



**LOUISIANA DEPARTMENT OF STATE  
LEGISLATIVE OVERSIGHT REPORT  
NOTICE OF INTENT**

**TITLE 46  
PROFESSIONAL AND OCCUPATIONAL STANDARDS  
PART XLVI. NOTARIES PUBLIC  
CHAPTER 1. NOTARIES PUBLIC  
(LAC 46:XLVI.CHAPTER 1)**

**SUMMARY OF TESTIMONY FROM THIS PUBLIC HEARING:**

A Notice of Intent was published in the July 20, 2013 issue of the Louisiana Register regarding the adoption of rules for notaries public. According to the Notice of Intent, a public hearing was scheduled for Thursday, August 29, 2013 at 11:00 a.m. The public hearing was not attended by anyone outside of Department staff.

**SUMMARY OF COMMENTS RECEIVED:**

The last day for accepting comments from the public was close of business on August 30, 2013. No public comments were received by the Department of State.

**COPY OF RESPONSE TO COMMENTS PREPARED BY THE DEPARTMENT:**

N/A

**STATEMENT OF TENTATIVE/PROPOSED ACTION BY THE DEPARTMENT ON ORAL AND WRITTEN COMMENTS RECEIVED:**

N/A

**REVISION OF PROPOSED RULE OR STATEMENT THAT NO CHANGES HAVE BEEN MADE:**

N/A

**CONCISE STATEMENT OF REASONS FOR OR AGAINST ADOPTION OR AMENDMENT OF CHANGES SUGGESTED:**

Since no comments were received, the Department intends to publish the published Notice of Intent as a Rule in the upcoming October 20, 2013 issue of the Louisiana Register.



**DEPARTMENT OF STATE  
PUBLIC MEETING**

**NOTICE OF INTENT**

**TITLE 46**

**PROFESSIONAL AND OCCUPATIONAL STANDARDS**

**PART XLVI. NOTARIES PUBLIC**

**CHAPTER 1. NOTARIES PUBLIC**

**State Archives Building  
Auditorium  
3851 Essen Lane  
Baton Rouge, Louisiana**

**AUGUST 29, 2013  
11:00 AM**

- I. Introduction**
- II. Discussion of legislation and the legislative requirement for the adoption of rules and regulations**
- III. Presentation of Notice of Intent**
- IV. Presentation of the Fiscal and Economic Impact Statement for Administrative Rules**
- V. Receive oral comments from interested parties**
- VI. Acknowledge the receipt of comments received as of August 28, 2013**
- VII. Announcement of the deadline for written comments**
- VIII. Open discussion**
- IX. Timetable for the adoption of the rule**
- X. Closing Comments**

# Sign-in Sheet

Event Name: Notaries Public Rule

11:00a.m.

Today's Date: 8/29/13

Print Name	Company	Email Address
1. Shanda Jones	SOS	shanda.jones@sos.la.gov
2. Carla Bonaventure	SOS	cbonaventure@sos.la.gov
3. Mandy Harlan	SOS	aharlan@sos.la.gov
4. Cynthia Cotten	SOS	ccotten@sos.la.gov
5. Steve Hawkland	SOS	shawkland@sos.la.gov
6. Patricia Chesne	SOS	patricia.chesne@sos.la.gov
7. Lani Durio	SOS	lanidurio@sos.la.gov
8. Carol Guidry	SOS	carol.guidry@sos.la.gov
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## NOTICE OF INTENT

### Department of State Commercial Division Notary Division

Notaries Public  
(LAC 46:XLVI)

Pursuant to the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.), and under the authority of R.S. 35:1 et seq., and R.S. 36:742, the secretary of state hereby gives notice of his intent to adopt LAC Title 46 Part XLVI to provide regulations for notaries public in the state of Louisiana.

### Title 46 PROFESSIONAL AND OCCUPATIONAL STANDARDS Part XLVI. Notaries Public

#### Chapter 1. Notaries Public

##### §101. Qualifications

A. Any resident citizen or alien of the state, 18 years of age or older, may be appointed a notary public in and for the parish in which he resides provided that he/she meets the requirements established by R.S. 35:191(C).

B. The applicant is required to complete an application to qualify form requiring the applicant to:

1. be a citizen or resident alien of the state;
2. be 18 years of age or older;
3. be registered to vote in the parish in which he seeks commission;
4. attest to his good moral character, integrity and sober habits;
5. must not be under an order of interdiction or is incapable of serving because of mental infirmity; and
6. must not have been convicted of a felony or has been pardoned if convicted.

C. The applicant must be able to read, write, speak, and be sufficiently knowledgeable of the English language. In addition, he must have one of the following:

1. received a high school diploma;
2. received a diploma for completion of a home study program approved by the State Board of Elementary and Secondary Education; or
3. been issued a high school equivalency diploma after successfully completing the test of General Education Development (GED).

D. The qualifying application fee is shown in §129.

AUTHORITY NOTE: Promulgated in accordance with R.S. 35:191 and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Commercial Division,  
LR 39:

##### §103. Applications

A. A notary applicant must be qualified by the notary division in the office of the secretary of state and must take and pass the Louisiana state notary examination (referred to as “notary exam”), unless the applicant is licensed to practice law in Louisiana.

B. The applicant must complete an application to qualify form and send it to the notary division in the secretary of state’s office. Once the application to qualify form has been approved by the secretary of state’s office, the applicant can register to take the notary exam by:

1. registering online at the secretary of state’s website using a credit card; or
2. completing the examination registration form and:

a. attaching a check or money order made payable to the secretary of state and mailing the examination registration form to the notary division; or

b. completing a credit card cover sheet and faxing or emailing the sheet with the examination registration form to the notary division.

