

## CHAPTER 11

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**PROFESSIONS AND OCCUPATIONS**

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**HOUSE BILL 98-1043**

BY REPRESENTATIVES Arrington and Taylor;  
also SENATORS Congrove and Tebedo.

**AN ACT**

CONCERNING CONTINUATION OF THE FUNCTIONS OF THE SECRETARY OF STATE RELATED TO THE COMMISSIONING OF NOTARIES PUBLIC.

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** 12-55-123, Colorado Revised Statutes, is amended to read:

**12-55-123. Repeal of article.** This article is repealed, effective ~~July 1, 1998~~ JULY 1, 2009. Prior to such repeal, the appointment function of the secretary of state shall be reviewed as provided for in section 24-34-104, C.R.S.

**SECTION 2. Repeal.** 24-34-104 (27.5) (e), Colorado Revised Statutes, is repealed as follows:

**24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment.** (27.5) (e) ~~The following function of the specified agency shall terminate on July 1, 1998. The appointment of notaries public through the secretary of state in accordance with part 1 of article 55 of title 12, C.R.S.~~

**SECTION 3.** 24-34-104, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment.** (40) THE FOLLOWING AGENCIES, FUNCTIONS, OR BOTH, SHALL TERMINATE ON JULY 1, 2009: THE APPOINTMENT OF NOTARIES PUBLIC THROUGH THE SECRETARY OF STATE IN ACCORDANCE WITH PART 1 OF ARTICLE 55 OF TITLE 12, C.R.S.

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

**SECTION 4.** Part 1 of article 55 of title 12, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**12-55-102.5. Disposition of fees.** (1) ALL FEES COLLECTED BY THE OFFICE OF THE SECRETARY OF STATE PURSUANT TO THIS ARTICLE SHALL BE COLLECTED IN THE MANNER REQUIRED BY SECTION 24-21-104 (3), C.R.S., AND TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE NOTARY ADMINISTRATION CASH FUND, WHICH FUND IS HEREBY CREATED IN THE STATE TREASURY.

(2) THE GENERAL ASSEMBLY SHALL MAKE ANNUAL APPROPRIATIONS FROM THE NOTARY ADMINISTRATION CASH FUND FOR EXPENDITURES OF THE SECRETARY OF STATE INCURRED IN THE PERFORMANCE OF THE SECRETARY OF STATE'S DUTIES UNDER THIS ARTICLE.

(3) PURSUANT TO SECTION 24-36-114, C.R.S., ALL INTEREST DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEYS IN THE NOTARY ADMINISTRATION CASH FUND SHALL BE CREDITED TO THE GENERAL FUND.

**SECTION 5.** 24-21-104 (3) (b), Colorado Revised Statutes, is amended, and the said 24-21-104 (3) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

**24-21-104. Fees of secretary of state.** (3) (b) The department of state shall adjust its fees, except fees charged pursuant to section 4-11-102, C.R.S., every two years so that the revenue generated from the fees approximates its direct and indirect costs. Such costs shall not include the costs paid by the amounts appropriated by the general assembly from the general fund to the department of state for elections pursuant to section 24-21-104.5. Such fees shall remain in effect for the two subsequent fiscal years following the adjustment. All fees collected by said department shall be transmitted to the state treasurer, except moneys collected pursuant to subparagraph (II) of paragraph (f) of this subsection (3), AND ARTICLE 55 OF TITLE 12, C.R.S., who shall credit the same to the department of state cash fund, which fund is hereby created. All moneys credited to the department of state cash fund shall be used as provided in this section and shall not be deposited in or transferred to the general fund of this state or any other fund. The moneys credited to the department of state cash fund shall be available for appropriation by the general assembly to the department of state in the general appropriation bill or pursuant to section 24-9-105 (2).

(i) ALL MONEYS COLLECTED BY THE OFFICE OF THE SECRETARY OF STATE PURSUANT TO ARTICLE 55 OF TITLE 12, C.R.S., SHALL BE TRANSMITTED TO THE STATE TREASURER AND CREDITED TO THE NOTARY ADMINISTRATION CASH FUND, CREATED IN SECTION 12-55-102.5, C.R.S.

**SECTION 6.** Part 1 of article 55 of title 12, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**12-55-103.5. Training.** THE OFFICE OF THE SECRETARY OF STATE MAY ENTER INTO A CONTRACT WITH A PRIVATE CONTRACTOR OR CONTRACTORS TO CONDUCT NOTARY TRAINING PROGRAMS. THE CONTRACTOR OR CONTRACTORS MAY CHARGE A FEE FOR ANY SUCH TRAINING PROGRAM.

