

MEMORANDUM

FROM: Paul A. Bello, N.P.

Notary Study Committee member

TO: The Hon. Secretary of State, Al Ater, esq., First Assistant SOS, Cynthia Cotten, Chairman, Notary Study Committee, All Members, Notary Study Committee, and All Interested Notaries and Citizens.

DATE: May 28, 2002

RE: PROPOSED REVISIONS TO TITLE 35 REGARDING HCR 81

Dear Mr. Secretary, Mr. Ater, Ms. Cotten, members of the Committee, esteemed Colleagues and citizens:

I have undertaken a review and draft of the pertinent sections of Louisiana Revised Statutes Title 35 in light of the task assigned to the Hon. Secretary and the Notary Study Committee under House Concurrent Resolution No. 81

I would appreciate it if the committee and its subcommittees consider this draft in its deliberations and report, and would likewise appreciate it if this draft was presented for discussion at the open regional meetings.

In short, the draft provides for

- (1) A resident-parish commission with full state-wide authority and qualification for all notaries, present and future,
- (2) A single, large central bank of exam questions maintained and kept current and certified by the Custodian of Notarial Archives and issued to each parish examining committee,
- (3) A Code of Ethics and Professional Code exclusive to notaries enforced by the Louisiana Board of Ethics, who may enforce no other code of ethics against them. (Currently the Board maintains they have jurisdiction over notaries as public officials under the current state-wide Code of Ethics). I have drawn this draft ethics code based upon and after reviewing the notary ethics codes of our colleagues in Quebec, Mexico, and South America, with the Quebec code being the principal source.
- (4) Broadening the notary enforcement authority of the Custodian of Notarial Archives from his current jurisdiction over notaries of Orleans parish only to encompass notaries of every parish, and to provide that the \$20.00 annual notary fee paid to the Custodian currently by Orleans parish notaries only is applied state-wide, to defray costs of

enforcement.

- (4) Broadening the Annual Notary Statement of residency and sufficiency of bond reporting requirement, currently required of Orleans parish notaries only, to require an additional statement proving sufficient annual continuing education credits and to apply the requirement to notaries of every parish.
- (5) Related “Housekeeping” draft revisions.

The draft is attached, and I welcome your comments.

Sincerely,

Paul A. Bello, N.P.

PROPOSED REVISIONS TO TITLE 35 REGARDING HCR 81

by Paul A. Bello, N.P.

Please note that underlined portions represent proposed changes to the statutes. ~~Struck-out~~ portions represent deletions to current law.

La. R.S. 35:191

CHAPTER 4. APPOINTMENT, QUALIFICATIONS, AND BONDS OF NOTARIES

§191. Appointment; qualifications and bond; examination; examiners

A. Any resident citizen or alien of the state, eighteen years of age or older, may be appointed a notary public in and for the parish in which he resides ~~and in and for any one other parish in which he maintains an office~~, provided that he meets the requirements established by law ~~for each parish in which he applies~~.

~~(2) Notwithstanding the provisions of Paragraph A(1) or Subsection C of this Section, a person validly appointed notary public in the parish of his residence may exercise any and all of the functions of a notary public in an adjacent parish which has a population of less than thirty-five thousand and in which he maintains an office, without additional bonding or further application or examination, but must file with the district court for the other parish an affidavit giving the location of his office and attesting to his appointment as a notary public in his parish of residence. Additionally, the applicant shall obtain a dual commission by complying with the procedures established by the office of the secretary of state.~~

B. A resident citizen seeking to be appointed notary public ~~in the parish of his residence~~ or possessing a valid notarial commission ~~in and for a parish based on his residence~~ must be a registered voter ~~of that in the parish of his residence~~.

C. Each applicant, otherwise qualified, may be appointed a notary public in and for a parish upon meeting all of the following conditions:

(1) Submitting an application to be appointed a notary public to the appropriate district court together with a certificate establishing his age; and residence, ~~location of his office when the applicant seeks to be appointed a notary based on such office, location of the office which was the basis for a current appointment as a notary in any other parish, if any;~~ and a statement as to the applicant's good moral character, integrity, competency, and sober habits, sworn to and subscribed by two reputable citizens of the parish.

(2)(a) Taking and passing a written examination administered by an examining committee composed of three notaries appointed by the district court having jurisdiction in the parish, or in Orleans Parish the custodian of notarial records, and one attorney, and one notary public who is not an attorney. Two of the notaries shall be attorneys and one a notary public who is not an attorney. However, if no person

34 within the parish who is a non-attorney notary will accept such appointment, the district court having
 35 jurisdiction in the parish shall appoint an additional attorney to serve on the examining committee.