C. To file online, the applicant must contact the notary division to obtain his access code by emailing [notaries@sos.la.gov](mailto:notaries@sos.la.gov) or by calling (225) 922-0507.

D. The registration fee to take the notary exam is shown in §129.

E. Deadlines for submitting application to qualify and examination registration form are listed on the secretary of state’s website notary division.

F. The notary exam is given twice a year on the first Saturday in June and December. If the date falls on a state holiday, the notary exam will be given on the next non-holiday Saturday. The Office of Assessment and Evaluation within Louisiana State University conducts the notary exams regionally on behalf of the secretary of state’s office.

G. Any notary public commissioned by passing a parish notary exam can take the notary exam to obtain statewide jurisdiction. Failure to pass the notary exam shall have no effect on the status of the commission of the notary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 35:191, R.S. 35:191.1, and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Commercial Division, LR 39:

### **§105. Study Guide**

A. The official study guide for the notary exam is “The Fundamentals of Louisiana Notarial Law and Practice”.

B. The cost to purchase the study guide is shown in §129 and is non-refundable.

C. The study guide can be purchased by:

1. ordering online at the secretary of state’s website using a credit card;

2. completing an order form, attaching a check or money order made payable to the secretary of state, and mailing to the notary division;

3. completing an order form and providing a credit card number and faxing or emailing to the notary division; or

4. visiting the notary division’s customer service counter at the secretary of state’s office at 8585 Archives Drive, Baton Rouge, LA during office hours of 8:00 a.m. to 4:30 p.m.

D. The study guide is sent via U.S. mail on the day of receipt of the order if received before 12:30 p.m. Orders received after 12:30 p.m. will be mailed the next business day.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:191.1 and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Commercial Division, LR 39:

**§107. Courses**

A. Applicants are not required by law to take a course or instruction class in order for an applicant to take the notary exam.

B. Although the secretary of state does not recommend particular courses or instructors, the department does maintain a list of registered and bonded notary exam preparatory course providers.

C. All course providers, except an educational institution listed in R.S. 35:191.4(D), shall annually post a bond guarantee by a commercial surety company licensed to do business in Louisiana with the secretary of state in the amount of \$25,000.

D. Beginning February 8, 2015, all persons providing notary examination preparatory education and instruction must be a notary public with statewide notarial authority.

E. Each provider must submit an annual registration statement to the secretary of state on or before January 1 of each year on a form provided by the secretary of state. In addition, each provider shall submit a semiannual report to the secretary of state on or before June 30 and December 31 listing the name and address of each person who received a course or courses of instruction or study from the provider for the training and instruction for the notary exam required by the secretary of state during the time covered by the report.

F. Pursuant to R.S. 35:191.4(F)), if a provider does not submit an annual report or the annual report is not submitted timely, penalties may be imposed up to \$1,000 for each day the provider is not in compliance with this section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 35:191.4 and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Commercial Division, LR 39:

**§109. Louisiana State Notary Public Examinations**

A. The notary exams are given at regional testing centers throughout the state.

B. The examinee can elect to take the notary exam in a computer-testing format or a paper-and-pencil format.

C. The registration fee for the notary exam is shown in §129.

D. Statewide standards for the notary exam are available on the secretary of state's website under the section notary division examinations. These standards include:

1. application procedures;
2. examination schedule;
3. examination format and content; and
4. procedures for review of any examination which was taken and was failed by the examinee.

E. The Office of Assessment and Evaluation for Louisiana State University is offering a notary exam pre-assessment test to show the likelihood of a candidate's ability to be successful on the notary exam. Please refer to the secretary of state's website notary division for more information regarding this pre-assessment test. See §129 for the pre-assessment test fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 35:191, R.S. 35:191.1, and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Commercial Division, LR 39:

### **§111. Notary Commission**

A. Once an applicant has taken and passed the notary exam, the following documents must be filed with the secretary of state's office along with the commission filing fee (see §129), in order to receive his notary commission;

1. two oaths of office forms, properly executed (one copy filed with secretary of state and one copy filed with parish clerk of court);
2. official signature page;
3. either of the following (exempt if an attorney):
  - a. surety bond or personal surety bond that has been approved by the parish clerk of court in the amount of \$10,000; or
  - b. errors and omissions policy in the amount of \$10,000; or
4. if an attorney, a certificate of good standing from the Louisiana Supreme Court (in lieu of bond or errors and omissions policy); and
5. commission filing fee (see §129) with a check or money order made payable to the secretary of state.

B. A notary is commissioned based upon the commission date indicated on the notary database. He does not have to wait until he receives the commission certificate from the secretary of state's office before performing notary functions. In addition, a notary is commissioned for life.

C. A notary may request an additional commission certificate or replace a certificate by logging into his file online or by contacting the notary division. The fees for a certificate of notary commission or a replacement notary certificate are shown in §129.

AUTHORITY NOTE: Promulgated in accordance with R.S. 35:71, R.S. 35:72, R.S. 35:75, R.S. 35:191, R.S. 35:191.2, R.S. 36:742, and Attorney General Opinion 1940 Volume 42 Page 2,346.

HISTORICAL NOTE: Promulgated by the Department of State, Commercial Division, LR 39:

### **§113. Attorneys**

A. An attorney who is licensed to practice law in Louisiana can obtain a notary commission by filing a qualifying application and commission documents.

