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NEWSPAPER ARTICLES: No

974.90 L415 2014g

Draft tentative report relating to the RULONA/New Jersey Notaries Public Act/Jayne J. Johnson. Esq., Counsel. [Trenton, N.J.] : [New Jersey Law Revision Commission], 2014.

<http://hdl.handle.net/10929/32213>

(Assembly Bill 1423/Senate Bill 2043 referenced on page 5 of draft report.)

LAW/RWH

P.L.2014, CHAPTER 48, *approved September 10, 2014*
Assembly, No. 1423

1 AN ACT concerning notaries public and amending various parts of
2 the statutory law.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. Section 1 of P.L.1994, c.47 (C.2C:21-22) is amended to read
8 as follows:

9 1. a. A person is guilty of a crime of the fourth degree if the
10 person knowingly engages in the unauthorized practice of law.

11 b. A person is guilty of a crime of the third degree if the person
12 knowingly engages in the unauthorized practice of law and:

13 (1) Creates or reinforces, by any means, a false impression that
14 the person is licensed to engage in the practice of law. As used in
15 paragraph, "by any means" includes but is not limited to using or
16 advertising the title of lawyer or attorney-at-law, or equivalent
17 terms, in the English language or any other language, which mean
18 or imply that the person is licensed as an attorney-at-law in the
19 State of New Jersey or in any other jurisdiction of the United States;

20 or

21 (2) Derives a benefit; or

22 (3) In fact causes injury to another.

23 c. For the purposes of this section, the phrase "in fact"
24 indicates strict liability.

25 (cf: P.L.2011, c.209, s.1)

26
27 2. Section 1 of P.L.1997, c.1 (C.2C:21-31) is amended to read
28 as follows:

29 1. a. As used in this section:

30 (1) "Immigration consultant" means any person rendering
31 services for a fee, including the completion of forms and
32 applications, to another person in furtherance of that person's desire
33 to determine or modify his status in an immigration or
34 naturalization matter under federal law.

35 (2) "Immigration or naturalization matter" means any matter
36 which involves any law, action, filing or proceeding related to a
37 person's immigration or citizenship status in the United States.

38 (3) "Immigration-related document" means any birth certificate
39 or marriage certificate; any document issued by the government of
40 the United States, any foreign country, any state, or any other public
41 entity relating to a person's immigration or naturalization status.

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 b. (1) Any immigration consultant not licensed as an attorney
2 or counselor at law who engages in this State in the practice of law
3 is guilty of a crime of the fourth degree.

4 (2) Any immigration consultant not licensed as an attorney or
5 counselor at law who holds himself out to the public, either alone or
6 together with, by or through another person, whether such other
7 person is licensed as an attorney or counselor at law or not, as
8 engaging in or entitled to engage in the practice of law, or as
9 rendering legal service or advice, or as furnishing attorneys or
10 counsel, in any immigration or naturalization matter is guilty of a
11 crime of the third degree.

12 (3) Any immigration consultant not licensed as an attorney or
13 counselor at law who assumes, uses or advertises the title of lawyer
14 or **【attorney at law】** attorney-at-law, or equivalent terms, in the
15 English language or any other language which mean or imply that
16 the immigration consultant is licensed as an attorney-at-law in the
17 State of New Jersey or in any other jurisdiction of the United States,
18 is guilty of a crime of the third degree.

19 c. Any person who knowingly retains possession of another
20 person's immigration-related document for more than a reasonable
21 time after the person who owns the document has submitted a
22 written request for the document's return is guilty of a crime of the
23 fourth degree.

24 d. Nothing in this section shall be construed to prohibit a
25 person accredited as a representative by federal law pursuant to 8
26 CFR 292.2 from providing immigration services.

27 (cf: P.L.2011, c.209, s.3)

28
29 3. Section 2 of P.L.1979, c.460 (C.52:7-11) is amended to read
30 as follows:

31 2. a. The **【Secretary of State】** State Treasurer shall appoint so
32 many notaries public as the **【Secretary of State】** State Treasurer
33 shall deem necessary to commission, who shall hold their respective
34 offices for the term of five years, but may be removed from office
35 at the pleasure of the **【Secretary of State】** State Treasurer.

36 b. A person desiring to be appointed and commissioned a
37 notary public shall make application to the **【Secretary of State】**
38 State Treasurer on a form prescribed by the **【Secretary of State】**
39 State Treasurer and endorsed by a member of the Legislature **【or**
40 **the Secretary of State or Assistant Secretary of State】**. Renewals
41 thereof shall be made in the same manner as the original
42 application.

43 The application form shall provide a notice to the applicant that a
44 notary public who is not licensed as an attorney-at-law shall not use
45 or advertise the title of lawyer or attorney-at-law, or equivalent
46 terms, in the English language or any other language, which mean
47 or imply that the notary public is licensed as an attorney-at-law in

1 the State of New Jersey or in any other jurisdiction of the United
2 States. The application form shall also state that a notary public
3 who advertises his services in the English language or any other
4 language is required to provide with such advertisement a notice
5 which contains the following statement: "I am not an attorney
6 licensed to practice law and may not give legal advice about
7 immigration or any other legal matter or accept fees for legal
8 advice."

