



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

eFILED

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Office of West Virginia
Secretary Of State

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

AGENCY: Secretary Of State TITLE-SERIES: 153-46
RULE TYPE: Legislative Amendment to Existing Rule: No Repeal of existing rule: Yes
RULE NAME: 153-46 Notaries Public (Repeal)

PRIMARY CONTACT

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CITE STATUTORY AUTHORITY: 39-4-25

EXPLANATION OF THE STATUTORY AUTHORITY FOR THE LEGISLATIVE RULE, INCLUDING A DETAILED SUMMARY OF THE EFFECT OF EACH PROVISION OF THE LEGISLATIVE RULE WITH CITATION TO THE SPECIFIC STATUTORY PROVISION WHICH EMPOWERS THE AGENCY TO ENACT SUCH RULE PROVISION:

This Legislative Rule is duplicative to the State Code §39-4-1 et seq. and is now in conflict with changes made in the Regular Session of 2018 to §39-4-20(d).

DATE eFiled FOR NOTICE OF HEARING OR PUBLIC COMMENT PERIOD: 6/28/2018

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED: 7/28/2018

COMMENTS RECEIVED: Yes

(IF YES, PLEASE UPLOAD IN THE COMMENTS RECEIVED FIELD COMMENTS RECEIVED AND RESPONSES TO COMMENTS)

PUBLIC HEARING: No

(IF YES, PLEASE UPLOAD IN THE PUBLIC HEARING FIELD PERSONS WHO APPEARED AT THE HEARING(S) AND TRANSCRIPTS)

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

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

None

SUMMARY OF THE CONTENT OF THE LEGISLATIVE RULE, AND A DETAILED DESCRIPTION OF THE RULE'S PURPOSE AND ALL PROPOSED CHANGES TO THE RULE:

Full repeal as the rule duplicates what is in statute, and the statutory modification of the 2018 Regular Session modified 39-4-20(d) so that the rule is in direct conflict with state code.

STATEMENT OF CIRCUMSTANCES WHICH REQUIRE THE RULE:

2018 Regular Session modified 39-4-20(d) so that the rule is in direct conflict with state code.

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED LEGISLATIVE RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

none

B. ECONOMIC IMPACT OF THE LEGISLATIVE RULE ON THE STATE OR ITS RESIDENTS:

None

C. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2018 Increase/Decrease (use "-")	2019 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0	0	0
Personal Services	0	0	0
Current Expenses	0	0	0
Repairs and Alterations	0	0	0
Assets	0	0	0
Other	0	0	0
2. Estimated Total Revenues	0	0	0

D. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

N/A

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Stephen Robert Connolly -- 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 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. — April 30, 2015~~

~~— 1.4. Effective Date. — April 30, 2015~~

~~§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 shall 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 shall maintain an assurance in the amount of \$1,000.00, either by surety bond or certificate of insurance coverage.~~

~~— 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 shall notify the Secretary of State, in writing, before cancelling any assurance or within two business days of 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 shall 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.~~