

Fifty-ninth  
Legislative Assembly  
of North Dakota

## ENGROSSED SENATE BILL NO. 2353

Introduced by

Senator Wardner

Representative Vigesaa

1 A BILL for an Act to amend and reenact sections 44-06-02, 44-06-13, and 44-06-13.1 of the  
2 North Dakota Century Code, relating to regulation of notaries public.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. AMENDMENT.** Section 44-06-02 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6 **44-06-02. Commission - Record - Fee - Notice.** The secretary of state shall issue a  
7 commission to each notary public appointed by the secretary of state. The notary shall post the  
8 commission in a conspicuous place in the notary's office. The secretary of state shall collect  
9 ~~twenty-five~~ thirty dollars for the issuance of the commission. The secretary of state shall remit  
10 all fees collected under this section to the state treasurer for deposit in the general fund. The  
11 secretary of state shall keep a record of appointments and the date of the expiration of the  
12 appointments. The secretary of state shall notify each notary public by mail at least thirty days  
13 before the expiration of the notary public's term of the date upon which the notary public's  
14 commission will expire. The notice must be addressed to the notary public at the last-known  
15 place of residence. Each notary public issued a commission shall notify the secretary of state  
16 by mail within sixty days of any change of address. If a notary fails to notify the secretary of  
17 state within sixty days of a change of address, the secretary of state may impose a late fee in  
18 the amount of ten dollars. The notary shall pay any late fee imposed by the secretary of state  
19 before the renewal of the notary's commission.

20 **SECTION 2. AMENDMENT.** Section 44-06-13 of the North Dakota Century Code is  
21 amended and reenacted as follows:

22 **44-06-13. Acting as notary when disqualified - Penalty.** A notary public who  
23 exercises the duties of a notary's office with knowledge that the notary's commission has  
24 expired or has been revoked or that the notary is disqualified otherwise or any other person

1 who acts as a notary or performs a notarial act without a lawful notary commission is guilty of  
2 an infraction, and, if appropriate, the notary's commission must be revoked by the secretary of  
3 state using the procedure under chapter 28-32.

4 **SECTION 3. AMENDMENT.** Section 44-06-13.1 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6 **44-06-13.1. Prohibited acts - Penalty.** A notary public may not notarize a signature  
7 on a document if:

- 8 1. The document was not first signed or re-signed in the presence of the notary  
9 public, in the case of a jurat, or in the case of a certificate of acknowledgment, was  
10 not acknowledged in the presence of the notary public.
- 11 2. The name of the notary public or the spouse of the notary public appears on the  
12 document as a party to the transaction.
- 13 3. The signature is that of the notary public or the spouse of the notary public.
- 14 4. Except as otherwise provided by law, the notary public uses a name or initial in  
15 notarizing the document other than as it appears on the notary's commission.  
16 However, such an act by a notary by itself does not affect the validity of the  
17 document.
- 18 5. The date of the jurat or certificate of acknowledgment is not the actual date the  
19 document is to be notarized or the jurat or certificate of acknowledgement is  
20 undated.
- 21 6. The signature on the document or the notarial certificate is not an original  
22 signature, except as otherwise provided by law.
- 23 7. The notary is falsely or fraudulently signing or notarizing a document, jurat, or  
24 certificate of acknowledgement or in any other way is impersonating or assuming  
25 the identity of another notary.
- 26 8. Within five years of the date of issuance of a commission or renewal of a  
27 commission, the notary is convicted of a criminal offense which the secretary of  
28 state determines has a direct bearing upon the notary's ability to serve the public  
29 as a notary public.

- 1 A notary public who violates this section is guilty of an infraction and the notary public's
- 2 commission may be revoked by the secretary of state or the secretary of state may impose a
- 3 lesser sanction using the procedure under chapter 28-32.