9 c. The fee to be collected by the **【Secretary of State】** State
10 Treasurer for that appointment or renewal shall be \$25.00.

11 (cf: P.L.1987, c.435, s.21)

12

13 4. Section 4 of P.L.1979, c.460 (C.52:7-13) is amended to read
14 as follows:

15 4. a. No person shall be denied appointment as a notary public
16 on account of residence outside of this State, provided such person
17 resides in a State adjoining this State and maintains, or is regularly
18 employed in, an office in this State.

19 b. Before any such nonresident shall be appointed and
20 commissioned as a notary public, he shall file with the **【Secretary**
21 **of State】** State Treasurer an affidavit setting forth his residence and
22 the address of his office or place of employment in this State.

23 c. Any such nonresident notary public shall file with the
24 **【Secretary of State】** State Treasurer a certificate showing any
25 change of residence or of his office or place of employment address
26 in this State.

27 (cf: P.L.1979, c.460, s.4)

28

29 5. Section 5 of P.L.1979, c.460 (C.52:7-14) is amended to read
30 as follows:

31 5. a. Within **【3】** three months of the receipt of his commission,
32 each notary public shall take and subscribe an oath before the clerk
33 of the county in which he resides, faithfully and honestly to
34 discharge the duties of his office, and that he will make and keep a
35 true record of all such matters as are required by law, which oath
36 shall be filed with said clerk. The oath of office of a nonresident
37 notary public shall be taken and subscribed before the clerk of the
38 county in which he maintains his office or is employed in this State.

39 b. Upon the administration of said oath, the said clerk shall
40 cause the notary public to indorse a certificate of commission and
41 qualification and shall transmit said certificate to the **【Secretary of**
42 **State】** State Treasurer within 10 days of the administration of said
43 oath. After the administration of the oath, the clerk shall provide a
44 notice to the person that a notary public who is not licensed as an
45 attorney-at-law shall not use or advertise the title of lawyer or
46 attorney-at-law, or equivalent terms, in the English language or any
47 other language, which mean or imply that the notary public is

1 licensed as an attorney-at-law in the State of New Jersey or in any
2 other jurisdiction of the United States. The notice shall also state
3 that a notary public who advertises his services, in the English
4 language or any other language, is required to provide with such
5 advertisement a notice which contains the following statement: “I
6 am not an attorney licensed to practice law and may not give legal
7 advice about immigration or any other legal matter or accept fees
8 for legal advice.”

9 c. The **【Secretary of State】** State Treasurer shall cancel and
10 revoke the appointment of any notary public who fails to take and
11 subscribe said oath within **【3】** three months of the receipt of his
12 commission and any appointment so canceled and revoked shall be
13 null, void and of no effect.

14 (cf: P.L.1979, c.460, s.5)

15

16 6. Section 8 of P.L.1979, c.460 (C.52:7-17) is amended to read
17 as follows:

18 8. The **【Secretary of State】** State Treasurer shall, by regulation,
19 fix a fee to be charged to each notary for the costs of printing and
20 distribution to each applicant of a manual prescribing the powers,
21 duties and responsibilities of a notary.

22 The manual shall specify that a notary public who is not licensed
23 as an attorney-at-law shall not use or advertise the title of lawyer or
24 attorney-at-law, or equivalent terms, in the English language or any
25 other language, which mean or imply that the notary public is
26 licensed as an attorney or counselor at law in the State of New
27 Jersey or in any other jurisdiction of the United States. The manual
28 shall also state that a notary public who advertises his services in
29 the English language or any other language is required to provide
30 with such advertisement a notice which contains the following
31 statement: “I am not an attorney licensed to practice law and may
32 not give legal advice about immigration or any other legal matter or
33 accept fees for legal advice.” The manual shall also state that no
34 person shall be appointed or reappointed a notary public if he has
35 been convicted under the laws of this State of an offense involving
36 dishonesty, including but not limited to a violation of section 1 of
37 P.L.1997, c.1 (C.2C:21-31) or section 1 of P.L.1994, c.47 (C.2C:21-
38 22), or a substantially similar crime under the laws of another state
39 or the United States or of a crime of the second degree or above.

40 The State Treasurer shall update the information contained in the
41 manual and the Department of Treasury’s Internet website as
42 appropriate.

43 (cf: P.L.1979, c.460, s.8)

44

45 7. Section 9 of P.L.1979, c.460 (C.52:7-18) is amended to read
46 as follows:

1 9. After a notary public adopts a name different from that
2 which he used at the time he was commissioned, and before he
3 signs his name to any document which he is authorized or required
4 to sign as notary public, he shall make and sign a statement in
5 writing and under oath, on a form prescribed and furnished by the
6 **【Secretary of State】** State Treasurer, setting out the circumstances
7 under which he has adopted the new name. The statement shall set
8 forth whether the new name has been adopted through marriage or
9 by a change of name proceeding or otherwise, and such other
10 information as the **【Secretary of State】** State Treasurer shall
11 require.

