WEST VIRGINIA CODE CHAPTER 39 ARTICLE 4A

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§39-4A-1. Commissioners out of state; qualifications; application fee.

(a) The Secretary of State may appoint a qualified person residing within or without this state and within the United States, its territories, or possessions as a commissioner to acknowledge signatures performed in or out of this state by persons residing in or out of the state of West Virginia covering deeds, leases, and other writings pertaining to West Virginia property for recordation in the state of West Virginia.

(b) To be qualified for an appointment pursuant to subsection (a) of this section, a person must be commissioned as a notary public pursuant to §39-4-20 of this code.

(c) An individual qualified under subsection (b) of this section may apply to the Secretary of State for a commission and shall comply with and provide the information required by subsection (d) of this section and pay the requisite fee.

(d) Applications for appointment as a commissioner must be made in the form and manner as prescribed by the Secretary of State. The application must include the following information:

(1) Full name;

(2) Date of birth;

(3) Legal residential address;

(4) Employer, if any;

(5) Daytime phone number;

(6) Email address;

(7) Applicant’s signature; and

(8) Any other information deemed necessary by the Secretary of State.

(e) The Secretary of State may deny, refuse to renew, revoke, suspend, or impose a condition on a commission for any act or omission that demonstrates the individual lacks the honesty, integrity, competence, or reliability to act as a commissioner, including:

(1) Failure to comply with this article;

(2) A fraudulent, dishonest, or deceitful misstatement or omission in the application for a commission submitted to the Secretary of State;

(3) A conviction of the applicant or commissioner for any felony or for a crime involving fraud, dishonesty, or deceit;

(4) A finding against, or admission of liability by, the applicant or commissioner in any legal

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proceeding or disciplinary action based on the applicant's or commissioner's fraud, dishonesty, or deceit;

(5) Failure by the commissioner to discharge any duty required of a commissioner, whether by this article, rules promulgated by the Secretary of State, or any federal or state law;

(6) Use of false or misleading advertising or representation by the notary public representing that the notary has a duty, right, or privilege that the notary does not have;

(7) Revocation, suspension, or refusal or failure to renew the commissioner's commission as a notary public pursuant to §39-4-1 et seq. of this code;

(8) Violation by the commissioner of a rule of the Secretary of State regarding a commissioner; and

(9) Denial, refusal to renew, revocation, suspension, or conditioning of a commission in another state.

(f) Before issuance of a commission, an applicant shall provide at the time of application a statement that he or she solemnly swears or affirms, under penalty of perjury, that the answers to all questions in this application are true, complete, and correct; and, if appointed and commissioned, he or she will perform faithfully, to the best of his or her ability, all acts in accordance with the law.

(g) A nonrefundable fee of $500 for each commission issued shall be paid to the Secretary of State: Provided, That the Secretary of State shall have the authority to refund some or all of the application fee for denials resulting from good-faith mistakes made by applicants.

(h) All fees and moneys collected by the Secretary of State pursuant to the provisions of this section shall be deposited by the Secretary of State as follows:

(1) One-half shall be deposited in the state General Revenue Fund; and

(2) One-half shall be deposited in the service fees and collections account established by §59-1-2 of this code for the operation of the Office of the Secretary of State.

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§39-4A-2. Powers of commissioners; official seals.

(a) Upon approval of a successful application, commissioners shall hold office for 10 years, unless removed by the Secretary of State under the grounds set forth in §39-4A-1(e) of this code.

(b) When any oath may lawfully be administered, or affidavit or deposition taken, within the state, territory or district for which any such commissioner is appointed, to be used in this state, it may be done by the commissioner.

(c) Each commissioner shall have an official seal, which shall be a rubber stamp and shall contain:

(1) The words “Official Seal”;

(2) The words “Commissioner for West Virginia”;

(3) The commissioner’s name exactly as it is written as an official signature;

(4) The city and state of residence of the commissioner; and

(5) The words “My Commission Expires” and the date of expiration of the commission.

(d) Commissioners may take, within or any place out of the State of West Virginia, the acknowledgements of deeds and other writings to be admitted to the record in the State of West Virginia, but each acknowledgement shall reflect where the acknowledgement was taken, including, but not limited to, the state and county or territory.

(e) Every certificate of the commissioner shall be authenticated by his or her signature and official seal.

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§39-4A-3. Prohibited acts.

Commissioners shall refrain from the following prohibited activities:

(1) Assisting persons in drafting legal records, giving legal advice, or otherwise practicing law;

(2) Acting as an immigration consultant or an expert on immigration matters; or

(3) Representing a person in a judicial or administrative proceeding relating to immigration to the United States, United States citizenship, or related matters.

(4) No provision of this section shall be construed to prohibit the practice of law by a duly licensed attorney.

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§39-4A-4. Rulemaking.

The Secretary of State may propose rules for legislative approval to implement this article, in accordance with the provisions of §29A-3-1 et seq. of this code.

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§39-4A-5. Incorporation of Revised Uniform Law on Notarial Acts; online database.

(a) All requirements, duties, prohibitions, penalties, and procedures set forth in §39-4-1 et seq. of this code that are consistent with the foregoing provisions of this article shall apply to commissioners.

(b) The Secretary of State shall include all active commissioners in its database of notaries public set forth in §39-4-22 of this code, which database shall clearly distinguish commissioners from notaries public.

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