

# 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:

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

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

12 [~~2-~~] (b) Upon being satisfied of the competency and good character of  
13 applicants for appointment as notaries public, the secretary of state  
14 shall issue a commission to such persons; and the official signature of  
15 the applicants and the oath of office filed with such applications shall  
16 take effect.

17 [~~3-~~] (c) The secretary of state shall receive a non-refundable appli-  
18 cation fee of sixty dollars from applicants for appointment, which fee  
19 shall be submitted together with the application. No further fee shall  
20 be paid for the issuance of the commission.

21 [~~4-~~] (d) A notary public identification card indicating the appoint-  
22 ee's name, address, county and commission term shall be transmitted to  
23 the appointee.

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

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1 ~~[5-]~~ (e) The commission, duly dated, and a certified copy or the  
2 original of the oath of office and the official signature, and twenty  
3 dollars apportioned from the application fee shall be transmitted by the  
4 secretary of state to the county clerk of the county in which the  
5 appointee resides by the tenth day of the following month. Transmission  
6 may be accomplished by electronic means that results in a submission of  
7 such records and fees by the secretary of state to the county clerk. For  
8 purposes of this section, "electronic" shall have the same meaning as  
9 set forth in section three hundred two of the state technology law.

10 ~~[6-]~~ (f) The county clerk shall make a proper index of commissions and  
11 official signatures transmitted to that office by the secretary of state  
12 pursuant to the provisions of this section.

13 ~~[7-]~~ 2. Reappointment. (a) Applicants for reappointment of a notary  
14 public commission shall submit to the ~~[county clerk]~~ secretary of state  
15 with their application the oath of office, duly executed before any  
16 person authorized to administer an oath, together with their signature.

17 ~~[8-]~~ (b) Upon being satisfied of the completeness of the application  
18 for reappointment, the ~~[county clerk]~~ secretary of state shall issue a  
19 commission to such persons; and the official signature of the applicants  
20 and the oath of office filed with such applications shall take effect.

21 ~~[9-]~~ (c) The ~~[county clerk]~~ secretary of state shall receive a non-re-  
22 fundable application fee of sixty dollars from each applicant for reap-  
23 pointment, which fee shall be submitted together with the application.  
24 No further fee shall be paid for the issuance of the commission.

25 ~~[10-]~~ (d) The commission, duly dated, and a certified or original copy  
26 of the ~~[application]~~ oath of office and the official signature, and  
27 ~~[forty]~~ twenty dollars apportioned from the application fee plus inter-  
28 est as may be required by statute shall be transmitted by the ~~[county~~  
29 ~~clerk]~~ secretary of state to the ~~[secretary of state]~~ county clerk of  
30 the county in which the appointee resides by the tenth day of the  
31 following month. Transmission may be accomplished by electronic means  
32 that results in a submission of such records and fees by the secretary  
33 of state to the county clerk.

34 ~~[11-]~~ (e) The ~~[secretary of state]~~ county clerk shall make a proper  
35 record of commissions transmitted to that office by the ~~[county clerk]~~  
36 secretary of state pursuant to the provisions of this section.

37 ~~[12-]~~ 3. Electronic notarization. (a) After registration of the capa-  
38 bility to perform electronic notarial acts pursuant to section one  
39 hundred thirty-five-c of this article, the secretary of state shall  
40 transmit to the county clerk the exemplar of the notary public's elec-  
41 tronic signature and any change in commission number or expiration date  
42 of the notary public's commission. Transmission may be accomplished by  
43 electronic means.

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

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

49 ~~[13-]~~ (b) The secretary of state may issue a duplicate identification  
50 card to a notary public for one lost, destroyed or damaged upon applica-  
51 tion therefor on a form prescribed by the secretary of state and upon  
52 payment of a non-refundable fee of ten dollars. Each such duplicate  
53 identification card shall have the word "duplicate" stamped across the  
54 face thereof, and shall bear the same number as the one it replaces.

55 ~~[14-]~~ (c) The secretary of state ~~[and any county clerk,]~~ shall accept  
56 payment for any fee relating to appointment or reappointment as a notary

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

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

6 § 132. Certificates of official character of notaries public. The  
7 secretary of state or the county clerk of the county in which the  
8 commission of a notary public is filed may certify to the official char-  
9 acter of such notary public and any notary public may file [~~his~~] their  
10 autograph signature and a certificate of official character in the  
11 office of any county clerk of any county in the state and in any regis-  
12 ter's office in any county having a register and thereafter such county  
13 clerk may certify as to the official character of such notary public.  
14 The secretary of state shall collect for each certificate of official  
15 character issued [~~by him~~] the sum of one dollar. The county clerk and  
16 register of any county with whom a certificate of official character has  
17 been filed shall collect for filing the same the sum of [~~one-dollar~~] ten  
18 dollars. For each certificate of official character issued, with seal  
19 attached, by any county clerk, the sum of [~~one-dollar~~] five dollars  
20 shall be collected [~~by him~~].

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

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

48 § 4. Subparagraph (i) of paragraph (d) of subdivision 6 of section  
49 135-c of the executive law, as amended by chapter 104 of the laws of  
50 2022, is amended to read as follows:

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

1 this article, and (2) comply with section one hundred thirty-seven of  
2 this article.  
3 § 5. This act shall take effect immediately. Applications for a nota-  
4 ry commission post-marked, submitted to or received by the county clerk  
5 prior to such effective date, but not yet processed, may be processed by  
6 the county clerk to which any such application has been submitted.