12 The statement shall be filed in the office of the **【Secretary of**
13 **State】** State Treasurer and in the office of the clerk of the county
14 where he qualified as a notary public and in the office of the clerk
15 of any county in which he may have filed a certificate of his
16 commission and qualification.

17 Such statement, or a certified copy thereof, shall be evidence of
18 the right of said notary public to continue to exercise the powers
19 and privileges and perform the duties of a notary public in his
20 changed and new name.

21 (cf: P.L.1979, c.460, s.9)

22

23 8. Section 10 of P.L.1979, c.460 (C.52:7-19) is amended to
24 read as follows:

25 10. Each notary public, in addition to subscribing his autograph
26 signature to any jurat upon the administration of any oath or the
27 taking of any acknowledgement or proof, shall affix thereto his
28 name in such a manner and by such means, including, but not
29 limited to, printing, typing, or impressing by seal or mechanical
30 stamp, as will enable the **【Secretary of State】** State Treasurer
31 easily to read said name.

32 (cf: P.L.1979, c.460, s.10)

33

34 9. Section 2 of P.L.1981, c.487 (C.52:7-21) is amended to read
35 as follows:

36 2. No person shall be appointed a notary public if he has been
37 convicted under the laws of another state, or of the United States,
38 of an offense or crime involving dishonesty **【or which, if committed**
39 **in this State, would be】** including but not limited to a violation of
40 section 1 of P.L.1997, c.1 (C.2C:21-31) or section 1 of P.L.1994,
41 c.47 (C.2C:21-22), or a crime of the second degree or above, but
42 nothing in this section shall be deemed to supersede P.L.1968,
43 c.282 (C.2A:168A-1 et seq.).

44 (cf: P.L.1981, c.487, s.2)

45

46 10. This act shall take effect on the 90th day following
47 enactment.

1

2

3

Prohibits notaries public from falsely representing themselves as

4

attorneys in advertisements.

ASSEMBLY, No. 1423

STATE OF NEW JERSEY 216th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2014 SESSION

Sponsored by:

Assemblywoman MARLENE CARIDE

District 36 (Bergen and Passaic)

Assemblyman VINCENT PRIETO

District 32 (Bergen and Hudson)

Assemblyman GARY S. SCHAER

District 36 (Bergen and Passaic)

Assemblywoman ANGELICA M. JIMENEZ

District 32 (Bergen and Hudson)

Assemblywoman ANNETTE QUIJANO

District 20 (Union)

Co-Sponsored by:

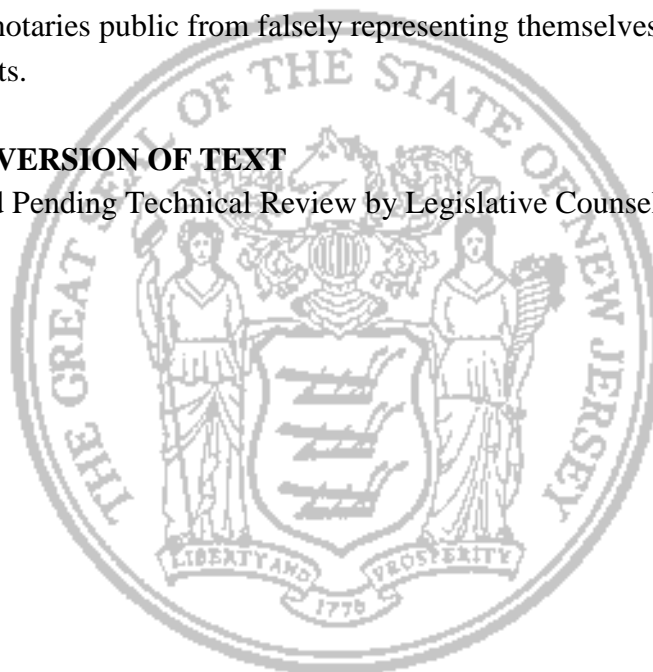
Assemblywoman Mosquera, Assemblymen Green and Coughlin

SYNOPSIS

Prohibits notaries public from falsely representing themselves as attorneys in advertisements.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



1 AN ACT concerning notaries public and amending various parts of
2 the statutory law.

3

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10 person knowingly engages in the unauthorized practice of law.

11 b. A person is guilty of a crime of the third degree if the person
12 knowingly engages in the unauthorized practice of law and:

13 (1) Creates or reinforces, by any means, a false impression that
14 the person is licensed to engage in the practice of law. As used in
15 paragraph, "by any means" includes but is not limited to using or
16 advertising the title of lawyer or attorney-at-law, or equivalent
17 terms, in the English language or any other language, which mean
18 or imply that the person is licensed as an attorney-at-law in the
19 State of New Jersey or in any other jurisdiction of the United States;

20 or

21 (2) Derives a benefit; or

22 (3) In fact causes injury to another.