B. The notary commission for an attorney must be filed in the parish of their residence.

C. An attorney is exempt from taking the notary exam and from the surety bond or personal surety bond requirements.

D. An attorney has statewide jurisdiction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 35:71, R.S. 35:191, and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Commercial Division, LR 39:

### **§115. Parish Changes**



A. If a notary moves to another parish, he must submit the following to the secretary of state:

1. completed qualifying application form with the qualifying fee which is separate from commission filing fee;
2. two oaths of office forms, properly executed (one copy filed with secretary of state and one copy filed with parish clerk of court);
3. official signature page;
4. either of the following (exempt if an attorney):
  - a. surety bond or personal surety bond that has been approved by the parish clerk of court in the amount of \$10,000;
  - b. errors and omissions policy in the amount of \$10,000; or
  - c. rider for an existing surety bond that has been approved by the parish clerk of court changing the parish; and
5. commission filing fee (see §129) with a check or money order made payable to the secretary of state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 35:71, R.S. 35:72, R.S. 35:75, R.S. 35:191, R.S. 35:191.3, and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Commercial Division, LR 39:

#### **§117. Name Changes**

A. If a notary's name changes, the notary must submit the following to the secretary of state:

1. two oaths of office forms, properly executed (one copy filed with secretary of state and one copy filed with parish clerk of court);
2. name change form listing name on current commission, new name requested, and reason for change;
3. official signature page;
4. either of the following (exempt if an attorney):
  - a. original or certified true copy surety or personal surety bond that has been approved by the parish clerk of court in the amount of \$10,000;
  - b. original errors and omissions policy in the amount of \$10,000; or
  - c. rider for an existing surety bond that has been approved by the parish clerk of court changing the name on the bond; and
5. commission filing fee (see §129) with a check or money order made payable to the secretary of state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 35:71, R.S. 35:72, R.S. 35:75, R.S. 35:191, and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Commercial Division, LR 39:

#### **§119. Dual Commission**

A. Dual commissions can only be obtained for one other parish in which the notary maintains an office and is not reciprocal with the existing commission (see reciprocal parish list.)

B. If a notary requests a dual commission, he must submit the following to the secretary of state:

1. two oaths of office forms, properly executed (one copy filed with secretary of state and one copy filed with parish clerk of court);
2. official signature page;
3. either of the following (exempt if an attorney):
  - a. surety bond or personal surety bond that has been approved by the parish clerk of court in the amount of \$10,000; or
  - b. errors and omissions policy in the amount of \$10,000; and
4. commission filing fee (see §129) with a check or money order made payable to the secretary of state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 35:71, R.S. 35:191, and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Commercial Division, LR 39:

### **§121. Notary Bond Renewal**

A. Surety bonds and errors and omissions policies are filed with the secretary of state every five years. Personal surety bonds expire at the death of the surety and must be renewed when such occurs.

B. Either of the following must be submitted to the secretary of state for bond renewal (exempt if an attorney):

1. surety bond or personal surety bond that has been approved by the parish clerk of court in the amount of \$10,000; or
2. errors and omissions policy in the amount of \$10,000.

C. A check or money order made payable to the secretary of state for the notary bond renewal filing fee (see §129) must accompany the renewal for the notary bond.

D. A notary who fails to renew his notarial bond timely or fails to file his new or renewed bond of evidence of insurance coverage will be automatically suspended and will not have authority to perform the functions of a notary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 35:71, R.S. 35:72, R.S. 35:75, R.S. 35:191, and R.S. 36:742

HISTORICAL NOTE: Promulgated by the Department of State, Commercial Division, LR 39:

### **§123. Leave of Absence**

A. The secretary of state, on behalf of the governor, may grant a leave of absence to any notary that is absent from the state for a period not to exceed 36 months. The notary must provide the secretary of state with a letter requesting the leave specifying the date the notary is to be absent and the date of return.

B. If a notary is in the military service, he should notify the secretary of state's office certifying that he is a member of the military service of the United States or state of Louisiana. Included on the notification letter, he should show the expiration date of his bond and the period of leave which begins when the leave is granted. The notary will then have 60 days after the date of discharge to give the notary time to apply for a new bond.

AUTHORITY NOTE: Promulgated in accordance with R.S. 35:131 et seq., R.S. 35:202, and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Commercial Division, LR 39:

**§125. Retirement Status**

A. Any notary who is 70 years or older shall be permitted to retire his commission by filing a retirement status affidavit form attesting to the notary's age and certifying that he will no longer exercise the duties and functions of a notary while retirement status is in effect.

AUTHORITY NOTE: Promulgated in accordance with R.S. 35:202 and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Commercial Division, LR 39:

**§127. Resignation**

A. Any notary may resign his commission by signing a letter of resignation and forwarding it to the secretary of state's office. After resigning, the notary shall not exercise any duties or functions of a notary public and may become an active notary again only by completing the application process of his parish including taking the exam, if applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 35:202 and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Commercial Division, LR 39:

**§129. Notary Division Fee Schedule**

A. The fee schedule for notaries public is as follows:

Item	Fee
Annual Report	\$ 25
Certificate of Notary Commission	\$ 20
Certified Copy of Notary Bond	\$ 20
Commission Filing Fee	\$ 35
Notary Bond Renewal	\$ 20
Notary Exam Pre-Assessment Test	\$ 30
Notary Exam Registration Fee	\$ 75
Notary Filing Information Packet	\$ 0
Notary Study Guide	\$ 90
Qualifying Application Fee	\$ 35
Replacement Identification Card	\$ 3
Replacement Notary Certificate	\$ 15

AUTHORITY NOTE: Promulgated in accordance with R.S. 35:1 et seq., R.S. 35:191.2, and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Commercial Division, LR 39:

**§131. Notary Seal**

A. A notary's signature is his seal. If he elects to have a seal to use when notarizing documents, he is not required to have a particular style of seal to give authenticity to his copies.

