

CHAPTER 165
FORMERLY
SENATE BILL NO. 111

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING
TO NOTARIES PUBLIC.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF
DELAWARE (Three-fifths of all members elected to each house thereof
concurring therein):

Section 1. Amend Chapter 43, Title 29 of the Delaware Code by striking the existing language contained in the first paragraph of §4301(c) and substituting in lieu thereof the following:

“(c) The Governor may also appoint, as notaries public for notarial acts other than electronic notarial acts, nonresidents of this State who otherwise meet the requirements of subsections (b)(1) and (2) of this section, provided that such individuals maintain an office or regular place of employment in Delaware. Nonresidents seeking appointments as notaries public shall include in their application a residential address and a Delaware employment address. Those appointed as notaries shall also notify the Secretary of each change of address within 30 days of such change. All addresses required by this subsection shall include a street address.”

Section 2. Amend Chapter 43, Title 29 of the Delaware Code by striking the existing language contained in existing §4301(e) and substituting in lieu thereof the following:

“(e) The Secretary may promulgate regulations or establish such additional standards and guidelines governing applications, registrations, appointments, and the conduct of resident and nonresident notaries.”

Section 3. Amend Chapter 43, Title 29 of the Delaware Code by striking the existing §4302(c) in its entirety and substituting in lieu thereof the following:

“(c) The Governor may also appoint, as notaries public for electronic notarial acts, nonresidents of this State who otherwise meet the requirements of paragraphs (b)(1) and (b)(2) of this section provided that such individual shall have demonstrated to the satisfaction of the Secretary that:

- (1) Such individual maintains an office or regular place of employment in Delaware; or
- (2) Such individual is an attorney-at-law in good standing licensed in any state, commonwealth, territory, district or possession of the United States or such individual is a legal assistant or paralegal working under the direct supervision of an attorney-at-law in good standing licensed in any state, commonwealth, territory, district or possession of the United States and such attorney-at-law is a Delaware electronic notary and has previously submitted to the Secretary and had approved by the Secretary an application containing such information as the Secretary shall deem necessary and proper and demonstrating such attorney-at-law has a reasonable need for permitting one or more legal assistants or paralegals under his or her direct supervision to become an electronic notary under Delaware law; or
- (3) Such individual is a current employee of a banking, trust, or insurance company organized and regulated under the laws of the United States or any state, commonwealth, territory, district or possession of the United States, and such banking, trust, or insurance company shall have previously submitted to the Secretary and had approved by the Secretary

an application containing such information as the Secretary shall deem necessary and proper and demonstrating that such banking, trust, or insurance company is in good standing and has a reasonable need for permitting 1 or more of its employees to become an electronic notary under Delaware law; or

4) Such individual is a current employee of a Federal governmental agency or unit of the United States and such agency or unit shall have previously submitted to the Secretary and had approved by the Secretary an application containing such information as the Secretary shall deem necessary and proper and demonstrating that such agency or unit has a reasonable need for permitting one or more of its employees to become an electronic notary under Delaware law. Any such electronic notary, so appointed, shall only perform electronic notarial acts in the performance of their official duties.

Nonresidents seeking appointment as a Delaware electronic notary public shall include in their application their primary residential address within any state, commonwealth, territory, district or possession of the United States and their employment address in Delaware or within any state, commonwealth, territory, district or possession of the United States. Those appointed as electronic notaries public shall also notify the Secretary of each change of address within 30 days of such change. Each nonresident electronic notary not having an employment address in Delaware shall also designate a registered agent in the State of Delaware to receive service of process, subpoenas and other documents. All addresses required by this subsection shall include a street address.

Service of process, subpoenas and other documents upon nonresident electronic notaries may be made personally or by leaving them with any person of suitable age and discretion at the Delaware place of employment or the electronic notary's registered agent, if applicable. Substituted service shall be effectual if served upon the Secretary of State, under the guideline of § 376(b) of Title 8 in the event that the office has been closed or such individual ceases to be regularly employed at the filed Delaware employment address or such registered agent has resigned. The Secretary of State shall then forward such documents to the electronic notary's filed residential address or employment address outside of the State.”

Section 4. Amend Chapter 43, Title 29 of the Delaware Code by striking §4306 in its entirety and by substituting in lieu thereof the following:

“§4306. Appointment of notaries for certain service organizations; limited governmental notaries; limitations.

- (a) The Governor may, upon the request of the department commander of a State recognized veterans' organization, appoint 1 notary public for each requesting organization for a term of 4 years, without charge to any appointee, commander or organization. Any such notary, so appointed, shall have no authority to perform any duties with respect to such office or to take affidavits or acknowledgements, except on documents and papers in connection with and for the benefit of any veteran, their families or dependents. The notaries public, so appointed, shall make no charge for any service rendered.
- (b) The Governor may, upon the request of any administrative head of any volunteer fire company or volunteer ambulance and rescue company, appoint 1 notary public for each requesting organization for a term of 4 years, without charge to any appointee, chief or organization. Any such notary, so appointed, shall have no authority to perform any duties with respect to such office or to take affidavits or acknowledgements, except on documents

and papers in connection with and for the benefit of any members of the organizations listed herein to include their families or dependents. The notaries public, so appointed, shall make no charge to any service rendered.