23 c. For the purposes of this section, the phrase "in fact"
24 indicates strict liability.

25 (cf: P.L.2011, c.209, s.1)

26

27 2. Section 1 of P.L.1997, c.1 (C.2C:21-31) is amended to read
28 as follows:

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31 services for a fee, including the completion of forms and
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33 to determine or modify his status in an immigration or
34 naturalization matter under federal law.

35 (2) "Immigration or naturalization matter" means any matter
36 which involves any law, action, filing or proceeding related to a
37 person's immigration or citizenship status in the United States.

38 (3) "Immigration-related document" means any birth certificate
39 or marriage certificate; any document issued by the government of
40 the United States, any foreign country, any state, or any other public
41 entity relating to a person's immigration or naturalization status.

42 b. (1) Any immigration consultant not licensed as an attorney
43 or counselor at law who engages in this State in the practice of law
44 is guilty of a crime of the fourth degree.

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 (2) Any immigration consultant not licensed as an attorney or
2 counselor at law who holds himself out to the public, either alone or
3 together with, by or through another person, whether such other
4 person is licensed as an attorney or counselor at law or not, as
5 engaging in or entitled to engage in the practice of law, or as
6 rendering legal service or advice, or as furnishing attorneys or
7 counsel, in any immigration or naturalization matter is guilty of a
8 crime of the third degree.

9 (3) Any immigration consultant not licensed as an attorney or
10 counselor at law who assumes, uses or advertises the title of lawyer
11 or **【attorney at law】** attorney-at-law, or equivalent terms, in the
12 English language or any other language which mean or imply that
13 the immigration consultant is licensed as an attorney-at-law in the
14 State of New Jersey or in any other jurisdiction of the United States,
15 is guilty of a crime of the third degree.

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17 person's immigration-related document for more than a reasonable
18 time after the person who owns the document has submitted a
19 written request for the document's return is guilty of a crime of the
20 fourth degree.

21 d. Nothing in this section shall be construed to prohibit a
22 person accredited as a representative by federal law pursuant to 8
23 CFR 292.2 from providing immigration services.
24 (cf: P.L.2011, c.209, s.3)

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28 2. a. The **【Secretary of State】** State Treasurer shall appoint so
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30 shall deem necessary to commission, who shall hold their respective
31 offices for the term of five years, but may be removed from office
32 at the pleasure of the **【Secretary of State】** State Treasurer.

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34 notary public shall make application to the **【Secretary of State】**
35 State Treasurer on a form prescribed by the **【Secretary of State】**
36 State Treasurer and endorsed by a member of the Legislature **【or**
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45 the State of New Jersey or in any other jurisdiction of the United
46 States. The application form shall also state that a notary public
47 who advertises his services in the English language or any other

1 language is required to provide with such advertisement a notice
2 which contains the following statement: "I am not an attorney
3 licensed to practice law and may not give legal advice about
4 immigration or any other legal matter or accept fees for legal
5 advice."

6 c. The fee to be collected by the **【Secretary of State】** State
7 Treasurer for that appointment or renewal shall be \$25.00.
8 (cf: P.L.1987, c.435, s.21)
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11 as follows:

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13 on account of residence outside of this State, provided such person
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15 employed in, an office in this State.

16 b. Before any such nonresident shall be appointed and
17 commissioned as a notary public, he shall file with the **【Secretary**
18 **of State】** State Treasurer an affidavit setting forth his residence and
19 the address of his office or place of employment in this State.

20 c. Any such nonresident notary public shall file with the
21 **【Secretary of State】** State Treasurer a certificate showing any
22 change of residence or of his office or place of employment address
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24 (cf: P.L.1979, c.460, s.4)
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30 of the county in which he resides, faithfully and honestly to
31 discharge the duties of his office, and that he will make and keep a
32 true record of all such matters as are required by law, which oath
33 shall be filed with said clerk. The oath of office of a nonresident
34 notary public shall be taken and subscribed before the clerk of the
35 county in which he maintains his office or is employed in this State.

36 b. Upon the administration of said oath, the said clerk shall
37 cause the notary public to indorse a certificate of commission and
38 qualification and shall transmit said certificate to the **【Secretary of**
39 **State】** State Treasurer within 10 days of the administration of said
40 oath. After the administration of the oath, the clerk shall provide a
41 notice to the person that a notary public who is not licensed as an
42 attorney-at-law shall not use or advertise the title of lawyer or
43 attorney-at-law, or equivalent terms, in the English language or any
44 other language, which mean or imply that the notary public is
45 licensed as an attorney-at-law in the State of New Jersey or in any
46 other jurisdiction of the United States. The notice shall also state
47 that a notary public who advertises his services, in the English

1 language or any other language, is required to provide with such
2 advertisement a notice which contains the following statement: “I
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4 advice about immigration or any other legal matter or accept fees
5 for legal advice.”

