STATE OF NEW YORK

7755

2023-2024 Regular Sessions

IN ASSEMBLY

June 6, 2023

Introduced by M. of A. McDONALD -- (at request of the Governor) -- read once and referred to the Committee on Ways and Means

AN ACT to amend the executive law, in relation to procedures for appointment and reappointment of notaries public, certificates of official character, and certification of electronic notarial records

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

Section 1. Section 131 of the executive law, as added by chapter 13 of the laws of 1992, the section heading as amended and subdivision 14 as added by chapter 92 of the laws of 2010, subdivisions 3, 9, and 10 as amended by chapter 171 of the laws of 2000, subdivisions 5, 12 and 13 as amended by chapter 129 of the laws of 2001, is amended to read as follows:

§ 131. Procedure of appointment; fees and commissions; fee payment methods. 1. **New appointment. (a)** Applicants for a notary public commission shall submit to the secretary of state with their application, the oath of office, duly executed before any person authorized to administer an oath, together with their signature.

[~~2.~~] **(b)** Upon being satisfied of the competency and good character of applicants for appointment as notaries public, the secretary of state shall issue a commission to such persons; and the official signature of the applicants and the oath of office filed with such applications shall take effect.

[~~3.~~] **(c)** The secretary of state shall receive a non-refundable application fee of sixty dollars from applicants for appointment, which fee shall be submitted together with the application. No further fee shall be paid for the issuance of the commission.

[~~4.~~] **(d)** A notary public identification card indicating the appointee's name, address, county and commission term shall be transmitted to the appointee.

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

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[~~5.~~] (e) The commission, duly dated, and a certified copy or the original of the oath of office and the official signature, and twenty dollars apportioned from the application fee shall be transmitted by the secretary of state to the county clerk of the county in which the appointee resides by the tenth day of the following month. Transmission may be accomplished by electronic means that results in a submission of such records and fees by the secretary of state to the county clerk. For purposes of this section, "electronic" shall have the same meaning as set forth in section three hundred two of the state technology law.

[~~6.~~] (f) The county clerk shall make a proper index of commissions and official signatures transmitted to that office by the secretary of state pursuant to the provisions of this section.

[~~7.~~] 2. Reappointment. (a) Applicants for reappointment of a notary public commission shall submit to the [~~county clerk~~] secretary of state with their application the oath of office, duly executed before any person authorized to administer an oath, together with their signature.

[~~8.~~] (b) Upon being satisfied of the completeness of the application for reappointment, the [~~county clerk~~] secretary of state shall issue a commission to such persons; and the official signature of the applicants and the oath of office filed with such applications shall take effect.

[~~9.~~] (c) The [~~county clerk~~] secretary of state shall receive a non-refundable application fee of sixty dollars from each applicant for reappointment, which fee shall be submitted together with the application. No further fee shall be paid for the issuance of the commission.

[~~10.~~] (d) The commission, duly dated, and a certified or original copy of the [~~application~~] oath of office and the official signature, and [~~forty~~] twenty dollars apportioned from the application fee plus interest as may be required by statute shall be transmitted by the [~~county clerk~~] secretary of state to the [~~secretary of state~~] county clerk of the county in which the appointee resides by the tenth day of the following month. Transmission may be accomplished by electronic means that results in a submission of such records and fees by the secretary of state to the county clerk.

[~~11.~~] (e) The [~~secretary of state~~] county clerk shall make a proper record of commissions transmitted to that office by the [~~county clerk~~] secretary of state pursuant to the provisions of this section.

[~~12.~~] 3. Electronic notarization. (a) After registration of the capability to perform electronic notarial acts pursuant to section one hundred thirty-five-c of this article, the secretary of state shall transmit to the county clerk the exemplar of the notary public's electronic signature and any change in commission number or expiration date of the notary public's commission. Transmission may be accomplished by electronic means.

(b) Registration of the capability to perform electronic notarizations shall be treated as a new appointment by the secretary of state.

