Sec. 3. 5 MRSA §82**, as amended by PL 1991, c. 465, §§6 and 7,
12 is further amended to read:

14 **§82. Appointment of notaries public; renewal of**
16 **commissions; disciplinary action**

16 The Secretary of State may appoint and renew commissions of
18 all notaries public.

18 Notaries public shall serve terms of 7 years and exercise
20 their power and duties in any county. Only adult residents of
22 this State may be appointed to the offices.

22 The Secretary of State shall adopt rules relating to the
24 appointment and renewal of commissions of notaries public. The
26 rules must include criteria and a procedure to be applied by the
28 Secretary of State in appointment and renewal. The Secretary of
30 State may not refuse to appoint or renew solely because the
applicant lives or works in a specific geographic area or because
of political party affiliation.

30 The Secretary of State shall provide written notice of the
32 expiration of their commission to notaries public 30 days prior
34 to the expiration date. Failure to receive a notice does not
affect the expiration date of a commission.

36 The Secretary of State shall investigate or cause to be
38 investigated all complaints concerning improper or illegal
40 notarial acts performed by notaries public made on the Secretary
of State's own motion or on written complaint filed with the
department.

42 The Secretary of State may conduct hearings to assist with
44 investigations and to determine whether grounds exist for denial
46 of commission, suspension of commission, revocation of
48 commission, renewal of commission or other action necessary to
50 the fulfillment of the Secretary of State's responsibility under
the laws of this State.

SUMMARY

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This bill amends the notary public laws by establishing guidelines for the Secretary of State to use when a complaint is brought against a notary public.