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8 subscribe said oath within **【3】** three months of the receipt of his
9 commission and any appointment so canceled and revoked shall be
10 null, void and of no effect.

11 (cf: P.L.1979, c.460, s.5)

12

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17 distribution to each applicant of a manual prescribing the powers,
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25 shall also state that a notary public who advertises his services in
26 the English language or any other language is required to provide
27 with such advertisement a notice which contains the following
28 statement: “I am not an attorney licensed to practice law and may
29 not give legal advice about immigration or any other legal matter or
30 accept fees for legal advice.” The manual shall also state that no
31 person shall be appointed or reappointed a notary public if he has
32 been convicted under the laws of this State of an offense involving
33 dishonesty, including but not limited to a violation of section 1 of
34 P.L.1997, c.1 (C.2C:21-31) or section 1 of P.L.1994, c.47 (C.2C:21-
35 22), or a substantially similar crime under the laws of another state
36 or the United States or of a crime of the second degree or above.

37 The State Treasurer shall update the information contained in the
38 manual and the Department of Treasury’s Internet website as
39 appropriate.

40 (cf: P.L.1979, c.460, s.8)

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43 as follows:

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45 which he used at the time he was commissioned, and before he
46 signs his name to any document which he is authorized or required
47 to sign as notary public, he shall make and sign a statement in

1 writing and under oath, on a form prescribed and furnished by the
2 **【Secretary of State】** State Treasurer, setting out the circumstances
3 under which he has adopted the new name. The statement shall set
4 forth whether the new name has been adopted through marriage or
5 by a change of name proceeding or otherwise, and such other
6 information as the **【Secretary of State】** State Treasurer shall
7 require.

8 The statement shall be filed in the office of the **【Secretary of**
9 **State】** State Treasurer and in the office of the clerk of the county
10 where he qualified as a notary public and in the office of the clerk
11 of any county in which he may have filed a certificate of his
12 commission and qualification.

13 Such statement, or a certified copy thereof, shall be evidence of
14 the right of said notary public to continue to exercise the powers
15 and privileges and perform the duties of a notary public in his
16 changed and new name.

17 (cf: P.L.1979, c.460, s.9)

18

19 8. Section 10 of P.L.1979, c.460 (C.52:7-19) is amended to
20 read as follows:

21 10. Each notary public, in addition to subscribing his autograph
22 signature to any jurat upon the administration of any oath or the
23 taking of any acknowledgement or proof, shall affix thereto his
24 name in such a manner and by such means, including, but not
25 limited to, printing, typing, or impressing by seal or mechanical
26 stamp, as will enable the **【Secretary of State】** State Treasurer
27 easily to read said name.

28 (cf: P.L.1979, c.460, s.10)

29

30 9. Section 2 of P.L.1981, c.487 (C.52:7-21) is amended to read
31 as follows:

32 2. No person shall be appointed a notary public if he has been
33 convicted under the laws of another state, or of the United States,
34 of an offense or crime involving dishonesty **【or which, if committed**
35 **in this State, would be】** including but not limited to a violation of
36 section 1 of P.L.1997, c.1 (C.2C:21-31) or section 1 of P.L.1994,
37 c.47 (C.2C:21-22), or a crime of the second degree or above, but
38 nothing in this section shall be deemed to supersede P.L.1968,
39 c.282 (C.2A:168A-1 et seq.).

40 (cf: P.L.1981, c.487, s.2)

41

42 10. This act shall take effect on the 90th day following
43 enactment.

STATEMENT

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This bill would prohibit notaries public from falsely representing themselves as attorneys in foreign language and English advertisements.

This bill is intended to enhance the provisions of the recently enacted P.L.2011, c.209, which upgraded the offense of engaging in the unauthorized practice of law. The bill would require a notary public who chooses to advertise his services to provide a disclaimer in the advertisement which specifically states that the notary is “*not an attorney licensed to practice law and may not give legal advice about immigration or any other legal matter or accept fees for legal advice.*” This disclaimer is designed to avoid any confusion which may exist in communities of immigrants from countries where a notary is considered a member of the legal profession. For example, in many Latin American countries a notary is a member of the legal profession and is licensed to validate real estate transactions, wills and other matters. However, in the United States a notary public is not licensed to practice law and is solely authorized to administer oaths and affirmations, take acknowledgements, execute jurats, take proofs of deed and perform similar functions.

Under the provisions of the bill, this disclaimer requirement would be prominently displayed on the notary application form and included in the manual describing the powers and duties of a notary. In addition to the disclaimer requirement, the information would also advise the notary of the criminal penalties for the unauthorized practice of law.

This bill would also make technical changes to the law to update the references to jurisdiction over notaries public. Reorganization Plan 004-1998 transferred this jurisdiction to the State Treasurer from the Secretary of State, and the bill updates the statute accordingly.

