

# **WEST VIRGINIA LEGISLATURE**

## **2020 REGULAR SESSION**

### **Committee Substitute**

**for**

### **House Bill 4748**

BY DELEGATES HOWELL AND C. MARTIN

(BY REQUEST OF THE SECRETARY OF STATE)

[Introduced February 07, 2020; Referred to the  
Committee on Government Organization then the  
Judiciary.]



1 A BILL to amend and reenact §39-4-23 and §39-4-30 of the Code of West Virginia, 1931, as  
2 amended, all relating to the increase of fees that private nongovernment notary publics  
3 may charge for notarial acts; clarifying the appropriate manner of advertising for non-  
4 government notarial services; and providing the proper manner and content of the required  
5 disclaimer to notarial customers by private notary publics, which disclaimer clearly notifies  
6 notary customers that nonattorney notary publics are not permitted to provide legal  
7 services including document drafting, document review, or legal advice.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 4. REVISED UNIFORM LAW ON NOTARIAL ACTS.**

**§39-4-23. Prohibited acts.**

- 1 (a) A commission as a notary public does not authorize an individual to:
- 2 (1) Assist persons in drafting legal records, give legal advice or otherwise practice law;
- 3 (2) Act as an immigration consultant or an expert on immigration matters;
- 4 (3) Represent a person in a judicial or administrative proceeding relating to immigration to  
5 the United States, United States citizenship or related matters; or
- 6 (4) Receive compensation for performing any of the activities listed in this subsection.
- 7 (b) A notary public may not engage in false or deceptive advertising.
- 8 (c) A notary public, other than an attorney licensed to practice law in this state, may not  
9 use the term “*notario*” or “*notario publico*”.
- 10 (d) A notary public, other than an attorney licensed to practice law in this state, may not  
11 advertise or represent that the notary public may assist persons in drafting legal records, give  
12 legal advice, or otherwise practice law.
- 13 (e) If a notary public who is not an attorney licensed to practice law in this state in any  
14 manner advertises or represents that the notary public offers notarial services, whether orally or  
15 in a record writing, ~~including broadcast media, print media and the internet~~ the notary public shall  
16 ~~include~~ provide a clear disclaimer that the notary is not authorized to practice law under the

17 ~~following conditions: the following statement, or an alternate statement authorized or required by~~  
18 ~~the Secretary of State, in the advertisement or representation, prominently and in each language~~  
19 ~~used in the advertisement or representation: "I am not an attorney licensed to practice law in this~~  
20 ~~state. I am not allowed to draft legal records, give advice on legal matters, including immigration,~~  
21 ~~or charge a fee for those activities".~~

22 (1) If the form of advertisement or representation is not broadcast media, print media or  
23 the internet and does not permit inclusion of ~~the statement~~ a disclaimer as required by this  
24 subsection (e) because of size, it must be displayed prominently or provided at the place of  
25 performance of the notarial act before the notarial act is performed.

26 (2) If the form of advertisement is made through broadcast media, print media or the  
27 Internet, the following statement, or an alternate statement authorized or required by the  
28 Secretary of State, shall be prominently included in each advertisement or representation: "I am  
29 not an attorney licensed to practice law in this state. I am not permitted to draft legal records, give  
30 advice on legal matters, including but not limited to, immigration, or charge a fee for those  
31 activities".

32 (e) (f) Except as otherwise allowed by law, a notary public may not withhold access to or  
33 possession of an original record provided by a person that seeks performance of a notarial act by  
34 the notary public.

**§39-4-30. Maximum fees.**

1 (a) The maximum fee in this state for notarization of each signature and the proper  
2 recordation thereof in the journal of notarial acts is ~~\$5.00~~ \$10.00 for each signature notarized.

3 (b) The maximum fee in this state for certification of a facsimile of a document, retaining  
4 a facsimile in the notary's file, and the proper recordation thereof in the journal of notarial acts is  
5 ~~\$5.00~~ \$10.00 for each eight and one-half by eleven inch page retained in the notary's file.

6 (c) The maximum fee in this state is ~~\$5.00~~ \$10.00 for any other notarial act performed.

NOTE: The purpose of this bill is to increase the fees that private nongovernment notary publics may charge for notarial acts, and to clarify that notary publics may advertise for services so long as a clear disclaimer that the notary is not permitted to provide legal services including document drafting, document review, or legal advice as a nonattorney is provided either at the place of the notarial act or in the actual advertisement.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.