



**WEST VIRGINIA
SECRETARY OF STATE**

NATALIE E. TENNANT

ADMINISTRATIVE LAW DIVISION

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8/1/2014 9:06:36 AM

OFFICE OF
WEST VIRGINIA SECRETARY OF STATE

**FORM 3 -- NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE AND FILING WITH THE
LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY Secretary Of State

RULE TYPE Legislative AMENDMENT TO EXISTING RULE No TITLE-SERIES 153-

RULE NAME Notaries Public 46

CITE AUTHORITY 39-4-25

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE FOR THEIR REVIEW.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

Yes
Sheryl Webb -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



Title-Series: 153-46



Rule Id: 9439



Document: 26100



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FORM 10 -- LEGISLATIVE QUESTIONNAIRE (Page 1)

AGENCY Secretary Of State

RULE TYPE Legislative

AMENDMENT TO EXISTING RULE

No

TITLE-SERIES

153-

RULE NAME Notaries Public

46

CITE AUTHORITY 39-4-25

AUTHORIZING STATUTE(S) CITATION

39-4-25

DATE FILED IN STATE REGISTER WITH NOTICE OF HEARING OR PUBLIC COMMENT PERIOD

Wednesday, May 28, 2014

WHAT OTHER NOTICE, INCLUDING ADVERTISING, DID YOU GIVE OF THE HEARING?

N/A

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED

Thursday, June 26, 2014

Sheryl Webb -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



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FORM 10 -- LEGISLATIVE QUESTIONNAIRE (Page 2)

AGENCY	Secretary Of State		
RULE TYPE	Legislative	AMENDMENT TO EXISTING RULE	No TITLE-SERIES
RULE NAME	Notaries Public		153-46

CITE AUTHORITY 39-4-25

ATTACH LIST OF PERSONS WHO APPEARED AT HEARING, COMMENTS RECEIVED, AMENDMENTS, REASONS FOR AMENDMENTS.

No comments received

DATE YOU FILED IN STATE REGISTER THE AGENCY APPROVED PROPOSED LEGISLATIVE RULE FOLLOWING PUBLIC HEARING: (BE EXACT)

Friday, August 01, 2014

NAME, TITLE, ADDRESS AND PHONE FAX EMAIL NUMBERS OF AGENCY PERSON(S) TO RECEIVE ALL WRITTEN CORRESPONDENCE REGARDING THIS RULE

Dave Nichols, Legislative Liaison
1900 Kanawha Blvd E
Bldg 1, Ste 157-K
Charleston, WV 25305

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FORM 10 -- LEGISLATIVE QUESTIONNAIRE (Page 3)

AGENCY Secretary Of State

RULE TYPE Legislative AMENDMENT TO EXISTING RULE No TITLE-SERIES 153-

RULE NAME Notaries Public 46

CITE AUTHORITY 39-4-25

IF DIFFERENT FROM ABOVE, PLEASE GIVE NAME, TITLE, ADDRESS, AND PHONE NUMBER(S) OF AGENCY PERSON(S) WHO WROTE AND OR HAS RESPONSIBILITY FOR THE CONTENTS OF THIS RULE

same

IF THE STATUTE UNDER WHICH YOU PROMULGATED THE SUBMITTED RULES REQUIRES CERTAIN FINDINGS AND DETERMINATIONS TO BE MADE AS A CONDITION PRECEDENT TO THE PROMULGATION. GIVE THE DATE UPON WHICH YOU FILED IN THE STATE REGISTER A NOTICE OF THE TIME AND PLACE OF A HEARING FOR THE TAKING OF EVIDENCE AND A GENERAL DESCRIPTION OF THE ISSUES TO BE DECIDED.

Sheryl Webb -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



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FORM 10 -- LEGISLATIVE QUESTIONNAIRE (Page 4)

AGENCY **Secretary Of State**

RULE TYPE **Legislative**

AMENDMENT TO EXISTING RULE

No

TITLE-SERIES

153-

RULE NAME **Notaries Public**

46

CITE AUTHORITY **39-4-25**

DATE OF HEARING OR COMMENT PERIOD

ON WHAT DATE DID YOU FILE IN THE STATE REGISTER THE FINDINGS AND DETERMINATIONS REQUIRED TOGETHER WITH THE REASONS THEREFOR?

ATTACH FINDINGS AND DETERMINATIONS AND REASONS

None

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

Yes

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FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 1)

AGENCY Secretary Of State

RULE TYPE Legislative

AMENDMENT TO EXISTING RULE

No

TITLE-SERIES

153-

RULE NAME Notaries Public

46

CITE AUTHORITY 39-4-25

SUMMARIZE IN A CLEAR AND CONCISE MANNER WHAT IMPACT THIS MEASURE WILL HAVE ON COSTS AND REVENUES OF STATE GOVERNMENT.

This rule will have no impact on the costs or revenues of state government.

Sheryl Webb -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



Title-Series: 153-46



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FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 2)

AGENCY Secretary Of State

RULE TYPE Legislative

AMENDMENT TO EXISTING RULE

No

TITLE-SERIES

153-

RULE NAME Notaries Public

46

CITE AUTHORITY 39-4-25

FISCAL NOTE DETAIL -- SHOW OVER-ALL EFFECT IN ITEM 1 AND 2 AND, IN ITEM 3, GIVE AN EXPLANATION OF BREAKDOWN BY FISCAL YEAR, INCLUDING LONG-RANGE EFFECT.