4. Fees. (a) Except for changes made in an application for reappointment, the secretary of state shall receive a non-refundable fee of ten dollars for changing the name or address of a notary public.

[~~13.~~] (b) The secretary of state may issue a duplicate identification card to a notary public for one lost, destroyed or damaged upon application therefor on a form prescribed by the secretary of state and upon payment of a non-refundable fee of ten dollars. Each such duplicate identification card shall have the word "duplicate" stamped across the face thereof, and shall bear the same number as the one it replaces.

[~~14.~~] (c) The secretary of state [~~and any county clerk,~~] shall accept payment for any fee relating to appointment or reappointment as a notary

in the form of cash, money order, certified check, company check, bank check or personal check. The secretary of state [~~and any county clerk~~] may provide for accepting payment of any such fee due [~~to him or her~~] by credit or debit card, which may include payment through the internet.

§ 2. Section 132 of the executive law is amended to read as follows:

§ 132. Certificates of official character of notaries public. The secretary of state or the county clerk of the county in which the commission of a notary public is filed may certify to the official character of such notary public and any notary public may file [~~his~~] **their** autograph signature and a certificate of official character in the office of any county clerk of any county in the state and in any register's office in any county having a register and thereafter such county clerk may certify as to the official character of such notary public. The secretary of state shall collect for each certificate of official character issued [~~by him~~] the sum of one dollar. The county clerk and register of any county with whom a certificate of official character has been filed shall collect for filing the same the sum of [~~one dollar~~] **ten dollars**. For each certificate of official character issued, with seal attached, by any county clerk, the sum of [~~one dollar~~] **five dollars** shall be collected [~~by him~~].

§ 3. Section 133 of the executive law, as amended by chapter 376 of the laws of 1953, is amended to read as follows:

§ 133. Certification of notarial signatures. The county clerk of a county in whose office any notary public has qualified or has filed [~~his~~] **their** autograph signature and a certificate of [~~his~~] official character, shall, when so requested and upon payment of a fee of [~~fifty cents~~] **three dollars,** affix to any certificate of proof or acknowledgment or oath signed by such notary anywhere in the state [~~or~~] **of** New York, a certificate under [~~his~~] **their** hand and seal, stating that a commission or a certificate of [~~his~~] official character **of such notary** with [~~his~~] **their** autograph signature has been filed in [~~his~~] **the county clerk's** office, and that [~~he~~] **the county clerk** was at the time of taking such proof or acknowledgment or oath duly authorized to take the same; that [~~he~~] **the county clerk** is well acquainted with the handwriting of such notary public or has compared the signature on the certificate of proof or acknowledgment or oath with the autograph signature deposited in [~~his~~] **their** office by such notary public and believes that the signature is genuine. An instrument with such certificate of authentication of the county clerk affixed thereto shall be entitled to be read in evidence or to be recorded in any of the counties of this state in respect to which a certificate of a county clerk may be necessary for either purpose. **In addition to the foregoing powers, a county clerk of a county in whose office a notary public has qualified may certify the signature of an electronic notary public, registered with the secretary of state pursuant to section one hundred thirty-five-c of this article, provided such county clerk has received from the secretary of state, an exemplar of the notary public's registered electronic signature.**

§ 4. Subparagraph (i) of paragraph (d) of subdivision 6 of section 135-c of the executive law, as amended by chapter 104 of the laws of 2022, is amended to read as follows:

(i) A notary public may certify that a tangible copy of the signature page and document type of an electronic record [~~remotely~~] notarized by such notary public is an accurate copy of such electronic record. Such certification must (1) be dated and signed by the notary public in the same manner as the official signature of the notary public provided to the secretary of state pursuant to section one hundred thirty-one of

this article, and (2) comply with section one hundred thirty-seven of this article.

§ 5. This act shall take effect immediately. Applications for a notary commission post-marked, submitted to or received by the county clerk prior to such effective date, but not yet processed, may be processed by the county clerk to which any such application has been submitted.