(c) Upon the request of the administrative head of any State, County, municipal, or local governmental agency or unit of this State whose personnel include full-time police officers who are statutorily responsible for the prevention or investigation of crime involving injury to persons or property and who are authorized to execute search warrants and to make arrests (hereinafter called a “qualified police agency”), the Governor shall appoint a sufficient number of electronic notaries public as may be requested by the administrative head to facilitate the law enforcement responsibilities of the agency or unit. The appointments shall be for a term of 2 years, without charge to the appointee, administrative head, or police agency, except for costs not waived by the Secretary which are established under §4307(b) for special identification cards, hardware, or other related materials and technologies or training. Any such notary, so appointed, shall have no authority to perform any duties with respect to such office or to take affidavits or acknowledgements, except on documents and papers in connection with, and for the benefit of, their respective police agency. The notaries public so appointed shall make no charge for any service rendered and the Secretary may waive the fees established pursuant to the schedule authorized under §4307 (c) for electronic notarial acts or services performed by such electronic notaries public.

d) The Governor may appoint as limited governmental notaries public who otherwise meet the requirements of §4301(b) or (c) provided:

- 1) the individual is an employee of a State governmental agency or unit; or
- 2) the individual is an employee of a qualified police agency as defined in subsection (c) above; and
- 3) the individual submits the following forms to be established by the Secretary:
 - a) An application form completed by the applicant; and
 - b) An employer request and approval form.

Such appointments shall expire upon the end of the notary’s employment with the State or qualified police agency and shall be made without charge to the appointee or the agency or unit. Any such notary, so appointed shall have no authority to perform any duties with respect to such office or to take affidavits or acknowledgements, except for those duties established by their respective agency or unit. The notaries public so appointed shall make no charge for any service rendered. The engraving of the notary seal shall comply with §4310(a) except that the Commission expiration date statement required by such subsection shall be satisfied by the phrase “My Commission expires upon office”. A notary public appointed under this subsection that transfers employment to another State governmental agency or unit or qualified police agency shall notify the Secretary of such change within 30 days. The notary may only retain the appointment upon receipt of an employer request and approval form from the agency or unit to which the notary transferred.”

Section 5. Amend Chapter 43, Title 29 of the Delaware Code by striking §4307(a) and (b) in its entirety and by substituting in lieu thereof the following:

“(a) Notaries public shall be initially commissioned for the term of 2 years. Any notary public who wishes to renew his or her commission may request a 2-year reappointment or a

4-year reappointment. A notary applicant must pay a non-refundable application fee of \$60 for a 2-year term or \$90 for a 4-year term.

(b) Electronic notaries public shall be commissioned for the term of 2 years. An electronic notary applicant must pay a non-refundable application fee of \$60. The Secretary may establish such other fees to cover the actual costs incurred by the State to issue or provide any special identification cards, hardware or other related materials, technologies or training to electronic notaries public.”

Section 6. Amend §4307, Chapter 43, Title 29 of the Delaware Code by inserting a new subsection (f) to read as follows:

“(f) If any person shall knowingly or willfully make any false or fraudulent statement or misrepresentation in or with reference to any application for a notary commission or any other document required by this Chapter, such person shall be guilty of perjury.”

Section 7. Amend Chapter 43, Title 29 of the Delaware Code by striking §4308 in its entirety and by substituting in lieu of the following:

“§4308. Oath.

The notaries and resident electronic notaries shall severally take and subscribe the oath or affirmation prescribed by Article XIV of the Constitution. The nonresident electronic notaries shall severally take and subscribe the oath or affirmation on a commission issued by the Secretary before a notary public or other officer authorized to administer oaths. Notaries and electronic notaries shall be exempt from the recordation of the oath of office prescribed by Title 9 §9605(a). Notaries and electronic notaries shall not be permitted to perform notarial acts until a copy of the fully executed oath is received by the Secretary in an electronic or paper document format deemed acceptable by the Secretary. ”

Section 8. Amend Chapter 43, Title 29 of the Delaware Code by striking §4313(a) in its entirety and by substituting in lieu thereof the following:

“(a) The commission appointing a notary public or electronic notary public shall be in such form as the Secretary of State shall designate and shall be executed by the Governor and the Secretary of State. The signatures required by this subsection shall be satisfied by an electronic or a facsimile signature which may be engraved, printed or stamped thereon.”

Approved July 16, 2009