

SECOND REGULAR SESSION

HOUSE BILL NO. 1701

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES BURNETT (Sponsor), PRATT, LIPKE, JOHNSON (61),
JOHNSON (90), WITTE, STEVENSON, DONNELLY, FLOOK, STORCH, VOGT, JOLLY,
HARRIS (23) AND BRINGER (Co-sponsors).

Read 1st time February 8, 2006 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

4935L.01I

AN ACT

To repeal sections 486.215, 486.225, 486.230, 486.280, and 486.385, RSMo, and to enact in lieu thereof five new sections relating to attorneys as notaries.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 486.215, 486.225, 486.230, 486.280, and 486.385, RSMo, are
2 repealed and five new sections enacted in lieu thereof, to be known as sections 486.215, 486.225,
3 486.230, 486.280, and 486.385, to read as follows:

486.215. Each notary public, **unless such notary public is an attorney**, may perform
2 notarial acts for a term of four years from the date of his **or her** commission, unless sooner
3 removed. **Any attorney serving as a notary public shall only be removed as a notary public**
4 **if the commission is revoked.**

486.225. 1. Upon a form prepared by the secretary of state, each applicant for
2 appointment and commission as a notary public shall swear, under penalty of perjury, that the
3 answers to all questions on the application are true and complete to the best of the applicant's
4 knowledge and that the applicant is qualified to be appointed and commissioned as a notary
5 public. The completed application form shall be filed with the secretary of state.

6 2. With the person's application, each applicant for appointment and commission as a
7 notary public shall submit to the secretary of state a commission fee of fifteen dollars. **An**
8 **attorney applying to serve as a notary public shall submit, with his or her application, a**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

9 **one-time notary fee of seventy-five dollars plus the ten-dollar fee for the secretary of state's**
10 **technology trust fund account.**

11 3. Each applicant for appointment and commission as a notary public shall state in the
12 application whether or not the applicant has ever been convicted of or pled guilty or nolo
13 contendere to any felony, or to any misdemeanor incompatible with the duties of a notary public
14 and if so, shall attach a list of such convictions or pleas of guilt or nolo contendere.

15 4. Each applicant for a renewal appointment and commission as a notary public may
16 apply for such renewal appointment in a manner prescribed by the secretary of state.

17 5. The secretary of state may prohibit, for a period not less than thirty days and not more
18 than one year, a new applicant or renewal from reapplying for an appointment and commission
19 as a notary public following the rejection of such applicant's application by the secretary of state.

20 6. Prior to submitting an application to the secretary of state, each new applicant or
21 renewal for appointment and commission as a notary public shall read the Missouri notary public
22 handbook and complete a computer- based notary training or other notary training in a manner
23 prescribed by the secretary of state. Each new applicant or renewal applicant shall attest to
24 reading such handbook and receiving such training pursuant to this subsection at the time of
25 submitting the application for appointment and commission as a notary public.

486.230. Upon receipt of a completed application, proper endorsements and the correct
2 fee, the secretary of state, if satisfied the applicant is qualified to be appointed and commissioned
3 as a notary public, shall prepare a notary commission for the applicant and forward the
4 commission to the county clerk in the county of the applicant's residence. Each commission shall
5 contain the applicant's name, the county within and for which he **or she** is to be commissioned,
6 the date upon which the commission takes effect and the date upon which it expires. **If such**
7 **applicant is a licensed attorney in this state, the commission shall only contain the**
8 **applicant's name, the county within and for which he or she is to be commissioned, and the**
9 **date the commission takes effect.**

486.280. On every notary certificate, a notary public shall indicate clearly and legibly,
2 in print not smaller than eight-point type and by means of rubber stamp, typewriting or printing,
3 so that it is capable of photographic reproduction:

4 (1) His or her name exactly as it appears on the commission;

5 (2) The words "Notary Public", "State of Missouri", and "My commission expires
6 (commission expiration date)". **If such notary public is a licensed attorney in this state, the**
7 **notary public is not required to state when his or her commission expires;**

8 (3) The name of the county within which he or she is commissioned; and

9 (4) A commission number, provided that the notary public has been issued a commission
10 number by the secretary of state. Effective August 28, 2004, the secretary of state shall issue a
11 commission number for all new and renewal notary appointments.

486.385. 1. The secretary of state may reject an application or revoke the commission
2 of any notary public who prior to being commissioned or during the current term of appointment:

3 (1) Submits an application for commission and appointment as a notary public which
4 contains substantial and material misstatement of facts;

5 (2) Is convicted of any felony or official misconduct under this chapter;

6 (3) Fails to exercise the powers or perform the duties of a notary public in accordance
7 with this chapter, or fails otherwise to comply with the provisions of this chapter;

8 (4) Is adjudged liable or agrees in a settlement to pay damages in any suit grounded in
9 fraud, misrepresentation, impersonation, or violation of the state regulatory laws of this state, if
10 his or her liability is not solely by virtue of his or her agency or employment relationship with
11 another who engaged in the act for which the suit was brought;

12 (5) Uses false or misleading advertising wherein he or she represents or implies, by
13 virtue of the title of notary public, that he or she has qualifications, powers, duties, rights, or
14 privileges that he or she does not possess by law;

15 (6) Engages in the unauthorized practice of law;

16 (7) Ceases to be a citizen of the United States;

17 (8) Ceases to be a registered voter of the county within and for which he or she is
18 commissioned;

19 (9) Ceases to have a residence address in the county within and for which he or she is
20 commissioned, unless he or she has been issued an amended commission;

21 (10) Becomes incapable of reading or writing the English language;

22 (11) Fails to maintain the surety bond required by section 486.235.

23 2. A notary's commission may be revoked under the provisions of this section if action
24 is taken subject to the rights of the notary public to notice, hearing, adjudication and appeal. The
25 secretary of state shall have further power and authority as is reasonably necessary to enable the
26 secretary of state to administer this chapter efficiently and to perform the duties therein imposed
27 upon the secretary of state, including immediate suspension of a notary upon written notice sent
28 by certified mail if the situation is deemed to have a serious unlawful effect on the general
29 public; provided, that the notary public shall be entitled to hearing and adjudication as soon
30 thereafter as is practicable.

31 **3. A notary public, who is an attorney, shall be revoked of his or her commission**
32 **if such notary public has an invalid license to practice law in this state, the attorney's law**
33 **license, whether voluntary or involuntary, was suspended, revoked, or terminated, or the**

34 attorney is no longer licensed to practice law in this state. Such person may still become
35 a notary if he or she meets all qualifications for becoming a notary public.

36 **4. The secretary of state may establish a notification process with the supreme court**
37 **of this state for notification of actions taken by the court on existing licenses of attorneys.**
38 **The secretary of state shall promulgate rules to implement the provisions of this subsection.**
39 **Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is**
40 **created under the authority delegated in this section shall become effective only if it**
41 **complies with and is subject to all of the provisions of chapter 536, RSMo, and, if**
42 **applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable**
43 **and if any of the powers vested with the general assembly under chapter 536, RSMo, to**
44 **review, to delay the effective date, or to disapprove and annul a rule are subsequently held**
45 **unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted**
46 **after August 28, 2006, shall be invalid and void.**

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