

VIRGINIA ACTS OF ASSEMBLY -- 2014 SESSION

CHAPTER 544

An Act to amend and reenact § 47.1-23 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 47.1-15.1, relating to prohibitions on notary advertising; penalties.

[S 503]

Approved April 3, 2014

Be it enacted by the General Assembly of Virginia:

1. That § 47.1-23 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 47.1-15.1 as follows:

§ 47.1-15.1. Additional prohibition on advertising; penalties.

A. A notary public shall not offer or provide legal advice on immigration or other legal matters, or represent any person in immigration proceedings, unless such notary public is authorized or licensed to practice law in the Commonwealth or is accredited pursuant to 8 C.F.R. § 292.2 to practice immigration law or represent persons in immigration proceedings.

B. A notary public shall not assume, use, or advertise the title of "notario," "notario publico," or "licenciado," or a term in a language other than English that indicates in such language that the notary is authorized to provide legal advice or practice law, unless such notary public is authorized or licensed to practice law in Virginia.

C. Any person who violates the provisions of subsection B is subject to a civil penalty not to exceed \$500 for a first violation and a civil penalty not to exceed \$1,000 for a second or subsequent violation. All penalties arising under this section shall be recovered in a civil action brought by the Attorney General in the name of the Commonwealth and the proceeds shall be deposited into the Legal Aid Services Fund established in § 17.1-278.

D. Nothing in this section shall preempt or preclude additional civil, administrative, or criminal penalties authorized by law.

§ 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;

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.