B. The name of the notary and the witnesses must be typed, printed legibly, or stamped.

C. Every document notarized in the state of Louisiana shall have the notary identification number assigned to him/her by the secretary of state and that number shall be typed or printed legibly and placed next to the notary's name. If the notary is an attorney who is licensed to practice law in the state of Louisiana, he may use his Louisiana state bar roll number in lieu of his notary identification number.

AUTHORITY NOTE: Promulgated in accordance with R.S. 35:12 and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Commercial Division,  
LR 39:

### **§133. Reciprocal Parishes**

A. There are groups of reciprocal parishes created by the legislature (see R.S. 35:191). The reciprocal agreement allows a validly appointed notary in a parish authorization to exercise any and all functions of a notary in the reciprocal parishes without additional bonding or examination. For a list of reciprocal parishes, see the secretary of state's website notary division.

B. If a notary moves to a parish that is in his reciprocal grouping, he is still required to be commissioned in the parish he resides in.

AUTHORITY NOTE: Promulgated in accordance with R.S. 35:191 and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Commercial Division,  
LR 39:

### **§135. Fees to be Charged by a Notary Public**

A. Louisiana does not have a statutory fee schedule which would determine or limit what a notary can charge for his services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Commercial Division,  
LR 39:

### **§137. Notary Database**

A. The secretary of state's website contains current contact information on all notaries commissioned in the state of Louisiana.

B. If a notary is listed on the notary database as being suspended, the notary did not file his annual report or his bond has expired.

AUTHORITY NOTE: Promulgated in accordance with R.S. 35:191.2 and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Commercial Division,  
LR 39:

### **§139. Annual Report**

A. Within 60 days prior to the anniversary date of the notary's commission, the notary division shall mail out an annual report notice to all notaries in the state of Louisiana.

B. The notary can file his report by:

1. registering online at the secretary of state's website using a credit card; or
2. completing the annual report form and:

a. attaching a check or money order made payable to the secretary of state and mailing to the notary division; or

b. completing the credit card cover sheet and faxing or emailing with the annual report to the notary division.

C. The annual report filing fee is shown in §129.

D. To file online, the notary will be required to use his notary identification number and the unique access code which is printed on the front of the annual report renewal notice post card.

AUTHORITY NOTE: Promulgated in accordance with R.S. 35:191.2, R.S. 35:202, and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Commercial Division, LR 39:

#### **§141. Ex-Officio Notaries Public**

A. An ex-officio notary public must meet the same qualifications as a notary public listed in §101 above.

B. An ex-officio notary is required to file either of the following with the notary division of the secretary of state's office as a condition for the faithful performance of all duties required by law toward all persons who may employ him as an ex-officio notary:

1. original or certified true copy surety or personal surety bond that has been approved by the parish clerk of court in the amount of \$10,000; or

2. original errors or omissions policy in the amount of \$10,000.

C. If the ex-officio notary is a state employee who serves as an ex-officio notary in the course and scope of his employment, he must file his oath of office with the secretary of state's office.

D. An ex-officio notary is authorized to perform functions, powers, and authority only as directly related to and required for the operation of the office, agency, or department under which the authority is granted.

E. Title 35 Chapter 6 of the Revised Statutes contains specific requirements for ex-officio notaries who will perform various functions of a notary public in their place of employment (i.e. administer oaths, take acknowledgments, attest on affidavits, etc.).

AUTHORITY NOTE: Promulgated in accordance with R.S. 35:391 et seq. and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Commercial Division, LR 39:

#### **§143. Provisional Notary**

A. A notary applicant can be provisionally commissioned if he meets the following qualifications and requirements:

1. the applicant resides and maintains a residence in a parish with a population of less than 40,000;

2. the applicant has passed the multiple choice and research section of the notary exam on or after December 1, 2009;

3. the applicant's authority to exercise the powers of a notary public is only within the course and scope of the applicant's employment;

4. the applicant's notarial authority shall be under the direction of a supervisor for the employer;
5. the applicant's supervisor shall not be a notary;
6. the applicant's employer must be a business that was in existence prior to January 1, 2013;
7. the applicant's employer shall not be a business whose primary function is to provide notary services;
8. the applicant's employer must be a party to the act or instrument being sworn to, acknowledged or passed before or the act or other instrument is necessary to or incidental to the business activity or operations of the employer;
9. at least one of the persons appearing before the applicant to execute an affidavit, acknowledgment, or other notarial act or instrument is a former, current, or prospective client or a customer of the employer;
10. applicant's jurisdiction is within the parish of commission and in any adjacent parish with a population of less than 40,000 where his employer maintains an office;
11. the applicant must post and maintain a bond, at the expense of employer, in the amount of \$20,000;
12. the applicant's employer shall hold harmless any claim made against the notary bond when the applicant is acting in the course and scope of employment or under the direction of the employer;
13. the applicant must submit the completed and notarized application for provisional notarial appointment provided by the secretary of state to the notary division;
14. the applicant is required to attend the notary orientation class provided by the secretary of state;
15. if the employer terminates the employment or no longer wishes to be bound by these provisions, he shall immediately send written notice to the secretary of state and the commission shall be automatically revoked unless:
  - a. the applicant declares in writing his intention to remain a provisional notary with an inactive status until a new application for provisional notary form from another employer is submitted to the secretary of state; or
  - b. the applicant declares in writing the desire to remain a provisional notary with an inactive status while pursuing successful completion of the notary exam and shall exercise no notarial functions until notified by the secretary of state that his status has been changed;
16. if the applicant voluntarily terminates employment with named employer, a written notification to the secretary of state must be submitted and:
  - a. the applicant declares in writing his intention to remain a provisional notary with an inactive status until a new application for provisional notary form from another employer is submitted to the secretary of state; or
  - b. declares in writing his intention to remain a provisional notary with an inactive status while pursuing successful completion of the notary exam and shall have no authority to exercise notarial functions until notified by the secretary of state that his status has been changed;

17. the applicant understands that the employer is not liable for any damages caused by negligent or fraudulent errors or omissions when notarizing outside the course and scope of employment;

18. the commission can be suspended or revoked by the court or suspended by the secretary of state pursuant to R.S. 35:15; and

19. the provisional notary commission shall expire on August 1, 2016 unless all sections of the notary exam have been successfully completed.

