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## SENATE BILL NO. 1782

## FLOOR AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by Senator Obenshain

on January 31, 2019)

(Patron Prior to Substitute—Senator Obenshain)

A *BILL to amend and reenact §§ 47.1-4 and 47.1-23 of the Code of Virginia, relating to notaries; qualifications.*

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 47.1-4 and 47.1-23 of the Code of Virginia are amended and reenacted as follows:**

**§ 47.1-4. Qualification for appointment.**

To be qualified to be commissioned as a notary in the Commonwealth, each such person (i) shall be at least 18 years of age; (ii) shall be a legal resident of the United States; (iii) shall be able to read and write the English language; (iv) shall never have been convicted of a felony under the laws of the United States, the Commonwealth, or any other state, unless such person has been pardoned for such felony, has had his conviction vacated by the granting of a writ of actual innocence, or has had his rights restored, *except that a person convicted of a felony offense of (a) fraud or misrepresentation or (b) robbery, extortion, burglary, larceny, embezzlement, fraudulent conversion, perjury, bribery, treason, or racketeering shall not be qualified to be a notary, regardless of whether his civil rights have been restored*; and (v) shall otherwise be in compliance with the provisions of this title. A nonresident of Virginia may register and be commissioned as a notary only if he is regularly employed in the Commonwealth and meets all of the requirements of this section. A member of the armed services of the United States shall be eligible to register and be commissioned as a notary notwithstanding the provisions of § 2.2-2800.

**§ 47.1-23. Grounds for removal from office.**

The Secretary may revoke the commission of any notary who:

1. Submits or has submitted an application for commission and appointment as a notary public which contains a substantial and material misstatement of fact;

2. Is convicted or has been convicted of any felony under the laws of the United States or this Commonwealth, or the laws of any other state, unless the notary has been pardoned for such offense, has had his conviction vacated by a granting of a writ of actual innocence, or has had his rights restored, *except that the Secretary shall revoke the commission of any notary who is convicted or has been convicted of a felony offense of (i) fraud or misrepresentation or (ii) robbery, extortion, burglary, larceny, embezzlement, fraudulent conversion, perjury, bribery, treason, or racketeering, regardless of whether his civil rights have been restored*;

3. Is found to have committed official misconduct by a proceeding as provided in Chapter 5 (§ 47.1-24 et seq.);

4. Fails to exercise the powers or perform the duties of a notary public in accordance with this title, provided that if a notary is adjudged liable in any court of the Commonwealth in any action grounded in fraud, misrepresentation, impersonation, or violation of the notary laws of the Commonwealth, such notary shall be presumed removable under this section;

5. Performs a prohibited act pursuant to § 47.1-15 or 47.1-15.1;

6. Is convicted of the unauthorized practice of law pursuant to § 54.1-3904, or is a licensed attorney at law whose license is suspended or revoked;

7. Ceases to be a legal resident of the United States;

8. Becomes incapable of reading or writing the English language;

9. Is adjudicated mentally incompetent; or

10. Fails to keep the official physical seal, journal, or device, coding, disk, certificate, card, software, or passwords used to affix the notary's official electronic signature or seal under the exclusive control of the notary when not in use.