Effect Of Proposal	Current Increase/Decrease (use ' - ')	Next Increase/Decrease (use ' - ')	Fiscal Year (Upon Full Implementation)
ESTIMATED TOTAL COST	0.00	0.00	0.00
PERSONAL SERVICES			
CURRENT EXPENSES			
REPAIRS AND ALTERATIONS			
ASSETS			
OTHER			
ESTIMATED TOTAL REVENUES	0.00	0.00	0.00

Sheryl Webb -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



Title-Series: 153-46



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FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 3)

AGENCY Secretary Of State

RULE TYPE Legislative AMENDMENT TO EXISTING RULE No TITLE-SERIES 153-

RULE NAME Notaries Public 46

CITE AUTHORITY 39-4-25

3. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT). PLEASE INCLUDE ANY INCREASE OR DECREASE IN FEES IN YOUR ESTIMATED TOTAL REVENUES.

There are no fees associated with this rule, therefore there is no increase in revenues. No additional personnel or other costs are necessary for the implementation of this rule, and there will be no impact on the expenses of state government.

Sheryl Webb -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



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FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 4)

AGENCY Secretary Of State

RULE TYPE Legislative

AMENDMENT TO EXISTING RULE

No

TITLE-SERIES

153-

RULE NAME Notaries Public

46

CITE AUTHORITY 39-4-25

PLEASE IDENTIFY ANY AREAS OF VAGUENESS, TECHNICAL DEFECTS, REASONS THE PROPOSED RULE WOULD NOT HAVE A FISCAL IMPACT, AND OR ANY SPECIAL ISSUES NOT CAPTURED ELSEWHERE ON THIS FORM.

There are no fees associated with this rule, therefore there is no increase in revenues. No additional personnel or other costs are necessary for the implementation of this rule, and there will be no impact on the expenses of state government.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

Sheryl Webb -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



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FORM 12 -- BRIEF SUMMARY AND STATEMENT OF CIRCUMSTANCES (Page 1)

AGENCY Secretary Of State

RULE TYPE Legislative AMENDMENT TO EXISTING RULE No TITLE-SERIES 153-

RULE NAME Notaries Public 46

CITE AUTHORITY 39-4-25

SUMMARIZE IN A CLEAR AND CONCISE MANNER CONTENTS OF CHANGES IN RULE AND STATEMENT OF CIRCUMSTANCES REQUIRING THE RULE.

With the passage of Com. Sub. for H.B. 4012 (Revised Uniform Law on Notarial Acts) (effective July 1, 2014), the current law for notaries is repealed. The new law provides some minimal standards and grants the Secretary of State authority to promulgate rules to effectuate the law. Because this is a uniform law suggested by the Uniform Law Commission, many elements are absent to ensure uniformity across the adopting states and left to rule-making for clarification on a state-by-state basis. This rule provides additional requirements for items on a notarys stamp, clarifies name and address changes, gives additional information on forms of assurance, and sets out a process for renewing a commission.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

Yes
Sheryl Webb -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



Title-Series: 153-46



Rule Id: 9439



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**TITLE 153
LEGISLATIVE RULE
SECRETARY OF STATE**

**SERIES 46
NOTARIES PUBLIC**

§153-46-1. General.

- 1.1. Scope. -- This rule governs certain aspects of the requirements for notaries public.
- 1.2. Authority. -- W. Va. Code § 39-4-25.
- 1.3. Filing Date. --
- 1.4. Effective Date. --

§153-46-2. Requirements for Official Stamp.

- 2.1. A notary public's official seal must include the following items:
 - 2.1.a. The words "Official Seal;"
 - 2.1.b. The words "Notary Public;"
 - 2.1.c. The words "State of West Virginia;"
 - 2.1.d. The notary public's name;
 - 2.1.e. The notary public's address;
 - 2.1.f. The notary public's commission expiration date;
 - 2.1.g. An image of the West Virginia State Seal; and
 - 2.1.h. A border.
- 2.2. A notary public's official seal may be no larger than one inch by two and one half inches.

§153-46-3. Name and Address Changes.

- 3.1. A notary public must notify the Secretary of State, in writing, of any change of address or name within 30 days of the change.
- 3.2. Failure to notify the Secretary of State may result in the conditioning, suspension, or revocation of the notary's commission.

§153-46-4. Assurance.

- 4.1. A notary public must maintain an assurance in the amount of \$1,000.00.
- 4.2. A notary public may not perform a notarial act at any time during the commission term when an assurance is not in effect.

4.3. Any surety bond obtained to meet the requirements of W.Va. State Code §39-4-20(d) must cover the entire term of the notary public's commission.

4.3.a. Pursuant to W.Va. State Code §6-2-7, all surety bonds will be presented to the Attorney General for review and approval.

4.4. Any certificate of coverage for insurance provided to meet the requirements of W.Va. State Code §39-4-20(d) may be for a period shorter than the term of the notary public. However, the notary public is responsible for keeping an updated copy of current coverage on file with the Secretary of State.

4.5. Any certificate of coverage for insurance provided to meet the requirements of W.Va. State Code §39-4-20(d) must provide certification that notarial acts performed by the notary public are covered under the policy.

4.6. The notary public must notify the Secretary of State, in writing, before cancelling any assurance or loss of insurance coverage.

§153-46-5. Renewing a Commission.

5.1. A commissioned notary public may apply for renewal no more than 60 days prior to the expiration of his or her active commission.

5.2. In applying for the renewal of a commission, the notary public must complete all forms and meet all other requirements of W.Va. State Code §39-4-1, *et seq.*, and any rules promulgated by the Secretary of State, as if he or she were applying for the first time.

5.3. If the commission renewal is granted by the Secretary of State, the effective date will begin the day after the previous commission expires and continue for the regular term as described in W.Va. State Code §39-4-20(e); *Provided*, that all necessary approvals, including the application and proof of surety (bond or insurance), occur prior to the expiration date of the previous commission.