ASSEMBLY REGULATED PROFESSIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1423

STATE OF NEW JERSEY

DATED: FEBRUARY 20, 2014

The Assembly Regulated Professions Committee reports favorably Assembly Bill No. 1423.

This bill would prohibit notaries public from falsely representing themselves as attorneys in foreign language and English advertisements.

This bill is intended to enhance the provisions of the recently enacted P.L.2011, c.209, which upgraded the offense of engaging in the unauthorized practice of law. The bill would require a notary public who chooses to advertise his services to provide a disclaimer in the advertisement which specifically states that the notary is “*not an attorney licensed to practice law and may not give legal advice about immigration or any other legal matter or accept fees for legal advice.*” This disclaimer is designed to avoid any confusion which may exist in communities of immigrants from countries where a notary is considered a member of the legal profession. For example, in many Latin American countries a notary is a member of the legal profession and is licensed to validate real estate transactions, wills and other matters. However, in the United States a notary public is not licensed to practice law and is solely authorized to administer oaths and affirmations, take acknowledgements, execute jurats, take proofs of deed and perform similar functions.

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This bill would also make technical changes to the law to update the references to jurisdiction over notaries public. Reorganization Plan 004-1998 transferred this jurisdiction to the State Treasurer from the Secretary of State, and the bill updates the statutes accordingly.

This bill was pre-filed for introduction in the 2014-2015 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

SENATE COMMERCE COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1423

STATE OF NEW JERSEY

DATED: JUNE 5, 2014

The Senate Commerce Committee reports favorably Assembly Bill No. 1423.

This bill prohibits notaries public from falsely representing themselves as attorneys in foreign language and English advertisements.

This bill enhances the provisions of the recently enacted P.L.2011, c.209, which upgraded the offense of engaging in the unauthorized practice of law. The bill requires a notary public who chooses to advertise his services to provide a disclaimer in the advertisement which specifically states that the notary is *“not an attorney licensed to practice law and may not give legal advice about immigration or any other legal matter or accept fees for legal advice.”* This disclaimer is designed to avoid any confusion which may exist in communities of immigrants from countries where a notary is considered a member of the legal profession. For example, in many Latin American countries a notary is a member of the legal profession and is licensed to validate real estate transactions, wills and other matters. However, in the United States a notary public is not licensed to practice law and is solely authorized to administer oaths and affirmations, take acknowledgements, execute jurats, take proofs of deed and perform similar functions.

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This bill also makes technical changes to the law to update the references to jurisdiction over notaries public. Reorganization Plan 004-1998 transferred this jurisdiction to the State Treasurer from the Secretary of State, and the bill updates the statute accordingly.

SENATE, No. 2043

STATE OF NEW JERSEY 216th LEGISLATURE

INTRODUCED MAY 5, 2014

Sponsored by:

Senator NIA H. GILL

District 34 (Essex and Passaic)

Senator JOSEPH PENNACCHIO

District 26 (Essex, Morris and Passaic)

Co-Sponsored by:

Senator Scutari

SYNOPSIS

Prohibits notaries public from falsely representing themselves as attorneys in advertisements.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/24/2014)

1 AN ACT concerning notaries public and amending various parts of
2 the statutory law.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 1 of P.L.1994, c.47 (C.2C:21-22) is amended to read
8 as follows:

9 1. a. A person is guilty of a crime of the fourth degree if the
10 person knowingly engages in the unauthorized practice of law.

11 b. A person is guilty of a crime of the third degree if the person
12 knowingly engages in the unauthorized practice of law and:

13 (1) Creates or reinforces, by any means, a false impression that
14 the person is licensed to engage in the practice of law. As used in
15 paragraph, "by any means" includes but is not limited to using or
16 advertising the title of lawyer or attorney-at-law, or equivalent
17 terms, in the English language or any other language, which mean
18 or imply that the person is licensed as an attorney-at-law in the
19 State of New Jersey or in any other jurisdiction of the United States;

20 or

21 (2) Derives a benefit; or

22 (3) In fact causes injury to another.

23 c. For the purposes of this section, the phrase "in fact"
24 indicates strict liability.

25 (cf: P.L.2011, c.209, s.1)

26

27 2. Section 1 of P.L.1997, c.1 (C.2C:21-31) is amended to read
28 as follows:

29 1. a. As used in this section:

30 (1) "Immigration consultant" means any person rendering
31 services for a fee, including the completion of forms and
32 applications, to another person in furtherance of that person's desire
33 to determine or modify his status in an immigration or
34 naturalization matter under federal law.

35 (2) "Immigration or naturalization matter" means any matter
36 which involves any law, action, filing or proceeding related to a
37 person's immigration or citizenship status in the United States.

38 (3) "Immigration-related document" means any birth certificate
39 or marriage certificate; any document issued by the government of
40 the United States, any foreign country, any state, or any other public
41 entity relating to a person's immigration or naturalization status.