B. The provisional notary has no authority to:

1. draft and prepare a last will and testament or donation mortis causa;

2. draft and prepare a trust; or

3. draft and prepare any instrument that transfers title to immovable property including but not limited to an act of sale or act of donation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 35:15, R.S. 35:191, and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Commercial Division, LR 39:

### **Family Impact Statement**

The proposed Rule LAC 46:XLVI regarding notaries public should not have any known or foreseeable impact on any family as defined by R.S. 49:927 or on family formation, stability and autonomy. Specifically, there should be no known or foreseeable effect on:

1. the stability of the family;

2. the authority and rights of parents regarding the education and supervision of their children;

3. the functioning of the family;

4. family earnings and family budget;

5. the behavior and personal responsibility of children; and

6. the ability of the family or a local government to perform the function as contained in the proposed amendments to the Rule.

### **Poverty Impact Statement**

The proposed Rule LAC 46:XLVI regarding notaries public should not have any known or foreseeable impact on poverty as defined by R.S. 49:973. Specifically, there should be no known or foreseeable effect on:

1. the household income, assets and financial security;

2. early childhood development and preschool through postsecondary education development;

3. employment and workforce development;

4. taxes and tax credits; and

5. child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

### **Small Business Statement**

The impact of the proposed Rule on small business has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on small business as defined in the Regulatory Flexibility Act. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on Small Business.

### **Public Comments**

Interested persons may submit written comments to Carla Bonaventure, Commercial Division Administrator, Commercial Division, Department of State, P.O. Box 94125, Baton Rouge, LA 70804-9125. She will be responsible for responding to inquiries regarding the proposed Rule. The deadline for the Department of State to receive written comments is 4:30 p.m. on Friday, August 30, 2013 after the public hearing.

### **Public Hearing**

A public hearing on the proposed Rule is scheduled for Thursday, August 29, 2013 at 11:00 a.m. in the Auditorium at State Archives Building, 3851 Essen Lane, Baton Rouge, LA. At that time, all interested persons will be afforded the opportunity to submit data, views, or arguments either orally or in writing.

Tom Schedler  
Secretary of State



**RULE**  
**Department of State**  
**Commercial Division**  
**Notary Division**

Notaries Public  
(LAC 46:XLVI)

Pursuant to the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.), and under the authority of R.S. 35:1 et seq., and R.S. 36:742, the secretary of state adopted LAC Title 46 Part XLVI to provide regulations for notaries public in the state of Louisiana.

**Title 46**  
**PROFESSIONAL AND OCCUPATIONAL STANDARDS**  
**Part XLVI. Notaries Public**

**Chapter 1. Notaries Public**

**§101. Qualifications**

A. Any resident citizen or alien of the state, 18 years of age or older, may be appointed a notary public in and for the parish in which he resides provided that he/she meets the requirements established by R.S. 35:191(C).

B. The applicant is required to complete an application to qualify form requiring the applicant to:

1. be a citizen or resident alien of the state;
2. be 18 years of age or older;
3. be registered to vote in the parish in which he seeks commission;
4. attest to his good moral character, integrity and sober habits;
5. must not be under an order of interdiction or is incapable of serving because of mental infirmity; and
6. must not have been convicted of a felony or has been pardoned if convicted.

C. The applicant must be able to read, write, speak, and be sufficiently knowledgeable of the English language. In addition, he must have one of the following:

1. received a high school diploma;
2. received a diploma for completion of a home study program approved by the State Board of Elementary and Secondary Education; or
3. been issued a high school equivalency diploma after successfully completing the test of General Education Development (GED).

D. The qualifying application fee is shown in §129.

AUTHORITY NOTE: Promulgated in accordance with R.S. 35:191 and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Commercial Division, LR 39:

**§103. Applications**

A. A notary applicant must be qualified by the notary division in the office of the secretary of state and must take and pass the Louisiana state notary examination (referred to as “notary exam”), unless the applicant is licensed to practice law in Louisiana.

B. The applicant must complete an application to qualify form and send it to the notary division in the secretary of state’s office. Once the application to qualify form has been approved by the secretary of state’s office, the applicant can register to take the notary exam by:

1. registering online at the secretary of state’s website using a credit card; or
2. completing the examination registration form and:

a. attaching a check or money order made payable to the secretary of state and mailing the examination registration form to the notary division; or

b. completing a credit card cover sheet and faxing or emailing the sheet with the examination registration form to the notary division.

C. To file online, the applicant must contact the notary division to obtain his access code by emailing [notaries@sos.la.gov](mailto:notaries@sos.la.gov) or by calling (225) 922-0507.

D. The registration fee to take the notary exam is shown in §129.

E. Deadlines for submitting application to qualify and examination registration form are listed on the secretary of state’s website notary division.

F. The notary exam is given twice a year on the first Saturday in June and December. If the date falls on a state holiday, the notary exam will be given on the next non-holiday Saturday. The Office of Assessment and Evaluation within Louisiana State University conducts the notary exams regionally on behalf of the secretary of state’s office.

