


LOUISIANA NOTARY
Special Edition - January 2003

The Notary's Newsletter

A newsletter published three times a year dedicated to the enhancement of notarial professionalism in Louisiana

SECRETARY OF STATE ISSUES NOTARY STUDY REPORT TO LEGISLATURE

Secretary of State
State of Louisiana



W. FOX MCKEITHEN
SECRETARY OF STATE

P.O. Box 94125
BATON ROUGE, LOUISIANA 70804-9125
(225)342-4479
www.sec.state.la.us

December 30, 2002

To the honorable members of the House Committee on Civil Law and Procedure and Senate Committee on Judiciary A:

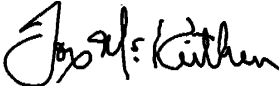
Gentlemen:

Pursuant to House Concurrent Resolution 81 of the 2001 Regular Session, I am submitting a report and recommendations concerning Louisiana notaries.

This matter was taken seriously, as you can see from the following report, In order to obtain input from notaries across the state, a Notary Study Committee was formed, with three Sub-Committees created to study three different areas of concern. The reports submitted by the three Sub-Committees are included, as well as membership lists of the Notary Study Committee and Sub-Committees, minutes from the five Committee meetings held in 2002, and nationwide and statewide notary statistics compiled by Cynthia Cotten in our Notary Division. Cynthia Cotten served as Chairman of the Notary Study Committee and spent a great deal of time and effort to make this study comprehensive and impartial.

The notary profession is an important part of the culture and history of the State of Louisiana, and we hope this report is helpful to the Legislature in considering possible changes to the notary laws.

With best wishes,



W. Fox McKeithen

The text of the report is published inside. Appendices referenced are not printed here. However, they are available online at <http://www.louisiananotary.com/hcr81>

TEXT OF SECRETARY OF STATE'S REPORT TO THE LEGISLATURE

SECRETARY OF STATE'S LETTER TO THE LEGISLATURE

December 30, 2002

To the honorable members of the House Committee on Civil Law and Procedure and Senate Committee on Judiciary A:

Gentlemen:

Pursuant to House Concurrent Resolution 81 of the 2001 Regular Session, I am submitting a report and recommendations concerning Louisiana notaries.

This matter was taken seriously, as you can see from the following report. In order to obtain input from notaries across the state, a Notary Study Committee was formed, with three Sub-Committees created to study three different areas of concern. The reports submitted by the three Sub-Committees are included, as well as membership lists of the Notary Study Committee and Sub-Committees, minutes from the five Committee meetings held in 2002, and nationwide and statewide notary statistics compiled by Cynthia Cotten in our Notary Division. Cynthia Cotten served as Chairman of the Notary Study Committee and spent a great deal of time and effort to make this study comprehensive and impartial.

The notary profession is an important part of the culture and history of the State of Louisiana, and we hope this report is helpful to the Legislature in considering possible changes to the notary laws.

With best wishes,
s/ W. Fox McKeithen

STUDY COMMITTEE CHAIRMAN'S LETTER TO THE LEGISLATURE

December 30, 2002

To the honorable members of House Committee on Civil Law and Procedure and the Senate Committee on Judiciary A

Gentlemen:

Presented herewith is a report and recommendations concerning statewide commissions for non-attorney notaries public and the findings regarding standardized testing, mandatory continuing education, and monitoring and enforcement of standards, as mandated by House Concurrent Resolution 81 of the 2001 Regular Session of the Legislature. I hope this information is helpful to you in considering legislation changing the notary public laws of Louisiana.

With best wishes,
s/ Cynthia Cotten
Notary Study Committee

TABLE OF CONTENTS

Report of Chairman.....	Pages 1 - 4
Notary Study Committee Membership List.....	Appendix 1
Notary Study Sub-Committees List.....	Appendix 2
Sub-Committee Reports.....	Appendix 3
Minutes of five Notary Study Committee meetings.....	Appendix 4
Notary Statistical Data, nationwide and statewide.....	Appendix 5

HISTORY OF THE NOTARY STUDY COMMITTEE

The committee membership consisted of 16 members (see Appendix 1); some were specified in H.C.R. 81, and some were appointed because they expressed interest in serving. The Secretary of State's position was not to exclude any interested notary from serving on the committee. After the committee was seated and had its first meeting, no new members were appointed; however, an additional member was added by H.C.R. 39 of the 2002 First Extraordinary Session. The chairperson of the Committee was Cynthia Cotten and the legal counsel was Warren Ponder, both of the Secretary of State's Office.

The Committee had a total of five meetings between January and October 2002. Three subcommittees were created, each to study one particular item, as follows:

Sub-Committee 1-Standardized Testing; Sub-Committee 2-Mandatory Continuing Education, and Sub-Committee 3-Monitoring and Enforcement of Standards (see Appendix 2). Each Sub-Committee was instructed to obtain input from notaries in every region of the state, including numerous public meetings, and then submitting final report to the Notary Study Committee for consideration. Sub-Committee 1-Standardized Testing,

presented one report; Sub-Committee 2-Mandatory Continuing Education, presented two reports, (majority and minority); and Sub-Committee 3-Monitoring and Enforcement of Standards, presented two reports (majority and ad hoc) which were ultimately combined into one report (see Appendix 3).

At the final meeting on October 8, 2002, the Notary Study Committee adopted the following reports:

- Sub-Committee 1 - Standardized Testing-- single report in favor of standardized testing.
- Sub-Committee 2 - Mandatory Continuing Education -- minority report in favor of mandatory continuing education. (the majority report submitted by this subcommittee was in favor of optional continuing education and was not adopted.)
- Sub-Committee 3 - Monitoring and Enforcement of Standards -- two reports combined into one, in favor of the Secretary of State's office monitoring and regulating notaries, and continuing the enforcement of standards by the local District Judges.

