

**Fifty-ninth Legislative Assembly of North Dakota  
In Regular Session Commencing Tuesday, January 4, 2005**

SENATE BILL NO. 2353  
(Senator Wardner)  
(Representative Vigesaa)

AN ACT to amend and reenact sections 44-06-02, 44-06-13, and 44-06-13.1 of the North Dakota Century Code, relating to regulation of notaries public.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Section 44-06-02 of the North Dakota Century Code is amended and reenacted as follows:

**44-06-02. Commission - Record - Fee - Notice.** The secretary of state shall issue a commission to each notary public appointed by the secretary of state. The notary shall post the commission in a conspicuous place in the notary's office. The secretary of state shall collect ~~twenty-five~~ thirty-six dollars for the issuance of the commission. The secretary of state shall remit all fees collected under this section to the state treasurer for deposit in the general fund. The secretary of state shall keep a record of appointments and the date of the expiration of the appointments. The secretary of state shall notify each notary public by mail at least thirty days before the expiration of the notary public's term of the date upon which the notary public's commission will expire. The notice must be addressed to the notary public at the last-known place of residence. Each notary public issued a commission shall notify the secretary of state by mail within sixty days of any change of address. If a notary fails to notify the secretary of state within sixty days of a change of address, the secretary of state may impose a late fee in the amount of ten dollars. The notary shall pay any late fee imposed by the secretary of state before the renewal of the notary's commission.

**SECTION 2. AMENDMENT.** Section 44-06-13 of the North Dakota Century Code is amended and reenacted as follows:

**44-06-13. Acting as notary when disqualified - Penalty.** A notary public who exercises the duties of a notary's office with knowledge that the notary's commission has expired or has been revoked or that the notary is disqualified otherwise or any other person who acts as a notary or performs a notarial act without a lawful notary commission is guilty of an infraction, and, if appropriate, the notary's commission must be revoked by the secretary of state using the procedure under chapter 28-32.

**SECTION 3. AMENDMENT.** Section 44-06-13.1 of the North Dakota Century Code is amended and reenacted as follows:

**44-06-13.1. Prohibited acts - Penalty.** A notary public may not notarize a signature on a document if:

1. The document was not first signed or re-signed in the presence of the notary public, in the case of a jurat, or in the case of a certificate of acknowledgment, was not acknowledged in the presence of the notary public.
2. The name of the notary public or the spouse of the notary public appears on the document as a party to the transaction.
3. The signature is that of the notary public or the spouse of the notary public.

4. Except as otherwise provided by law, the notary public uses a name or initial in notarizing the document other than as it appears on the notary's commission. However, such an act by a notary by itself does not affect the validity of the document.
5. The date of the jurat or certificate of acknowledgment is not the actual date the document is to be notarized or the jurat or certificate of acknowledgment is undated.
6. The signature on the document or the notarial certificate is not an original signature, except as otherwise provided by law.
7. The notary is falsely or fraudulently signing or notarizing a document, jurat, or certificate of acknowledgment or in any other way is impersonating or assuming the identity of another notary.
8. Within five years of the date of issuance of a commission or renewal of a commission, the notary is convicted of a criminal offense which the secretary of state determines has a direct bearing upon the notary's ability to serve the public as a notary public.

A notary public who violates this section is guilty of an infraction and the notary public's commission may be revoked by the secretary of state or the secretary of state may impose a lesser sanction using the procedure under chapter 28-32.

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President of the Senate

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Speaker of the House

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Secretary of the Senate

\_\_\_\_\_  
Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Fifty-ninth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2353.

Senate Vote:    Yeas    30        Nays    17        Absent    0

House Vote:    Yeas    62        Nays    23        Absent    9

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Secretary of the Senate

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 2005.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2005.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 2005,  
at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary of State