G. Any notary public commissioned by passing a parish notary exam can take the notary exam to obtain statewide jurisdiction. Failure to pass the notary exam shall have no effect on the status of the commission of the notary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 35:191, R.S. 35:191.1, and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Commercial Division, LR 39:

### **§105. Study Guide**

A. The official study guide for the notary exam is “The Fundamentals of Louisiana Notarial Law and Practice”.

B. The cost to purchase the study guide is shown in §129 and is non-refundable.

C. The study guide can be purchased by:

1. ordering online at the secretary of state’s website using a credit card;

2. completing an order form, attaching a check or money order made payable to the secretary of state, and mailing to the notary division;

3. completing an order form and providing a credit card number and faxing or emailing to the notary division; or

4. visiting the notary division’s customer service counter at the secretary of state’s office at 8585 Archives Drive, Baton Rouge, LA during office hours of 8:00 a.m. to 4:30 p.m.

D. The study guide is sent via U.S. mail on the day of receipt of the order if received before 12:30 p.m. Orders received after 12:30 p.m. will be mailed the next business day.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:191.1 and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Commercial Division, LR 39:

**§107. Courses**

A. Applicants are not required by law to take a course or instruction class in order for an applicant to take the notary exam.

B. Although the secretary of state does not recommend particular courses or instructors, the department does maintain a list of registered and bonded notary exam preparatory course providers.

C. All course providers, except an educational institution listed in R.S. 35:191.4(D), shall annually post a bond guarantee by a commercial surety company licensed to do business in Louisiana with the secretary of state in the amount of \$25,000.

D. Beginning February 8, 2015, all persons providing notary examination preparatory education and instruction must be a notary public with statewide notarial authority.

E. Each provider must submit an annual registration statement to the secretary of state on or before January 1 of each year on a form provided by the secretary of state. In addition, each provider shall submit a semiannual report to the secretary of state on or before June 30 and December 31 listing the name and address of each person who received a course or courses of instruction or study from the provider for the training and instruction for the notary exam required by the secretary of state during the time covered by the report.

F. Pursuant to R.S. 35:191.4(F)), if a provider does not submit an annual report or the annual report is not submitted timely, penalties may be imposed up to \$1,000 for each day the provider is not in compliance with this section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 35:191.4 and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Commercial Division, LR 39:

**§109. Louisiana State Notary Public Examinations**

A. The notary exams are given at regional testing centers throughout the state.

B. The examinee can elect to take the notary exam in a computer-testing format or a paper-and-pencil format.

C. The registration fee for the notary exam is shown in §129.

D. Statewide standards for the notary exam are available on the secretary of state's website under the section notary division examinations. These standards include:

1. application procedures;
2. examination schedule;
3. examination format and content; and
4. procedures for review of any examination which was taken and was failed by the examinee.

E. The Office of Assessment and Evaluation for Louisiana State University is offering a notary exam pre-assessment test to show the likelihood of a candidate's ability to be successful on the notary exam. Please refer to the secretary of state's website notary division for more information regarding this pre-assessment test. See §129 for the pre-assessment test fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 35:191, R.S. 35:191.1, and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Commercial Division, LR 39:

### **§111. Notary Commission**

A. Once an applicant has taken and passed the notary exam, the following documents must be filed with the secretary of state's office along with the commission filing fee (see §129), in order to receive his notary commission;

1. two oaths of office forms, properly executed (one copy filed with secretary of state and one copy filed with parish clerk of court);
2. official signature page;
3. either of the following (exempt if an attorney):
  - a. surety bond or personal surety bond that has been approved by the parish clerk of court in the amount of \$10,000; or
  - b. errors and omissions policy in the amount of \$10,000; or
4. if an attorney, a certificate of good standing from the Louisiana Supreme Court (in lieu of bond or errors and omissions policy); and
5. commission filing fee (see §129) with a check or money order made payable to the secretary of state.

B. A notary is commissioned based upon the commission date indicated on the notary database. He does not have to wait until he receives the commission certificate from the secretary of state's office before performing notary functions. In addition, a notary is commissioned for life.

C. A notary may request an additional commission certificate or replace a certificate by logging into his file online or by contacting the notary division. The fees for a certificate of notary commission or a replacement notary certificate are shown in §129.

AUTHORITY NOTE: Promulgated in accordance with R.S. 35:71, R.S. 35:72, R.S. 35:75, R.S. 35:191, R.S. 35:191.2, R.S. 36:742, and Attorney General Opinion 1940 Volume 42 Page 2,346.

HISTORICAL NOTE: Promulgated by the Department of State, Commercial Division, LR 39:

### **§113. Attorneys**

A. An attorney who is licensed to practice law in Louisiana can obtain a notary commission by filing a qualifying application and commission documents.

B. The notary commission for an attorney must be filed in the parish of their residence.

C. An attorney is exempt from taking the notary exam and from the surety bond or personal surety bond requirements.

D. An attorney has statewide jurisdiction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 35:71, R.S. 35:191, and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Commercial Division, LR 39:

### **§115. Parish Changes**

A. If a notary moves to another parish, he must submit the following to the secretary of state:

1. completed qualifying application form with the qualifying fee which is separate from commission filing fee;
2. two oaths of office forms, properly executed (one copy filed with secretary of state and one copy filed with parish clerk of court);
3. official signature page;
4. either of the following (exempt if an attorney):
  - a. surety bond or personal surety bond that has been approved by the parish clerk of court in the amount of \$10,000;
  - b. errors and omissions policy in the amount of \$10,000; or
  - c. rider for an existing surety bond that has been approved by the parish clerk of court changing the parish; and
5. commission filing fee (see §129) with a check or money order made payable to the secretary of state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 35:71, R.S. 35:72, R.S. 35:75, R.S. 35:191, R.S. 35:191.3, and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Commercial Division, LR 39:

