

Regular Session, 2011

HOUSE BILL NO. 257

BY REPRESENTATIVE JOHNSON

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

NOTARIES: Provides for ex officio financial institution notaries

1 AN ACT

2 To enact R.S. 35:413, relative to ex officio notaries; to provide for ex officio financial
3 institution notaries; to provide for definitions; to provide for qualifications; to
4 provide for bond requirements; to provide for the authority of ex officio financial
5 institution notaries; to provide for the promulgation of rules and regulations; and to
6 provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 35:413 is hereby enacted to read as follows:

9 §413. Ex officio financial institution notaries; requirements; limitations

10 A.(1) Notwithstanding any provision of law to the contrary relative to
11 qualifications for notaries public, each financial institution may designate up to three
12 employees as ex officio financial institution notaries for each location of the
13 financial institution or trust company.

14 (2) The term "financial institution" as used in this Section shall mean and
15 include a state or federally chartered bank, savings bank, savings and loan
16 association, trust company, or a holding company, affiliate, or subsidiary of any such
17 institution.

18 B. Any financial institution employee being appointed as an ex officio
19 financial institution notary pursuant to the provisions of this Section shall be subject
20 to all of the following requirements:

1 (1) Register with the secretary of state as required by R.S. 35:191.3.

2 (2) Meet the qualifications for ex officio notaries as provided in R.S. 35:391.

3 (3) Complete fifteen hours of classroom or Internet-based study of the
4 requirements and duties of serving as a notary. Certificates of completion of courses
5 of study shall be submitted with the registration form to the secretary of state.

6 (4) Fulfill the same bond requirement as provided in R.S. 35:391(6) and 392.

7 C. Upon receiving the documentation required by Subsection B of this
8 Section from an applicant, the secretary of state shall issue a notary identification
9 number to the ex officio financial institution notary. All documents notarized by the
10 ex officio financial institution notary shall contain the identification number and the
11 name of the financial institution for which the ex officio financial institution notary
12 is appointed. Separation from employment from the financial institution shall
13 automatically terminate the powers of the ex officio financial institution notary.

14 D.(1) An ex officio financial institution notary may exercise his limited
15 notarial authority in any parish in the state. The authority of an ex officio financial
16 institution notary is limited to executing any of the following:

17 (a) Affidavits, acknowledgments, sworn statements, authentic acts, and
18 acknowledging instruments under private signature, which are pertaining to or
19 related directly or indirectly to the business of, or a transaction with, a financial
20 institution.

21 (b) Affidavits of fraud loss.

22 (c) Payable on death affidavits.

23 (d) Transfer of small deposit affidavits, pursuant to R.S. 6:315.1.

24 (e) Surviving spouse affidavits pursuant to R.S. 9:1513.

25 (f) Bills of sale conveying ownership for movable property, including titled
26 motor vehicles, boats, and motors, where the bill of sale is executed in connection
27 with a secured loan originated by the financial institution.

28 (g) Promissory notes, including the paraph of a note with a mortgage or other
29 documents providing collateral to the financial institution.

1 (h) Mortgages.

2 (i) Security agreements.

3 (j) Personal guaranties.

4 (k) Documents that are required to be both notarized and filed by the
5 financial institution with the secretary of state, the Office of Financial Institutions,
6 the Federal Deposit Insurance Corporation, the office of comptroller of the currency,
7 the Federal Reserve Board, or other governmental agency.

8 (2) The authority of an ex officio financial institution notary shall also
9 include the authority to certify true copies of any authentic act or any instrument
10 under private signature passed before him or acknowledged before him, and to make
11 and certify copies, by any method, of any certificate, research, resolution, survey, or
12 other document annexed to the original of any authentic act passed before him, and
13 may certify such copies as true copies of the original document attached to the
14 original passed before him.

15 (3) Ex officio financial institution notaries are prohibited from notarizing
16 documents outside the scope of their employment and from drafting and notarizing
17 testaments, express private trusts, small succession affidavits, and acts of sale or
18 donation conveying ownership of immovable property.

19 (4) All acts which are performed beyond the authority of an ex officio
20 financial institution notary granted by this Section shall be null and void.

21 E. The secretary of state may promulgate rules and regulations to provide for
22 the application, appointment, and enforcement of regulations of ex officio financial
23 institution notaries.

24 Section 2. The provisions of this Act shall become effective on January 1, 2012.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Johnson

HB No. 257

Abstract: Provides for ex officio financial institution notaries and their qualifications, bond requirements, authority, and regulation.

Present law provides for the qualifications, testing, bonding, commissioning, and authority of notaries public.

Present law provides for the qualifications, bonding, appointment, and limited authority of ex officio notaries for various state and local government departments and offices.

Proposed law provides that each financial institution may designate up to three employees as ex officio financial institution notaries for each location of the financial institution or trust company.

Proposed law defines "financial institution" as a state or federally chartered bank, savings bank, savings and loan association, trust company, or a holding company, affiliate, or subsidiary of any such institution.

Proposed law requires that any financial institution employee appointed as an ex officio financial institution notary shall (1) register with the secretary of state as required by R.S. 35:191.3; (2) meet the qualifications for ex officio notaries provided in R.S. 35:391 in order to be appointed as an ex officio financial institution notary; (3) undergo 15 hours of classroom or Internet-based study of the requirements and duties of serving as a notary; and (4) fulfill the same bond requirement as provided in R.S. 35:391(6) and 392.

Proposed law provides that the secretary of state shall issue a notary identification number to the ex officio financial institution notary, and provides that all documents notarized by the ex officio financial institution notary shall contain the identification number and the name of the financial institution for which the ex officio financial institution notary is appointed.

Proposed law provides that separation from employment from the financial institution shall automatically terminate the powers of the appointed ex officio financial institution notary.

Proposed law authorizes an ex officio financial institution notary to exercise his limited notarial authority in any parish in the state, but limits his notarial authority to executing specified affidavits and other documents.

Proposed law authorizes an ex officio financial institution notary to certify true copies of any authentic act or any instrument under private signature passed before him or acknowledged before him, and to make and certify copies of any certificate, research, resolution, survey, or other document annexed to the original of any authentic act passed before him, and to certify such copies as true copies of the original document attached to the original passed before him.

Proposed law prohibits ex officio financial institution notaries from notarizing documents outside the scope of their employment, and from drafting and notarizing testaments, express private trusts, small succession affidavits, and acts of sale or donation conveying ownership of immovable property.

Proposed law provides that all acts which are performed beyond the authority of an ex officio financial institution notary shall be null and void.

Proposed law authorizes the secretary of state to promulgate rules and regulations relative to the application, appointment, and enforcement of regulations of ex officio financial institution notaries.

Effective Jan. 1, 2012.

(Adds R.S. 35:413)