42 b. (1) Any immigration consultant not licensed as an attorney
43 or counselor at law who engages in this State in the practice of law
44 is guilty of a crime of the fourth degree.

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 (2) Any immigration consultant not licensed as an attorney or
2 counselor at law who holds himself out to the public, either alone or
3 together with, by or through another person, whether such other
4 person is licensed as an attorney or counselor at law or not, as
5 engaging in or entitled to engage in the practice of law, or as
6 rendering legal service or advice, or as furnishing attorneys or
7 counsel, in any immigration or naturalization matter is guilty of a
8 crime of the third degree.

9 (3) Any immigration consultant not licensed as an attorney or
10 counselor at law who assumes, uses or advertises the title of lawyer
11 or **【attorney at law】** attorney-at-law, or equivalent terms, in the
12 English language or any other language which mean or imply that
13 the immigration consultant is licensed as an attorney-at-law in the
14 State of New Jersey or in any other jurisdiction of the United States,
15 is guilty of a crime of the third degree.

16 c. Any person who knowingly retains possession of another
17 person's immigration-related document for more than a reasonable
18 time after the person who owns the document has submitted a
19 written request for the document's return is guilty of a crime of the
20 fourth degree.

21 d. Nothing in this section shall be construed to prohibit a
22 person accredited as a representative by federal law pursuant to 8
23 CFR 292.2 from providing immigration services.

24 (cf: P.L.2011, c.209, s.3)

25

26 3. Section 2 of P.L.1979, c.460 (C.52:7-11) is amended to read
27 as follows:

28 2. a. The **【Secretary of State】** State Treasurer shall appoint so
29 many notaries public as the **【Secretary of State】** State Treasurer
30 shall deem necessary to commission, who shall hold their respective
31 offices for the term of five years, but may be removed from office
32 at the pleasure of the **【Secretary of State】** State Treasurer.

33 b. A person desiring to be appointed and commissioned a
34 notary public shall make application to the **【Secretary of State】**
35 State Treasurer on a form prescribed by the **【Secretary of State】**
36 State Treasurer and endorsed by a member of the Legislature **【or**
37 **the Secretary of State or Assistant Secretary of State】**. Renewals
38 thereof shall be made in the same manner as the original
39 application.

40 The application form shall provide a notice to the applicant that a
41 notary public who is not licensed as an attorney-at-law shall not use
42 or advertise the title of lawyer or attorney-at-law, or equivalent
43 terms, in the English language or any other language, which mean
44 or imply that the notary public is licensed as an attorney-at-law in
45 the State of New Jersey or in any other jurisdiction of the United
46 States. The application form shall also state that a notary public
47 who advertises his services in the English language or any other

1 language is required to provide with such advertisement a notice
2 which contains the following statement: "I am not an attorney
3 licensed to practice law and may not give legal advice about
4 immigration or any other legal matter or accept fees for legal
5 advice."

6 c. The fee to be collected by the **【Secretary of State】** State
7 Treasurer for that appointment or renewal shall be \$25.00.

8 (cf: P.L.1987, c.435, s.21)

9
10 4. Section 4 of P.L.1979, c.460 (C.52:7-13) is amended to read
11 as follows:

12 4. a. No person shall be denied appointment as a notary public
13 on account of residence outside of this State, provided such person
14 resides in a State adjoining this State and maintains, or is regularly
15 employed in, an office in this State.

16 b. Before any such nonresident shall be appointed and
17 commissioned as a notary public, he shall file with the **【Secretary**
18 **of State】** State Treasurer an affidavit setting forth his residence and
19 the address of his office or place of employment in this State.

20 c. Any such nonresident notary public shall file with the
21 **【Secretary of State】** State Treasurer a certificate showing any
22 change of residence or of his office or place of employment address
23 in this State.

24 (cf: P.L.1979, c.460, s.4)

25
26 5. Section 5 of P.L.1979, c.460 (C.52:7-14) is amended to read
27 as follows:

28 5. a. Within **【3】** three months of the receipt of his
29 commission, each notary public shall take and subscribe an oath
30 before the clerk of the county in which he resides, faithfully and
31 honestly to discharge the duties of his office, and that he will make
32 and keep a true record of all such matters as are required by law,
33 which oath shall be filed with said clerk. The oath of office of a
34 nonresident notary public shall be taken and subscribed before the
35 clerk of the county in which he maintains his office or is employed
36 in this State.

37 b. Upon the administration of said oath, the said clerk shall
38 cause the notary public to indorse a certificate of commission and
39 qualification and shall transmit said certificate to the **【Secretary of**
40 **State】** State Treasurer within 10 days of the administration of said
41 oath. After the administration of the oath, the clerk shall provide a
42 notice to the person that a notary public who is not licensed as an
43 attorney-at-law shall not use or advertise the title of lawyer or
44 attorney-at-law, or equivalent terms, in the English language or any
45 other language, which mean or imply that the notary public is
46 licensed as an attorney-at-law in the State of New Jersey or in any
47 other jurisdiction of the United States. The notice shall also state

1 that a notary public who advertises his services, in the English
2 language or any other language, is required to provide with such
3 advertisement a notice which contains the following statement: “I
4 am not an attorney licensed to practice law and may not give legal
5 advice about immigration or any other legal matter or accept fees
6 for legal advice.”