#### **§117. Name Changes**

A. If a notary's name changes, the notary must submit the following to the secretary of state:

1. two oaths of office forms, properly executed (one copy filed with secretary of state and one copy filed with parish clerk of court);
2. name change form listing name on current commission, new name requested, and reason for change;
3. official signature page;
4. either of the following (exempt if an attorney):
  - a. original or certified true copy surety or personal surety bond that has been approved by the parish clerk of court in the amount of \$10,000;
  - b. original errors and omissions policy in the amount of \$10,000; or
  - c. rider for an existing surety bond that has been approved by the parish clerk of court changing the name on the bond; and
5. commission filing fee (see §129) with a check or money order made payable to the secretary of state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 35:71, R.S. 35:72, R.S. 35:75, R.S. 35:191, and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Commercial Division, LR 39:

#### **§119. Dual Commission**

A. Dual commissions can only be obtained for one other parish in which the notary maintains an office and is not reciprocal with the existing commission (see reciprocal parish list.)

B. If a notary requests a dual commission, he must submit the following to the secretary of state:

1. two oaths of office forms, properly executed (one copy filed with secretary of state and one copy filed with parish clerk of court);
2. official signature page;
3. either of the following (exempt if an attorney):
  - a. surety bond or personal surety bond that has been approved by the parish clerk of court in the amount of \$10,000; or
  - b. errors and omissions policy in the amount of \$10,000; and
4. commission filing fee (see §129) with a check or money order made payable to the secretary of state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 35:71, R.S. 35:191, and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Commercial Division, LR 39:

### **§121. Notary Bond Renewal**

A. Surety bonds and errors and omissions policies are filed with the secretary of state every five years. Personal surety bonds expire at the death of the surety and must be renewed when such occurs.

B. Either of the following must be submitted to the secretary of state for bond renewal (exempt if an attorney):

1. surety bond or personal surety bond that has been approved by the parish clerk of court in the amount of \$10,000; or
2. errors and omissions policy in the amount of \$10,000.

C. A check or money order made payable to the secretary of state for the notary bond renewal filing fee (see §129) must accompany the renewal for the notary bond.

D. A notary who fails to renew his notarial bond timely or fails to file his new or renewed bond of evidence of insurance coverage will be automatically suspended and will not have authority to perform the functions of a notary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 35:71, R.S. 35:72, R.S. 35:75, R.S. 35:191, and R.S. 36:742

HISTORICAL NOTE: Promulgated by the Department of State, Commercial Division, LR 39:

### **§123. Leave of Absence**

A. The secretary of state, on behalf of the governor, may grant a leave of absence to any notary that is absent from the state for a period not to exceed 36 months. The notary must provide the secretary of state with a letter requesting the leave specifying the date the notary is to be absent and the date of return.

B. If a notary is in the military service, he should notify the secretary of state's office certifying that he is a member of the military service of the United States or state of Louisiana. Included on the notification letter, he should show the expiration date of his bond and the period of leave which begins when the leave is granted. The notary will then have 60 days after the date of discharge to give the notary time to apply for a new bond.

AUTHORITY NOTE: Promulgated in accordance with R.S. 35:131 et seq., R.S. 35:202, and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Commercial Division, LR 39:

**§125. Retirement Status**

A. Any notary who is 70 years or older shall be permitted to retire his commission by filing a retirement status affidavit form attesting to the notary's age and certifying that he will no longer exercise the duties and functions of a notary while retirement status is in effect.

AUTHORITY NOTE: Promulgated in accordance with R.S. 35:202 and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Commercial Division, LR 39:

**§127. Resignation**

A. Any notary may resign his commission by signing a letter of resignation and forwarding it to the secretary of state's office. After resigning, the notary shall not exercise any duties or functions of a notary public and may become an active notary again only by completing the application process of his parish including taking the exam, if applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 35:202 and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Commercial Division, LR 39:

**§129. Notary Division Fee Schedule**

A. The fee schedule for notaries public is as follows:

Item	Fee
Annual Report	\$ 25
Certificate of Notary Commission	\$ 20
Certified Copy of Notary Bond	\$ 20
Commission Filing Fee	\$ 35
Notary Bond Renewal	\$ 20
Notary Exam Pre-Assessment Test	\$ 30
Notary Exam Registration Fee	\$ 75
Notary Filing Information Packet	\$ 0
Notary Study Guide	\$ 90
Qualifying Application Fee	\$ 35
Replacement Identification Card	\$ 3
Replacement Notary Certificate	\$ 15

AUTHORITY NOTE: Promulgated in accordance with R.S. 35:1 et seq., R.S. 35:191.2, and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Commercial Division, LR 39:

**§131. Notary Seal**

- A. A notary's signature is his seal. If he elects to have a seal to use when notarizing documents, he is not required to have a particular style of seal to give authenticity to his copies.
- B. The name of the notary and the witnesses must be typed, printed legibly, or stamped.
- C. Every document notarized in the state of Louisiana shall have the notary identification number assigned to him/her by the secretary of state and that number shall be typed or printed legibly and placed next to the notary's name. If the notary is an attorney who is licensed to practice law in the state of Louisiana, he may use his Louisiana state bar roll number in lieu of his notary identification number.

AUTHORITY NOTE: Promulgated in accordance with R.S. 35:12 and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Commercial Division,  
LR 39:

### **§133. Reciprocal Parishes**

A. There are groups of reciprocal parishes created by the legislature (see R.S. 35:191). The reciprocal agreement allows a validly appointed notary in a parish authorization to exercise any and all functions of a notary in the reciprocal parishes without additional bonding or examination. For a list of reciprocal parishes, see the secretary of state's website notary division.

B. If a notary moves to a parish that is in his reciprocal grouping, he is still required to be commissioned in the parish he resides in.