36 (b) The examining committee members shall be appointed to serve a term of two years beginning
 37 October 1, 1977, and every two years thereafter. Examinations shall be given on the second Monday
 38 in July and the second Monday in December of each calendar year beginning in December, 1977, and
 39 may be given at such other times as the examining committee shall determine. Application to take such
 40 examination must be filed with the district court no later than thirty days prior to the date as fixed herein
 41 for such examination. Results of the examination shall be announced to each applicant within forty-five
 42 days following the examination. If the examining committee fails to schedule and give the examinations
 43 as herein directed, then the said committee shall automatically be discharged and a new committee shall
 44 be appointed to fulfill the unexpired terms in accordance with the above provisions.

45 (c) In Orleans Parish, the examination shall be administered at the office of the custodian of notarial
 46 records.

47 (d) The examination provided for by this chapter shall be drawn from a current and certified central
 48 bank of at least one thousand possible notary examination questions and answer key from which a
 49 minimum of 100 questions and a maximum of 250 questions shall be drawn for each examination given,
 50 or, of a number sufficient and of such level of difficulty to demonstrate to each respective examining
 51 committee of each parish, in its discretion, in the successful passing thereof, their notary candidates'
 52 high level of proficiency and competency over the broadest examination possible of notarial duties and
 53 authority, but in no case shall an examination be drawn of less than 100 questions.

54 (e) The central bank of questions and answer key thereof provided for in this paragraph shall be
 55 composed, maintained and issued by the Custodian of Notarial Archives at no cost to the examining
 56 committees, and for their sole and exclusive use, and he shall diligently, by every means in his power,
 57 keep the central bank of questions and answer key accurate, current and up to date as to the law at all
 58 times, and the examining committees shall reclaim all examination questions immediately following the
 59 end of each examination, and, immediately following the grading thereof, shall destroy all questions and
 60 answer key to safeguard the integrity of the examination.

61 (f) The Custodian of Notarial Archives shall certify his central bank of questions as accurate, current
 62 and up to date as to the law through the date of each examination given and it shall be the duty of the
 63 examining committees to post the certification conspicuously at the place of and during each given.

64 (g) If found competent and possessed of the necessary qualifications, the court shall issue to the
 65 applicant an appropriate certificate, signed by a judge of the court.

66 (h) The examination provided for in this Paragraph may be dispensed with by the court if the applicant
 67 has been duly admitted to practice law in this state ~~or holds a valid notarial commission in this state.~~

68 (i) The examination provided for in this Paragraph shall be dispensed with by the court if the non-
 69 attorney applicant holds a valid notarial commission in this state.

70 (2) Giving bond, with good and solvent security, in the sum of five thousand dollars conditioned for the
 71 faithful performance of all duties required by law toward all persons who may employ him in his
 72 profession of notary.

73 D. Notwithstanding any other provision of law to the contrary, any person who is validly appointed
 74 notary public in and for ~~the any parish of Orleans~~ this state ~~the parish of St. Bernard, the parish of~~
 75 ~~Plaquemines, or the parish of Jefferson~~ is hereby authorized and deemed eligible and qualified to
 76 exercise any and all of the functions of a notary public in ~~the parishes of Orleans, Plaquemines, St.~~
 77 ~~Bernard, and Jefferson~~ every parish of this state. No additional bonding or further application or
 78 examination shall be required due to the expanded jurisdictional limits authorized by this Subsection

79 E. Notwithstanding any other provision of law to the contrary, any person who has been a validly
 80 appointed notary public in or for any parish for a period of five years and who changes his residence to
 81 another parish, and in the parish of his new residence complies with the laws governing notaries public
 82 in said parish, except taking and passing an examination, shall be issued a notarial commission for the
 83 parish of his new residence by the governor without advice and consent of the Senate and may exercise
 84 the functions of notary public in that parish.

85 F. Notwithstanding any other provision of law to the contrary, any person who is validly appointed
 86 notary public in and for any of the parishes of Tangipahoa, Livingston or St. Helena is hereby
 87 authorized and deemed eligible and qualified to exercise any and all of the functions a notary public in
 88 the parishes of Tangipahoa, Livingston and St. Helena.

