

Assembly Bill No. 245– Assemblymen Flores;
Considine and Thomas

CHAPTER.....

AN ACT relating to public affairs; authorizing certain notaries public to receive fees for performing notarial acts in addition to fees for performing document preparation services; increasing certain fees which may be charged by a notary public; increasing certain fees required to register or renew a registration to engage in the business of a document preparation service; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law prohibits a notary public from performing a notarial act if the notary public will receive a fee in excess of the fee authorized for notarial acts. (NRS 240.065) **Section 1** of this bill authorizes a notary public who is also registered to engage in the business of a document preparation service to perform a notarial act on a document if he or she will receive a fee for providing document preparation services in addition to the fee authorized for performing the notarial act.

Existing law authorizes a notary public to charge a fee of not more than: (1) \$5.00 for taking an acknowledgement, for the first signature of each signer; (2) \$2.50 for each additional signature of each signer; (3) \$2.50 for administering an oath or affirmation without a signature; (4) \$2.50 for a certified copy; and (5) \$5.00 for a jurat, for each signature on the affidavit. (NRS 240.100) **Section 1.5** of this bill increases these fees to not more than: (1) \$15.00 for taking an acknowledgement, for the first signature of each signer; (2) \$7.50 for each additional signature of each signer; (3) \$7.50 for administering an oath or affirmation without a signature; (4) \$7.50 for a certified copy; and (5) \$15.00 for a jurat, for each signature on the affidavit.

Existing law authorizes a notary public to charge an additional fee for traveling to perform a notarial act of: (1) \$10 per hour if the person requesting the notarial act asks the notary public to travel between the hours of 6 a.m. and 7 p.m.; and (2) \$25 per hour if the person requesting the notarial act asks the notary public to travel between the hours of 7 p.m and 6 a.m. (NRS 240.100) **Section 1.5** increases these additional travel fees to \$15 per hour and \$30 per hour, respectively.

Existing law requires a person who wishes to engage in the business of a document preparation service to pay a nonrefundable application fee of \$50. (NRS 240A.100) **Section 2** of this bill increases the application fee to \$100.

Existing law requires a person who wishes to renew his or her registration to engage in the business of a document preparation service to pay a renewal fee of \$25 every year upon the expiration of the registration. (NRS 240A.110) **Section 3** of this bill increases the renewal fee to \$50.

Existing law requires the Secretary of State to account for the application fees and renewal fees for registration to engage in the business of a document preparation service separately and requires those fees, and any interest and income earned on those fees, to be used solely to pay for expenses related to administering the document preparation services program, including the cost of: (1) certain materials and advertising; and (2) any technology necessary to process and maintain registration as a document preparation service. **Section 3.3** of this bill additionally authorizes those fees to be used for personnel and other operating



expenses of the Office of the Secretary of State related to enforcing the provisions of law relating to document preparation services.

Existing law authorizes the Secretary of State to conduct or cause to be conducted an investigation of a registrant or other person for a violation of the provisions of law relating to document preparation services. If, after investigation, the Secretary of State determines that a violation has occurred, existing law authorizes the Secretary of State to take certain actions, including referring the alleged violation to the Attorney General or district attorney for the commencement of a criminal or civil action. (NRS 240A.260) **Section 3.6** of this bill additionally authorizes the Secretary of State to impose a civil penalty. **Section 3.6** further provides that any determination by the Secretary of State that a violation has occurred is a public record.

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 240.065 is hereby amended to read as follows:
240.065 1. A notary public may not perform a notarial act if:

(a) The notary public executed or is named in the instrument acknowledged, sworn to or witnessed or attested;

(b) Except as otherwise provided in ~~subsection~~ *subsections 2 and 3*, the notary public has or will receive directly from a transaction relating to the instrument or pleading a commission, fee, advantage, right, title, interest, property or other consideration in excess of the fee authorized pursuant to NRS 240.100 for the notarial act;

(c) The notary public and the person whose signature is to be acknowledged, sworn to or witnessed or attested are domestic partners; or

(d) The person whose signature is to be acknowledged, sworn to or witnessed or attested is a relative of the domestic partner of the notary public or a relative of the notary public by marriage or consanguinity.

2. A notary public who is an attorney licensed to practice law in this State may perform a notarial act on an instrument or pleading if the notary public has or will receive directly from a transaction relating to the instrument or pleading a fee for providing legal services in excess of the fee authorized pursuant to NRS 240.100 for the notarial act.

3. *A notary public who is registered to engage in the business of a document preparation service may perform a notarial act on a document if the notary public has received or will receive directly from a transaction relating to the document a fee for providing*



document preparation services in addition to the fee authorized pursuant to NRS 240.100 for the notarial act.

