

# **WEST VIRGINIA LEGISLATURE**

**2017 REGULAR SESSION**

**Committee Substitute**

**for**

**House Bill 4207**

BY DELEGATES SHOTT AND HANSHAW

[The Committee on the Judiciary; Reported February

16, 2018.]



1 A BILL to amend and reenact §39-4-20 of the Code of West Virginia, 1931, as amended, relating  
2 to receiving a commission to act as a notary public; authorizing an online electronic  
3 application process to apply to receive a commission to act as a notary public; removing  
4 the oath of office and requiring an applicant to swear or affirm under penalty of perjury that  
5 answers to questions in the application are true and if appointed, the applicant will perform  
6 faithfully all notarial acts in accordance with the law; and eliminating the \$1000 bond  
7 requirement.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 4. REVISED UNIFORM LAW ON NOTARIAL ACTS.**

**§39-4-20. Commission as notary public; qualifications; no immunity or benefit; disposition of fees.**

1 (a) An individual qualified under subsection (b) of this section may apply to the Secretary  
2 of State for a commission as a notary public through the Secretary of State's online notary system.  
3 The applicant shall comply with and provide the information required by rules promulgated by the  
4 Secretary of State and pay any application fee.

5 (b) An applicant for a commission as a notary public must:

6 (1) Be at least eighteen years of age;

7 (2) Be a citizen or permanent legal resident of the United States;

8 (3) Be a resident of or have a place of employment or practice in this state;

9 (4) Be able to read and write English;

10 (5) Have a high school diploma or its equivalent; and

11 (6) Not be disqualified to receive a commission under §39-4-23 of this code.

12 (c) Before issuance of a commission as a notary public, an applicant ~~for the commission~~  
13 ~~shall execute an oath of office and submit it to the Secretary of State~~ shall provide a statement on  
14 the notary application that they solemnly swear or affirm, under penalty of perjury, that the  
15 answers to all questions in this application are true, complete, and correct; that I have carefully

16 read the notaries public law of West Virginia; and, if appointed and commissioned as a notary  
17 public, I will perform faithfully, to the best of my ability all notarial acts in accordance with the law.

18 ~~(d) Before issuance of a commission as a notary public, the applicant for a commission~~  
19 ~~shall submit to the Secretary of State an assurance in the form of: (1) A surety bond or its~~  
20 ~~functional equivalent in the amount of \$1,000; or (2) certification that the applicant is covered~~  
21 ~~under a: (A) Professional liability insurance policy; (B) an errors and omission insurance policy;~~  
22 ~~(C) a commercial general liability insurance policy; or (D) their equivalent, in the amount of \$1,000.~~  
23 ~~The assurance must be issued by a surety or other entity licensed or authorized to do business~~  
24 ~~in this state. The assurance must cover acts performed during the term of the notary public's~~  
25 ~~commission and must be in the form prescribed by the Secretary of State. If a notary public~~  
26 ~~violates law with respect to notaries public in this state, the surety or issuing entity is liable under~~  
27 ~~the assurance. The notary public shall give thirty days' notice to the Secretary of State before~~  
28 ~~canceling any assurance or loss of insurance coverage. The surety or issuing entity shall notify~~  
29 ~~the Secretary of State not later than thirty days after making a payment to a claimant under the~~  
30 ~~assurance. A notary public may perform notarial acts in this state only during the period that a~~  
31 ~~valid assurance is on file with the Secretary of State~~

32 ~~(e)~~ (d) On compliance with this section, the Secretary of State shall issue a commission  
33 as a notary public to an applicant for a term of five years.

34 ~~(f)~~ (e) A commission to act as a notary public authorizes the notary public to perform  
35 notarial acts. The commission does not provide the notary public any immunity or benefit  
36 conferred by law of this state on public officials or employees.

NOTE: The purpose of this bill is to authorize an online electronic application process to become a notary public and eliminate the \$1000 bond requirement.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.