**SECTION 7.** 12-55-107 (1), (2), and (3), Colorado Revised Statutes, are amended, and the said 12-55-107 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

**12-55-107. Revocation of commission.** (1) The secretary of state OR THE SECRETARY OF STATE'S DESIGNEE may deny the application of any person for appointment or reappointment, or revoke the commission of any notary public during ~~his~~ SUCH NOTARY'S term of appointment if the notary public:

(a) Submits an application for commission and appointment ~~which~~ THAT contains substantial and material misstatement or omission of fact;

(b) Is convicted of official misconduct under the provisions of this part 1 or any felony;

(c) Fails to exercise the powers or perform the duties of a notary public in accordance with this part 1;

(d) Knowingly uses false or misleading advertising in which ~~he~~ SUCH NOTARY represents that ~~he~~ SUCH NOTARY has powers, duties, rights, or privileges that ~~he~~ SUCH NOTARY does not possess by law;

(e) Is found by a court of this state to have engaged in the unauthorized practice of law;

(f) Ceases to fulfill the requirements applicable to ~~his~~ SUCH NOTARY'S most recent appointment;

(g) Notarizes any blank document.

(1.5) WHENEVER THE SECRETARY OF STATE OR THE SECRETARY OF STATE'S DESIGNEE BELIEVES THAT A VIOLATION OF THIS ARTICLE HAS OCCURRED, THE SECRETARY OF STATE OR THE SECRETARY OF STATE'S DESIGNEE MAY INVESTIGATE ANY SUCH VIOLATION. THE SECRETARY OF STATE OR THE SECRETARY OF STATE'S DESIGNEE MAY ALSO INVESTIGATE POSSIBLE VIOLATIONS OF THIS ARTICLE UPON A SIGNED COMPLAINT FROM ANY PERSON.

(2) THE SECRETARY OF STATE OR THE SECRETARY OF STATE'S DESIGNEE MAY REVOKE a notary's commission ~~may be revoked~~ under the provisions of this part 1 only if action is taken pursuant to article 4 of title 24, C.R.S.

(3) After a notary public receives notice from the secretary of state OR THE SECRETARY OF STATE'S DESIGNEE that ~~his~~ SUCH NOTARY'S commission has been revoked, and unless such revocation has been enjoined, such notary shall immediately send ~~by certified mail~~ or have delivered to the secretary of state ~~his~~ SUCH NOTARY'S journal of notarial acts, all other papers and copies relating to ~~his~~ SUCH NOTARY'S notarial acts, and ~~his~~ SUCH NOTARY'S official seal.

**SECTION 8.** 12-55-113, Colorado Revised Statutes, is amended to read:

**12-55-113. Lost journal or official seal.** Every notary public shall send ~~by~~

~~certified mail~~ or have delivered notice to the secretary of state within thirty days after ~~he~~ THE NOTARY loses or misplaces ~~his~~ SUCH NOTARY'S journal of notarial acts or official seal. The fee payable to the secretary of state for recording notice of a lost journal or seal shall be determined and collected pursuant to section 24-21-104 (3), C.R.S.

**SECTION 9.** 12-55-114, Colorado Revised Statutes, is amended to read:

**12-55-114. Change of name or address.** (1) Every notary public shall send ~~by certified mail~~ or have delivered notice to the secretary of state within thirty days after ~~he~~ SUCH NOTARY changes the address of ~~his~~ SUCH NOTARY'S business or residence in this state. The fee payable to the secretary of state for recording notice of change of address shall be determined and collected pursuant to section 24-21-104 (3), C.R.S.

(2) Every notary public shall send ~~by certified mail~~ or have delivered notice to the secretary of state within thirty days after ~~he~~ SUCH NOTARY changes ~~his~~ SUCH NOTARY'S name, including with the notification a sample of ~~his~~ SUCH NOTARY'S handwritten official signature ~~which~~ THAT contains ~~his~~ SUCH NOTARY'S surname and at least the initial of ~~his~~ SUCH NOTARY'S first name. The fee payable to the secretary of state for recording notice of change of notary's name shall be determined and collected pursuant to section 24-21-104 (3), C.R.S.

**SECTION 10.** 12-55-115, Colorado Revised Statutes, is amended to read:

**12-55-115. Death - resignation - removal from state.** (1) If a notary public dies during the term of ~~his~~ THE NOTARY'S appointment, ~~his~~ THE NOTARY'S heirs or personal representative, as soon as reasonably possible after the notary's death, shall send ~~by certified mail~~ or have delivered to the secretary of state the deceased notary's journal of notarial acts and ~~his~~ THE NOTARY'S seal, if available.

(2) If a notary public no longer desires to be a notary public or has ceased to have a business or residence address in this state, ~~he~~ THE NOTARY shall send ~~by certified mail~~ or have delivered to the secretary of state a letter of resignation, ~~his~~ THE NOTARY'S journal of notarial acts, and all other papers and copies relating to ~~his~~ THE NOTARY'S notarial acts, including ~~his~~ THE NOTARY'S seal. ~~His~~ THE NOTARY'S commission shall thereafter cease to be in effect.

**SECTION 11. Effective date - applicability.** This act shall take effect July 1, 1998, and shall apply to acts occurring on or after said date.

**SECTION 12. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: March 16, 1998