

CHAPTER NO. 854

HOUSE BILL NO. 2356

By Representative Russell Johnson

Substituted for: Senate Bill No. 2193

By Senator Cohen

AN ACT to amend Tennessee Code Annotated, Title 8, Chapter 16 and Section 8-21-201, relative to notaries public.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 8-16-101(a), is amended by deleting from the first sentence thereof the language "for their county"; and by deleting the third sentence thereof in its entirety and substituting instead the following sentence: "At the time of their election, all notaries must be residents of the county, or have their principal place of business in the county, from which they were elected."

SECTION 2. Tennessee Code Annotated, Section 8-16-101, is amended by adding the following as a new, appropriately designated subsection:

(c) In addition to any other eligibility requirements, each person applying for election as a notary public shall certify under penalty of perjury that such person:

(1) has never been removed from the office of notary public for official misconduct;

(2) has never had a notarial commission revoked or suspended by this or any other state; and

(3) has never been found by a court of this state or any other state to have engaged in the unauthorized practice of law.

SECTION 3. Tennessee Code Annotated, Section 8-16-104, is amended by deleting subsection (b).

SECTION 4. Tennessee Code Annotated, Section 8-16-109, is amended by deleting such section in its entirety and substituting instead the following:

If a notary public moves such notary's residence or principal place of business out of the county from which the notary was elected and commissioned to another county in Tennessee, the notary shall notify the county clerk of the county from which the notary was elected and commissioned and shall pay to such county clerk a fee of seven dollars (\$7.00). The county clerk shall thereupon notify the secretary of state of the change of address and forward to secretary of state two dollars (\$2.00) of the seven dollar (\$7.00) fee received from the notary.

SECTION 5. Tennessee Code Annotated, Section 8-16-110, is amended by deleting such section in its entirety and substituting instead the following:

If a notary public moves such notary's residence or principal place of business out of the state of Tennessee, such notary is no longer qualified to act as a Tennessee notary public and shall surrender such notary's commission. It is an offense for any person who has been commissioned as a Tennessee notary public to take acknowledgements or otherwise act in an official capacity after moving out of the state of Tennessee. A violation of this section is a Class C misdemeanor.

SECTION 6. Tennessee Code Annotated, Section 8-16-111, is amended by deleting such section in its entirety.

SECTION 7. Tennessee Code Annotated, Section 8-16-201, is amended by deleting such section in its entirety.

SECTION 8. Tennessee Code Annotated, Section 8-16-202, is amended by deleting such section in its entirety and substituting instead the following:

A Tennessee notary public is authorized to act in any county in the state and has the power to acknowledge signatures upon personal knowledge or satisfactory proof, to administer oaths, to take depositions, to qualify parties to bills in chancery, and to take affidavits, in all cases; and in all such cases the notary public's seal shall be affixed and the notary public shall sign such documents in ink by the notary's own hand unless otherwise provided by law.

SECTION 9. Tennessee Code Annotated, Section 8-16-205, is amended by deleting such section in its entirety and substituting instead the following:

Any notary public fulfilling the requirements of this part shall be known as a notary public for the state of Tennessee, and the official signature of such notary public shall so indicate.

SECTION 10. Tennessee Code Annotated, Section 8-16-206, is amended by deleting such section in its entirety and substituting instead the following:

(a) The secretary of state shall prescribe and design an official seal to be used by a Tennessee notary public. The seal of office may be imprinted by a rubber or other type stamp. Such stamp shall imprint the seal of office in any color other than black or yellow, provided the color used to imprint the seal shall be clearly legible and appear as black when photocopied on a non-color copier. Nothing in this subsection shall be construed to require a notary public to procure such a rubber or other stamp or to use a particular color of ink with the stamp prior to the expiration of the notary's term of office, and all impression notary seals shall be valid for use until the end of the notary's term of office. Notwithstanding any other provision of law or provision of this subsection to the contrary, the use of an embossed notary seal after May 12, 2003, shall not render such an acknowledgement defective. No person shall incur any civil or criminal liability for failure to imprint the seal of office in a color required by this subsection nor shall any document or title imprinted with a seal of the wrong color be invalid because of such failure.

(b) Every notary public shall, at such notary's own expense, procure a seal of office, which the notary shall surrender to the county legislative body when the notary resigns, or at the expiration of such notary public's term of office, and which such notary's representatives, in case of such notary's death, shall likewise surrender, to be cancelled.

(c) At the notary public's request, the county clerk may obtain an official seal or any part thereof for the notary public. Any county clerk providing this service may charge a fee not to exceed twenty percent (20%) of the cost of the seal or part obtained for the notary public.

SECTION 11. Tennessee Code Annotated, Section 8-16-207, is hereby amended by deleting such section in its entirety.

SECTION 12. Tennessee Code Annotated, Section 8-16-208, is hereby amended by deleting such section in its entirety.

SECTION 13. Tennessee Code Annotated, Section 8-16-301, is hereby amended by deleting such section in its entirety.

SECTION 14. Tennessee Code Annotated, Section 8-16-302, is hereby amended by deleting such section in its entirety.

SECTION 15. Tennessee Code Annotated, Section 8-16-303, is hereby amended by deleting such section in its entirety and substituting instead the following:

Every certificate of acknowledgement officially executed by a Tennessee notary public shall include the true date of the notary's commission expiration. Failure to include the commission expiration date shall not render void or invalidate such certificate of acknowledgement.

SECTION 16. Tennessee Code Annotated, Section 8-16-108, is amended by deleting the section in its entirety.

SECTION 17. After the effective date of this act, all references contained in the Tennessee Code Annotated to "notary at large" or "notary public at large" shall be deemed to be references to "notary public for the state of Tennessee."


SECTION 18. When codifying this act, the Tennessee Code Commission is requested to combine the statutes contained in title 8, chapter 16, parts 1, 2 and 3, into one part, and to renumber said statutes accordingly.

SECTION 19. Tennessee Code Annotated, Section 8-21-201, is amended by deleting from subsection (2) the figures "3.00" and substituting therefore the figures "5.00".

SECTION 20. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 21. This act shall take effect on July 1, 2004, the public welfare requiring it.

PASSED: May 19, 2004


JIMMY RAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES


JOHN S. WILDER
SPEAKER OF THE SENATE

APPROVED this 7th day of June 2004


PHIL BREDESEN, GOVERNOR