WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1985

ENROLLED
Committee Substitute for
SENATE BILL NO. 469

(By Mr. Shelton & Mr. Elections)

PASSED
April 11, 1985
In Effect from Passage
AN ACT to repeal section two hundred five, article two, chapter twenty-nine-c of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact section one hundred three, article one, section three hundred one, article two, section one hundred two, article three, section one hundred two; article four and section one hundred one, article six, all of said chapter; and to further amend said chapter by adding thereto a new article, designated article nine, all relating to notary publics; prospective effect of chapter; exceptions; removing required bond; clarifying disqualifying interest; application to notaries public commissioned prior to the effective date of the uniform notary act; optional use of rubber stamp seals by notaries appointed under prior law; requiring such notaries not commissioned on a statewide basis to include the county on the seal; uniform application of chapter; validation of good faith notarial acts; and nonliability for such good faith acts.

Be it enacted by the Legislature of West Virginia:

That section two hundred five, article two, chapter twenty-
nine-c of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; that section one hundred three, article one, section three hundred one, article two, section one hundred two, article three, section one hundred two, article four and section one hundred one, article six, all of said chapter, be amended and reenacted; and that said chapter be further amended by adding thereto a new article, designated article nine, all to read as follows:

ARTICLE 1. GENERAL PROVISIONS.

§29C-1-103. Prospective effect of chapter; exceptions.

Except as otherwise provided herein, this chapter applies prospectively and shall be applicable to all notaries public whether commissioned before, on or after the effective date of this chapter: Provided, That the following sections in article two of this chapter shall apply only to those notaries public commissioned on or after the effective date of this chapter: Subsections (a) and (b) of section one hundred one, sections two hundred one, two hundred two, two hundred three, two hundred four, two hundred six, two hundred seven and three hundred one, relating to the appointment and qualifications of notaries, and section one hundred two, relating to jurisdiction and terms of notaries public.

ARTICLE 2. APPOINTMENT PROVISIONS.

§29C-2-301. State and local government employees.

(a) The governor may appoint and commission such number of state and local government employees as notaries public, to act for and in behalf of their respective state and local government offices, as he deems proper. An appointee commissioned as a notary public under this section may act only for and in behalf of the government office or offices in which he is employed.

(b) An appointee under this section shall meet the requirements for qualification and appointment prescribed in article two of this chapter except that the head of the state or local government office where the applicant is employed may execute a certificate that the application is
made for the purposes of the office and in the public interest and submit it to the governor together with the application for appointment as a notary public, in which case the fee for appointment specified in article two, section two hundred two, is waived.

(c) The costs of all notary supplies for a commissioned state or local government employee shall be paid from funds available to the office in which he is employed.

(d) All fees received for notarial services by a notary public appointed for and in behalf of a state or local government office shall be remitted by him to the state or local government office in which he is employed.

(e) A notary public who is an employee of a state or local government office in this state must comply with all provisions of this chapter.

ARTICLE 3. POWERS.

§29C-3-102. Limitations on powers.

(a) A notary public who has a disqualifying interest, as hereinafter defined, in a transaction may not legally perform any notarial act in connection with the transaction.

(b) For the purposes of this chapter, a notary public has a disqualifying interest in a transaction in connection with which notarial services are requested if he:

(1) May receive directly, and as a proximate result of the notarization, any advantage, right, title, interest, cash or property, exceeding in value the sum of any fee properly received in accordance with section three hundred one, article four of this chapter, or exceeding his regular compensation and benefits as an employee whose duties include performing notarial acts for and in behalf of his employer; or

(2) Is named, individually, as a party to the transaction.

ARTICLE 4. DUTIES.

§29C-4-102. Rubber stamp seal.

Under or near his official signature on every notarial
2 certificate, a notary public shall rubber stamp clearly and
3 legibly, so that it is capable of photographic reproduction:
4 (a) The words “Official Seal”;
5 (b) His name exactly as he writes his official signa-
6 ture;
7 (c) The words “Notary Public,” “State of West Vir-
8 ginia” and “My Commission expires (commission expira-
9 tion date)”;
10 (d) The address of his business or residence in this
11 state; and
12 (e) A serrated or milled edge border in a rectangular
13 form not more than one inch in width by two and one-
14 half inches in length surrounding the information.
15 No person holding a notary commission pursuant to
16 former section two, article four, chapter twenty-nine on
17 the effective date of this chapter may be required to
18 obtain or use a rubber stamp seal prior to the expira-
19 tion of that commission. However, such a notary who was
20 appointed for one or more counties of the state may
21 obtain and use the rubber stamp seal prior to the expira-
22 tion of that commission if the name of the county in
23 which the notarial act is performed is on the seal used
24 for that act.

ARTICLE 6. LIABILITY, FINES AND IMPRISONMENT.

§29C-6-101. Liability of notary.

1 A notary public is liable to the persons involved for all
2 damages proximately caused by the notary’s official
3 misconduct.

ARTICLE 9. CURATIVE PROVISIONS.

§29C-9-101. Uniform application of chapter; validation of good
faith notarial acts; nonliability for good faith
notarial acts.

1 This article is to prevent or redress problems which
2 might be caused by notaries public who in good faith
3 performed notarial acts in substantial compliance with
the laws which were replaced by the uniform notary act, chapter twenty-nine-c of this code, during a forgiveness period which begins with the effective date of that act and ends with the effective date of this section.

With respect to notarial acts performed in good faith and in substantial compliance with prior law during the forgiveness period:

(a) Instruments so notarized shall be conclusively presumed to have been validly notarized;

(b) Notaries public and all parties to such notarial acts shall be immune from civil and criminal liability for such acts or the consequences of such acts. The rebuttable presumption created by section nine, article seven, chapter fifty-five of this code, that any violation of a statute which proximately causes injury constitutes negligence, does not apply; and

(c) The retrospective application of this section applies to all litigation which has not been fully adjudicated, including cases pending on appeal. This section does not apply to notarial acts performed prior to or subsequent to the forgiveness period.

The purposes of this article are remedial and shall be construed liberally to accomplish the purposes set forth herein.
Enr. Com. Sub. for S. B. No. 469] 6

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within Approved this the 1st day of May, 1985.

Governor
PRESENTED TO THE
GOVERNOR
Date 4/17/85
Time 4:07 p.m.