4. As used in this section, “relative” includes, without limitation:

(a) A spouse or domestic partner, parent, grandparent or stepparent;

(b) A natural born child, stepchild or adopted child;

(c) A grandchild, brother, sister, half brother, half sister, stepbrother or stepsister;

(d) A grandparent, parent, brother, sister, half brother, half sister, stepbrother or stepsister of the spouse or domestic partner of the notary public; and

(e) A natural born child, stepchild or adopted child of a sibling or half sibling of the notary public or of a sibling or half sibling of the spouse or domestic partner of the notary public.

Sec. 1.5. NRS 240.100 is hereby amended to read as follows:

240.100 1. Except as otherwise provided in subsection 3, a notary public may charge the following fees and no more:

For taking an acknowledgment, for the first signature of each signer	[\$5.00] \$15.00
For each additional signature of each signer	[2.50] 7.50
For administering an oath or affirmation.....	[2.50] 7.50
For a certified copy.....	[2.50] 7.50
For a jurat, for each signature on the affidavit	[5.00] 15.00
For performing a marriage ceremony.....	75.00

2. All fees prescribed in this section are payable in advance, if demanded.

3. A notary public may charge an additional fee for traveling to perform a notarial act if:

(a) The person requesting the notarial act asks the notary public to travel;

(b) The notary public explains to the person requesting the notarial act that the fee is in addition to the fee authorized in subsection 1 and is not required by law;

(c) The person requesting the notarial act agrees in advance upon the hourly rate that the notary public will charge for the additional fee; and

(d) The additional fee does not exceed:

(1) If the person requesting the notarial act asks the notary public to travel between the hours of 6 a.m. and 7 p.m., ~~[\$10]~~ **\$15** per hour.



(2) If the person requesting the notarial act asks the notary public to travel between the hours of 7 p.m. and 6 a.m., ~~[\$25]~~ \$30 per hour.

↳ The notary public may charge a minimum of 2 hours for such travel and shall charge on a pro rata basis after the first 2 hours.

4. A notary public is entitled to charge the amount of the additional fee agreed to in advance by the person requesting the notarial act pursuant to subsection 3 if:

(a) The person requesting the notarial act cancels the request after the notary public begins his or her travel to perform the requested notarial act.

(b) The notary public is unable to perform the requested notarial act as a result of the actions of the person who requested the notarial act or any other person who is necessary for the performance of the notarial act.

5. For each additional fee that a notary public charges for traveling to perform a notarial act pursuant to subsection 3, the notary public shall enter in the journal that he or she keeps pursuant to NRS 240.120:

(a) The amount of the fee; and

(b) The date and time that the notary public began and ended such travel.

6. A person who employs a notary public may prohibit the notary public from charging a fee for a notarial act that the notary public performs within the scope of the employment. Such a person shall not require the notary public whom the person employs to surrender to the person all or part of a fee charged by the notary public for a notarial act performed outside the scope of the employment of the notary public.

Sec. 2. NRS 240A.100 is hereby amended to read as follows:

240A.100 1. A person who wishes to engage in the business of a document preparation service must be registered by the Secretary of State pursuant to this chapter. An applicant for registration must be:

(a) A natural person;

(b) A citizen or legal resident of the United States or hold a valid Employment Authorization Document issued by the United States Citizenship and Immigration Services of the Department of Homeland Security; and

(c) At least 18 years of age.

2. The Secretary of State shall not register as a document preparation service any person:



(a) Who is suspended or has previously been disbarred from the practice of law in any jurisdiction;

(b) Whose registration as a document preparation service in this State or another state has previously been revoked for cause;

(c) Whose appointment or registration as a notary public in this State or another state has been previously revoked or suspended for cause;

(d) Who has previously been convicted of, or entered a plea of guilty, guilty but mentally ill or nolo contendere to, a gross misdemeanor or a category D felony pursuant to NRS 240A.290; or

(e) Who has, within the 10 years immediately preceding the date of the application for registration as a document preparation service, been:

(1) Convicted of, or entered a plea of guilty, guilty but mentally ill or nolo contendere to, a crime involving theft, fraud or dishonesty;

(2) Convicted of, or entered a plea of guilty, guilty but mentally ill or nolo contendere to, the unauthorized practice of law pursuant to NRS 7.285 or the corresponding statute of any other jurisdiction; or

(3) Adjudged by the final judgment of any court to have committed an act involving theft, fraud or dishonesty.

3. An application for registration as a document preparation service must be made under penalty of perjury on a form prescribed by regulation of the Secretary of State and must be accompanied by:

(a) A nonrefundable application fee of ~~[\$50;]~~ **\$100;** and

(b) A cash bond or surety bond meeting the requirements of NRS 240A.120 or proof that the applicant is covered by a bond filed by a business entity pursuant to NRS 240A.123.

4. An applicant for registration must submit to the Secretary of State a declaration under penalty of perjury stating that the applicant has not had a certificate or license as a document preparation service revoked or suspended in this State or any other state or territory of the United States.