AUTHORITY NOTE: Promulgated in accordance with R.S. 35:191 and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Commercial Division,  
LR 39:

### **§135. Fees to be Charged by a Notary Public**

A. Louisiana does not have a statutory fee schedule which would determine or limit what a notary can charge for his services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Commercial Division,  
LR 39:

### **§137. Notary Database**

A. The secretary of state's website contains current contact information on all notaries commissioned in the state of Louisiana.

B. If a notary is listed on the notary database as being suspended, the notary did not file his annual report or his bond has expired.

AUTHORITY NOTE: Promulgated in accordance with R.S. 35:191.2 and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Commercial Division,  
LR 39:

### **§139. Annual Report**

A. Within 60 days prior to the anniversary date of the notary's commission, the notary division shall mail out an annual report notice to all notaries in the state of Louisiana.

B. The notary can file his report by:

1. registering online at the secretary of state's website using a credit card; or
2. completing the annual report form and:



a. attaching a check or money order made payable to the secretary of state and mailing to the notary division; or

b. completing the credit card cover sheet and faxing or emailing with the annual report to the notary division.

C. The annual report filing fee is shown in §129.

D. To file online, the notary will be required to use his notary identification number and the unique access code which is printed on the front of the annual report renewal notice post card.

AUTHORITY NOTE: Promulgated in accordance with R.S. 35:191.2, R.S. 35:202, and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Commercial Division, LR 39:

#### **§141. Ex-Officio Notaries Public**

A. An ex-officio notary public must meet the same qualifications as a notary public listed in §101 above.

B. An ex-officio notary is required to file either of the following with the notary division of the secretary of state's office as a condition for the faithful performance of all duties required by law toward all persons who may employ him as an ex-officio notary:

1. original or certified true copy surety or personal surety bond that has been approved by the parish clerk of court in the amount of \$10,000; or

2. original errors or omissions policy in the amount of \$10,000.

C. If the ex-officio notary is a state employee who serves as an ex-officio notary in the course and scope of his employment, he must file his oath of office with the secretary of state's office.

D. An ex-officio notary is authorized to perform functions, powers, and authority only as directly related to and required for the operation of the office, agency, or department under which the authority is granted.

E. Title 35 Chapter 6 of the Revised Statutes contains specific requirements for ex-officio notaries who will perform various functions of a notary public in their place of employment (i.e. administer oaths, take acknowledgments, attest on affidavits, etc.).

AUTHORITY NOTE: Promulgated in accordance with R.S. 35:391 et seq. and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Commercial Division, LR 39:

#### **§143. Provisional Notary**

A. A notary applicant can be provisionally commissioned if he meets the following qualifications and requirements:

1. the applicant resides and maintains a residence in a parish with a population of less than 40,000;

2. the applicant has passed the multiple choice and research section of the notary exam on or after December 1, 2009;

3. the applicant's authority to exercise the powers of a notary public is only within the course and scope of the applicant's employment;

4. the applicant's notarial authority shall be under the direction of a supervisor for the employer;
5. the applicant's supervisor shall not be a notary;
6. the applicant's employer must be a business that was in existence prior to January 1, 2013;
7. the applicant's employer shall not be a business whose primary function is to provide notary services;
8. the applicant's employer must be a party to the act or instrument being sworn to, acknowledged or passed before or the act or other instrument is necessary to or incidental to the business activity or operations of the employer;
9. at least one of the persons appearing before the applicant to execute an affidavit, acknowledgment, or other notarial act or instrument is a former, current, or prospective client or a customer of the employer;
10. applicant's jurisdiction is within the parish of commission and in any adjacent parish with a population of less than 40,000 where his employer maintains an office;
11. the applicant must post and maintain a bond, at the expense of employer, in the amount of \$20,000;
12. the applicant's employer shall hold harmless any claim made against the notary bond when the applicant is acting in the course and scope of employment or under the direction of the employer;
13. the applicant must submit the completed and notarized application for provisional notarial appointment provided by the secretary of state to the notary division;
14. the applicant is required to attend the notary orientation class provided by the secretary of state;
15. if the employer terminates the employment or no longer wishes to be bound by these provisions, he shall immediately send written notice to the secretary of state and the commission shall be automatically revoked unless:
  - a. the applicant declares in writing his intention to remain a provisional notary with an inactive status until a new application for provisional notary form from another employer is submitted to the secretary of state; or
  - b. the applicant declares in writing the desire to remain a provisional notary with an inactive status while pursuing successful completion of the notary exam and shall exercise no notarial functions until notified by the secretary of state that his status has been changed;
16. if the applicant voluntarily terminates employment with named employer, a written notification to the secretary of state must be submitted and:
  - a. the applicant declares in writing his intention to remain a provisional notary with an inactive status until a new application for provisional notary form from another employer is submitted to the secretary of state; or
  - b. declares in writing his intention to remain a provisional notary with an inactive status while pursuing successful completion of the notary exam and shall have no authority to exercise notarial functions until notified by the secretary of state that his status has been changed;

17. the applicant understands that the employer is not liable for any damages caused by negligent or fraudulent errors or omissions when notarizing outside the course and scope of employment;

18. the commission can be suspended or revoked by the court or suspended by the secretary of state pursuant to R.S. 35:15; and

19. the provisional notary commission shall expire on August 1, 2016 unless all sections of the notary exam have been successfully completed.

B. The provisional notary has no authority to:

1. draft and prepare a last will and testament or donation mortis causa;
2. draft and prepare a trust; or
3. draft and prepare any instrument that transfers title to immovable property including but not limited to an act of sale or act of donation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 35:15, R.S. 35:191, and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Commercial Division, LR 39:

Tom Schedler  
Secretary of State