7 c. The **【Secretary of State】** State Treasurer shall cancel and
8 revoke the appointment of any notary public who fails to take and
9 subscribe said oath within **【3】** three months of the receipt of his
10 commission and any appointment so canceled and revoked shall be
11 null, void and of no effect.

12 (cf: P.L.1979, c.460, s.5)

13

14 6. Section 8 of P.L.1979, c.460 (C.52:7-17) is amended to read
15 as follows:

16 8. The **【Secretary of State】** State Treasurer shall, by regulation,
17 fix a fee to be charged to each notary for the costs of printing and
18 distribution to each applicant of a manual prescribing the powers,
19 duties and responsibilities of a notary.

20 The manual shall specify that a notary public who is not licensed
21 as an attorney-at-law shall not use or advertise the title of lawyer or
22 attorney-at-law, or equivalent terms, in the English language or any
23 other language, which mean or imply that the notary public is
24 licensed as an attorney or counselor at law in the State of New
25 Jersey or in any other jurisdiction of the United States. The manual
26 shall also state that a notary public who advertises his services in
27 the English language or any other language is required to provide
28 with such advertisement a notice which contains the following
29 statement: “I am not an attorney licensed to practice law and may
30 not give legal advice about immigration or any other legal matter or
31 accept fees for legal advice.” The manual shall also state that no
32 person shall be appointed or reappointed a notary public if he has
33 been convicted under the laws of this State of an offense involving
34 dishonesty, including but not limited to a violation of section 1 of
35 P.L.1997, c.1 (C.2C:21-31) or section 1 of P.L.1994, c.47 (C.2C:21-
36 22), or a substantially similar crime under the laws of another state
37 or the United States or of a crime of the second degree or above.

38 The State Treasurer shall update the information contained in the
39 manual and the Department of Treasury’s Internet website as
40 appropriate.

41 (cf: P.L.1979, c.460, s.8)

42

43 7. Section 9 of P.L.1979, c.460 (C.52:7-18) is amended to read
44 as follows:

45 9. After a notary public adopts a name different from that
46 which he used at the time he was commissioned, and before he
47 signs his name to any document which he is authorized or required
48 to sign as notary public, he shall make and sign a statement in

1 writing and under oath, on a form prescribed and furnished by the
2 **【Secretary of State】** State Treasurer, setting out the circumstances
3 under which he has adopted the new name. The statement shall set
4 forth whether the new name has been adopted through marriage or
5 by a change of name proceeding or otherwise, and such other
6 information as the **【Secretary of State】** State Treasurer shall
7 require.

8 The statement shall be filed in the office of the **【Secretary of**
9 **State】** State Treasurer and in the office of the clerk of the county
10 where he qualified as a notary public and in the office of the clerk
11 of any county in which he may have filed a certificate of his
12 commission and qualification.

13 Such statement, or a certified copy thereof, shall be evidence of
14 the right of said notary public to continue to exercise the powers
15 and privileges and perform the duties of a notary public in his
16 changed and new name.

17 (cf: P.L.1979, c.460, s.9)

18

19 8. Section 10 of P.L.1979, c.460 (C.52:7-19) is amended to
20 read as follows:

21 10. Each notary public, in addition to subscribing his autograph
22 signature to any jurat upon the administration of any oath or the
23 taking of any acknowledgement or proof, shall affix thereto his
24 name in such a manner and by such means, including, but not
25 limited to, printing, typing, or impressing by seal or mechanical
26 stamp, as will enable the **【Secretary of State】** State Treasurer
27 easily to read said name.

28 (cf: P.L.1979, c.460, s.10)

29

30 9. Section 2 of P.L.1981, c.487 (C.52:7-21) is amended to read
31 as follows:

32 2. No person shall be appointed a notary public if he has been
33 convicted under the laws of another state, or of the United States,
34 of an offense or crime involving dishonesty **【or which, if committed**
35 **in this State, would be】** including but not limited to a violation of
36 section 1 of P.L.1997, c.1 (C.2C:21-31) or section 1 of P.L.1994,
37 c.47 (C.2C:21-22), or a crime of the second degree or above, but
38 nothing in this section shall be deemed to supersede P.L.1968,
39 c.282 (C.2A:168A-1 et seq.).

40 (cf: P.L.1981, c.487, s.2)

41

42 10. This act shall take effect on the 90th day following
43 enactment.

STATEMENT

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SENATE COMMERCE COMMITTEE

STATEMENT TO

SENATE, No. 2043

STATE OF NEW JERSEY

DATED: JUNE 5, 2014

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