

By: Senator Wilson

"AN ACT TO AMEND ARKANSAS CODE 21-6-309 (a) TO INCREASE THE MAXIMUM FEES THAT MAY BE CHARGED BY NOTARIES PUBLIC FOR THEIR SERVICES; TO AMEND ARKANSAS CODE 21-14-101 TO INCREASE THE NOTARY PUBLIC COMMISSION TERM FROM EIGHT YEARS TO TEN YEARS, TO INCREASE THE APPLICATION FEE FOR A NOTARY PUBLIC COMMISSION, TO REQUIRE EACH NOTARY PUBLIC TO FILE A BOND EXECUTED BY A SURETY COMPANY AUTHORIZED TO DO BUSINESS IN ARKANSAS; TO MAKE IT UNLAWFUL FOR A NOTARY PUBLIC TO WITNESS A SIGNATURE UNLESS CERTAIN REQUIREMENTS ARE MET; AND FOR OTHER PURPOSES."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code 21-6-309 (a) is hereby amended to read as follows:

"(a) Each notary public in this state shall charge and collect the following fees:

- (1) For protest and record of same\$ 5.00
- (2) For each notice of protest 5.00
- (3) For each certificate and seal 5.00"

SECTION 2. Arkansas Code 21-14-101 is hereby amended to read as follows: "21-14-101. Appointment and commission.

(a)(1) The Secretary of State may appoint and commission individual persons as notaries public in this state.

(2) Notaries public may perform notarial acts in any part of the state for a term of ten (10) years.

(b)(1) Every applicant for appointment and commission as a notary public shall complete an application to be filed with the Secretary of State stating:

- (A) That he is a bona fide citizen of the United States;
- (B) That he is eighteen (18) years of age or older;
- (C) That he is a legal resident of the State of Arkansas or a legal resident of an adjoining state and employed in the State of Arkansas;
- (D) That he is able to read and write English;
- (E) The address of his business or residence in this state;
- (F) That during the past ten (10) years, his commission as a notary public has not been revoked.

(c) The application shall be sent to the Secretary of State with a twenty dollars (\$20.00) fee for the notary public commission.

(d) Notaries public shall file in the office of the recorder of deeds for the county in which the notary public resides, or in the case of a resident of an adjoining state, in the county in Arkansas in which employed, either:

(1) a surety bond executed by a surety insurer authorized to do business in Arkansas to the state for the faithful discharge of their duties, in the sum of four thousand dollars (\$4,000), to be approved by the clerk of the circuit court of the county; or

(2) a surety contract guaranteeing the notaries' faithful discharge of their duties executed to the state of Arkansas for not more than an aggregate

four thousand dollars (\$4,000) issued by a general business corporation, validly organized and formed under the laws of this state pertaining to domestic corporations, and which:

(A) has previously registered with the Insurance Commissioner on forms prescribed by him evidencing its purpose to issue only surety contracts for notaries public pursuant to the provisions of this section; and

(B) which has previously deposited and thereafter maintains with the Insurance Commissioner securities in the sum of not less than ten thousand dollars (\$10,000) executed to the state of Arkansas which are issued by a nonaffiliated corporate entity and are approved by the Insurance Commissioner; and

(C) which is not otherwise transacting any insurance business in this state which requires compliance with the provisions of the Arkansas Insurance Code, Sections 23-60-101, et seq.

SECTION 3. Chapter 14 of Title 21 of the Arkansas Code is hereby amended by adding a new section at the end to read as follows:

"21-14-111. It is unlawful for any notary public to witness any signature on any instrument unless the notary either (1) witnesses the signing of the instrument and personally knows the signer or is presented proof of the identity of the signer, or (2) recognizes the signature of the signer by virtue of familiarity with the signature.

Any notary public violating this section shall be guilty of a class A misdemeanor. In addition, the commission of any notary public convicted of a violation of this section shall be revoked and the person shall be ineligible to be recommissioned as a notary public."

SECTION 4. All provisions of this act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 5. All laws and parts of laws in conflict with this act are hereby repealed.

SECTION 6. EMERGENCY. It is hereby found and determined by the General Assembly that the fees currently prescribed by law to be charged by notaries for their services are outdated and are not sufficient to compensate notaries public for their services; that the current laws relating to notaries public do not require applicants for a notary commission to post a bond to assure that they perform their duties as a notary in accordance with law; that this act is designed to increase fees for notary services and to require notaries to file a bond at the time of making application for a notary commission and should be given effect immediately. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.

APPROVED: March 2, 1989