ISSUES AND CONTROVERSIES

Standardized Testing

The Sub-Committee generally felt that this was a good idea, and proposed that a bank of test questions be developed so that examinations would be fair and impartial throughout the state. It was also proposed that the tests continue to be administered locally in each parish. This item was acceptable to almost every member of the Committee with little or no controversy, and the input received from across the state was overwhelmingly in favor of standardized testing.

Mandatory Continuing Education

This was a very controversial topic that generated a great deal of discussion. Of the three Sub-Committees, this was the only one that submitted both a majority and a minority report. The minority report in favor of mandatory continuing education was adopted by a very close vote of 7 yea, 6 nay, and 1 abstained. The majority report in favor of optional continuing education failed to be adopted by a vote of 7 yea, 7 nay.

It was felt that continuing education was important and that it should be available to all notaries; however, there was much debate over whether it should be mandatory or optional. If continuing education was made mandatory, there was concern expressed about the costs, including classes and seminars, travel, food, and housing. There was also concern expressed about the availability of continuing education to rural notaries. Some members had questions about the organizations that would be

providing the continuing education, and whether it could be accomplished through the higher education system already in place throughout the state. The minority report in favor of mandatory continuing education which was adopted by the Committee goes into detail with recommendations about credit hour requirements, costs, accreditation requirements, and also points out that most professional occupations require some sort of continuing education.

Monitoring and Enforcement of Standards:

This Sub-Committee did not submit a report timely, and an ad hoc Sub-Committee was appointed to prepare and submit a report; however the original Sub-Committee did finally submit a report shortly before the last meeting. When presented to the Committee, the majority and ad hoc reports were basically the same except for one item; just prior to the final vote, that particular item was deleted from the majority report, and thus the reports were combined. The Sub-Committee recommended that the Secretary of State's office monitor and regulate notaries by assigning each one a number, and suggested that the law be amended to require each notary to file an annual report with filing fee. The Sub-Committee further recommended that, if a notary fails to comply with the law, that the state shall have the authority to file a rule in the local District Court for the notary to show cause why the commission should not be revoked.

FINDINGS OF THE NOTARY STUDY COMMITTEE

After five full Notary Study Committee meetings and numerous reports, the following items were adopted, as follows:

Standardized testing should be implemented. (one report adopted, 10 yea, 2 nay, and 2 abstained).

Making continuing education mandatory is a hotly contested issue. The minority report in favor of mandatory continuing

education was adopted by the Committee by a close vote of 7 yea, 6 nay, 1 abstained; the majority report in favor of optional continuing education was not adopted because it failed to get a majority vote, with 7 yea, 7 nay.

Monitoring and enforcement of standards should be implemented. (one report unanimously adopted).

RECOMMENDATIONS OF SECRETARY OF STATE

Should the Legislature deem it appropriate to institute any changes in the notary law, the following observations are submitted for your review:

- The Secretary of State feels that, whether any changes are made in the existing notary law as a result of this study, an annual reporting system for commissioned notaries should be instituted. The current law requires that a notary candidate furnish his or her current address at the time of commission and once the commission is issued, no further reporting is required from the notary. In a recent mailing to "inactive" notaries in Acadia through Caddo parishes, 38.3% letters were returned due to insufficient address.
- Standardized Testing: A fair, impartial, and uniform statewide notarial test standard should be implemented, with test questions developed and/or approved by the Secretary of State, in conjunction with subject-matter experts. Test results should be available for review by the notarial applicant. The test should be administered on a bi-monthly or quarterly basis.
- Mandatory Continuing Education: Any mandatory continuing education program should be postponed until a regulatory system is in place to monitor the status of notaries throughout the state, as indicated below.
- Monitoring and Enforcement of Standards: Each notary should be assigned an identification number; each notary should file an annual report and filing fee with appropriate penalties for noncompliance; in cases of noncompliance, the Secretary of State should have the statutory authority to suspend a commission and ultimately revoke it, without the necessity of filing a rule to show cause to revoke the commission. Misconduct by notaries should continue to be handled at the local level. If a monitoring program is implemented by the Legislature, the Secretary of State's office would be able to administer the program with minimal additional staff and expenses; thus the annual fee should be relatively small.
 - Please note that any new programs implemented will require changes in the Revised Statutes in Title 35 and other titles.

Louisiana Notary

THE NOTARY'S NEWSLETTER since 1983

Pre-sort Std
Auto
U.S. POSTAGE
P A I D
Baton Rouge, LA
Permit No. 1648

Post Office Box 4206
Baton Rouge, Louisiana 70821-4206

Published by The Golden Bough, Ltd.,
Author/Managing Editor: C. Alan Jennings, NP
Founding Editor: Gregory R. Olivier DeKeyzer, JD, NP
Editorial Advisors
Richard P. Bullock, JD, NP
Sydney I. Horn, JD, NP
Susan L. Johnson, NP
Mary E. Tharp, JD, NP
Copyright © 2002
The Golden Bough Ltd. and C. Alan Jennings
All Rights Reserved

*Thank you for your subscription.
Please tell other notaries about
Louisiana Notary - The Notary's Newsletter*

**The Notary's
Newsletter
Since 1983**

Louisiana Notary **Subscription Order**

To subscribe for one year (three issues), send \$19.50 and this completed form to: Louisiana Notary, Post Office Box 4206, Baton Rouge, Louisiana 70821

Subscriber Information:

Name: _____

Address: _____

City, State, Zip: _____

Daytime Phone: (_____) _____ SE/01/03

Please begin my subscription with the issue checked:

_____ *Current*
(November 2002) Issue

_____ *Next*
(March 2003) Issue

Be informed. Stay updated.

Subscribe to *Louisiana Notary* today!