5. After the investigation of the history of the applicant is completed, the Secretary of State shall issue a certificate of registration if the applicant is qualified for registration and has complied with the requirements of this section. Each certificate of registration must bear the name of the registrant and a registration number unique to that registrant. The Secretary of State shall maintain a record of the name and registration number of each registrant.



6. An application for registration as a document preparation service that is not completed within 120 days after the date on which the application was submitted must be denied. If an application is denied pursuant to this subsection, the applicant may submit a new application.

Sec. 3. NRS 240A.110 is hereby amended to read as follows:

240A.110 1. The registration of a document preparation service is valid for 1 year after the date of issuance of the certificate of registration, unless the registration is suspended or revoked. Except as otherwise provided in this section, the registration may be renewed subject to the same conditions as the initial registration. An application for renewal must be made under penalty of perjury on a form prescribed by regulation of the Secretary of State and must be accompanied by:

(a) A renewal fee of ~~[\$25;]~~ \$50; and

(b) A cash bond or surety bond meeting the requirements of NRS 240A.120 or proof that the applicant is covered by a bond filed by a business entity pursuant to NRS 240A.123, unless the bond previously filed by the registrant remains on file and in effect.

2. The registration of a registrant who holds a valid Employment Authorization Document issued by the United States Citizenship and Immigration Services of the Department of Homeland Security must expire on the date on which that person's employment authorization expires.

3. The Secretary of State may:

(a) Conduct any investigation of a registrant that the Secretary of State deems appropriate.

(b) Require a registrant to submit a complete set of fingerprints and written permission authorizing the Secretary of State to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

4. After any investigation of the history of a registrant is completed, unless the Secretary of State elects or is required to deny renewal pursuant to this section or NRS 240A.270, the Secretary of State shall renew the registration if the registrant is qualified for registration and has complied with the requirements of this section.

Sec. 3.3. NRS 240A.115 is hereby amended to read as follows:

240A.115 The Secretary of State shall account for the fees received pursuant to NRS 240A.100 and 240A.110 separately, and use those fees, and any interest and income earned on those fees, solely to pay for expenses related to administering the document



preparation services program pursuant to this chapter, including, without limitation, the cost of:

1. Materials and advertising to provide education and information about the program; ~~and~~

2. Any technology necessary to process and maintain registration as a document preparation service ~~;~~; *and*

3. Personnel and other operating expenses of the Office of the Secretary of State related to enforcing the provisions of this chapter and any regulations adopted pursuant thereto.

Sec. 3.6. NRS 240A.260 is hereby amended to read as follows:

240A.260 1. If the Secretary of State obtains information that a provision of this chapter or a regulation or order adopted or issued pursuant thereto has been violated by a registrant or another person, the Secretary of State may conduct or cause to be conducted an investigation of the alleged violation.

2. If, after investigation, the Secretary of State determines that a violation has occurred, the Secretary of State may:

(a) Serve, by certified mail addressed to the person who has committed the violation, a written order directing the person to cease and desist from the conduct constituting the violation. The order must notify the person that any willful violation of the order may subject the person to prosecution and criminal penalties pursuant to NRS 240A.290 ~~;~~ *and civil penalties pursuant to this section and NRS 240A.280.*

(b) If a registrant has committed the violation ~~;~~ *begin* :

(1) Begin proceedings pursuant to NRS 240A.270 to revoke or suspend the registration of the registrant ~~;~~ *or*

(2) After a hearing on the matter, impose a civil penalty of not more than \$1,000 for each violation. The authority of the Secretary of State to impose a civil penalty applies regardless of whether the person is still a registrant at the time of the hearing so long as the person was a registrant at the time that he or she committed the violation.

(c) If a person engaged in the business of a document preparation service and was not a registrant at the time of the violation, after a hearing on the matter, impose a civil penalty for each violation of not more than \$5,000 or the amount of economic benefit derived from the violation, whichever is greater.

(d) Refer the alleged violation to the Attorney General or a district attorney for commencement of a civil action against the person pursuant to NRS 240A.280.



~~(d)~~ (e) Refer the alleged violation to the Attorney General or a district attorney for prosecution of the person pursuant to NRS 240A.290.

~~(e)~~ (f) Take any combination of the actions described in this subsection.

3. Any person who is aware of a violation of this chapter by a document preparation service, ~~or~~ a person applying for registration as a document preparation service ~~or~~ *or a person who is engaging in the business of a document preparation service and is not registered by the Secretary of State pursuant to this chapter* may file a complaint with the Secretary of State setting forth the details of the violation that are known by the person who is filing the complaint.

4. Any determination by the Secretary of State that a provision of this chapter or a regulation or order adopted or issued pursuant thereto has been violated by a registrant or another person and the imposition of any civil penalty by the Secretary of State pursuant to this section is a public record.

Sec. 4. This act becomes effective on July 1, 2021.

