STATE OF NEW YORK

218

2023-2024 Regular Sessions

IN SENATE

(Prefiled)

January 4, 2023

Introduced by Sen. MYRIE -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

AN ACT to amend the executive law, in relation to duties of notaries with respect to instruments conveying residential real property

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The executive law is amended by adding a new section 137-b to read as follows:

§ 137-b. Duties of notaries with respect to instruments conveying residential real property. Regarding instruments that convey residential real property situated in this state, in accordance with the definitions in section one hundred thirty-five-c of this article, a notary public must:

1. Maintain a journal of each notarization performed where there is a conveyance of residential real property, which upon demand, shall be subject to inspection by the secretary of state. The journal required by this subdivision shall be maintained by each notary public for as long as such notary public remains in office and then for an additional five years thereafter. Each journal entry shall:

(a) be made contemporaneously with the performance of the notarial act;

(b) indicate the location, date and time of the notarial act;

(c) indicate the character of the instrument;

(d) indicate the full name and address of the principal;

(e) if a remote notarization, indicate the technology used to perform such remote notarization;

(f) indicate if there were any other notarial services provided by the same notary public to the same principal on the same day and if so, list all other documents notarized by title or type of document;

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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(g) indicate the type of credential used to identify the principal and maintain in their records a copy of such credential;

(h) indicate the amount of any fee charged; and

(i) have the principal signing the instrument place an inked thumb-print into the journal.

2. Perform a colloquy with the principal, in the written form set forth in paragraph (f) of this subdivision.

(a) If a notary public is not satisfied that the principal is competent to acknowledge the conveyance of real property, the notary public may refuse to certify such acknowledgement.

(b) The colloquy form must be signed and certified by both the principal and notary public. If an interpreter is used for the colloquy, the interpreter must also sign and certify that a true and correct interpretation was made to the principal and specify the language used.

(c) The principal must initial next to each question in the colloquy form.

(d) The colloquy form shall be maintained by each notary public for as long as such notary public remains in office and then for an additional five years thereafter.

(e) Any conveyance of residential real property that does not comply with this subdivision shall be deemed void.

(f) The colloquy form is to be read by the notary public to the principal as follows:

COLLOQUY FORM FOR CONVEYANCE OF REAL PROPERTY

1. "Do you speak and understand English?"
   {If no, an interpreter must be present and interpreter must sign a certification}
2. "A deed is an important legal document that transfers the title or ownership to property from one owner to another. Do you understand?"
   Circle: Yes/No? Grantor to Initial _____
3. "You are currently {an/the} owner of {state property address}?
   Circle: Yes/No? Grantor to Initial ___
4. "You are about to sign a deed that will transfer your interest or ownership of the title of {state property address} to another person or entity. This means you are selling your home. Do you understand?"
   Yes/No? Grantor to Initial
5. "What has been promised to you in exchange for your signature on this deed"?
   {Notary public to record whatever the answer is}
6. "Has anyone threatened you, forced you, or pressured you to sign this deed?"
   Circle: Yes/No? Grantor to Initial __
7. "Are you signing this deed of your own free will?"
   Circle: Yes/No? Grantor to Initial __
8. "Do you wish to sign this deed"
   Circle: Yes/No? Grantor to Initial __

I, _____, certify that I am knowingly and
{principal name printed}
voluntarily signing this colloquy form.

_____
{signature}

I, _____, certify that I believe the principal
{notary public name printed}
is knowingly and voluntarily signing this colloquy form.

_____
{signature}

If language interpretation provided:

I, _____, certify that a true and correct
{Interpreter name printed}
interpretation of this form was made in _____ to
{language interpreted}
_____.
{individual}

_____
{signature}

3. The secretary of state shall set forth a program for educating notaries on the provisions of this section. A notary public who has not completed the educational program is unqualified to certify any acknowledgement of a conveyance of residential real property situated in this state and any such instrument conveying such real property by the notary public is voidable.

§ 2. This act shall take effect on the one hundred eightieth day after it shall have become a law.