89 G. Notwithstanding any other provision of law to the contrary, any person who is validly appointed
 90 notary public in and for any of the parishes of Bienville, Caldwell, East Carroll, Franklin, Jackson,
 91 Lincoln, Madison, Morehouse, Ouachita, Richland, Union, or West Carroll is hereby authorized and
 92 deemed eligible and qualified to exercise any and all of the functions of a notary public in the parishes of
 93 Bienville, Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland,
 94 Union, or West Carroll.

95 H. Notwithstanding any other provision of law to the contrary, any person who is validly appointed
 96 notary public in and for any of the parishes of Caddo, Bossier, Bienville, DeSoto, Claiborne, or
 97 Webster is hereby authorized and deemed eligible and qualified to exercise any and all of the functions
 98 of a notary public in the parishes of Caddo, Bossier, Bienville, DeSoto, Claiborne, and Webster. No
 99 additional bonding or further application or examination shall be required due to the expanded
 100 jurisdictional limits authorized by this Subsection.

101 I. Notwithstanding any other provision of law to the contrary, any person who is validly appointed
 102 notary public in and for either of the parishes of Catahoula or Concordia is hereby authorized and

103 deemed eligible and qualified to exercise any and all of the functions of a notary public in the parishes of
104 Catahoula and Concordia.

105 J. Notwithstanding any other provision of law to the contrary, any person who is a validly appointed
106 notary public in and for either of the parishes of Iberia or St. Mary is hereby authorized and deemed
107 eligible and qualified to exercise any and all of the functions of a notary public in the
108 parishes of Iberia and St. Mary.

109 K. Notwithstanding any other provision of law to the contrary, any person who is validly appointed
110 notary public in and for any of the parishes of Allen, Beauregard, Calcasieu, Cameron, Vernon, or
111 Jefferson Davis is hereby authorized and deemed eligible and qualified to exercise any and all functions
112 of a notary public in the parishes of Allen, Beauregard, Calcasieu, Cameron, Vernon, and Jefferson
113 Davis. No additional bonding or further application or examination shall be required due to the
114 expanded jurisdictional limits authorized by this Subsection.

115 L. Any notary public in and for the parish of Acadia, Lafayette, or Vermilion is hereby authorized and
116 qualified to exercise all of the functions of a notary public in and for any of said parishes. No additional
117 bonding or further application or examination shall be required due to the expanded jurisdictional limits
118 authorized by this Subsection.

119 M. Any notary public appointed in and for the parish of Iberia or Vermilion is hereby authorized and
120 qualified to exercise any and all functions of a notary public in both parishes. No additional bonding or
121 further application or examination shall be required due to the expanded jurisdictional limits authorized
122 by this Subsection.

123 N. Any notary public appointed in and for the parish of Ascension, East Baton Rouge, East Feliciana,
124 Livingston, Pointe Coupee, West Baton Rouge, or West Feliciana is hereby authorized and qualified to
125 exercise all of the functions of a notary public in and for any of said parishes. No additional bonding or
126 further application or examination shall be required due to the expanded jurisdictional limits authorized
127 by this Subsection.

128 O. Notwithstanding any other provision of law to the contrary, any person who is validly appointed
129 notary public in and for any of the parishes of Acadia, Evangeline, or St. Landry is hereby authorized
130 and deemed eligible and qualified to exercise any and all of the functions of a notary public in the
131 parishes of Acadia, Evangeline, and St. Landry. No additional bonding or further application or
132 examination shall be required due to the expanded jurisdictional limits authorized by this Subsection.

133 P. Notwithstanding any other provision of law to the contrary, each person who is licensed to practice
134 law in this state who is a notary public in and for any parish in this state may exercise the functions of a
135 notary public in every parish in this state. The expanded jurisdictional limits authorized by this
136 Subsection are additional to other provisions of law. No additional bonding or further application or

137 ~~examination shall be required due to the expanded jurisdictional limits authorized by this Subsection.~~

138 Q. ~~Notwithstanding any other provision of law to the contrary, any person who is validly appointed~~
139 ~~notary public in and for either of the parishes of Lafayette or St. Landry is hereby authorized and~~
140 ~~qualified to exercise all of the functions of a notary public in and for both parishes. No additional~~
141 ~~bonding or further application or examination shall be required due to the expanded jurisdictional limits~~
142 ~~authorized by this Subsection.~~

143 R. ~~Notwithstanding any other provision of law to the contrary, any person who is a validly appointed~~
144 ~~notary public in and for any of the parishes of Iberia, St. Martin, or St. Mary is hereby~~
145 ~~authorized and deemed eligible and qualified to exercise any and all of the functions of a notary public~~
146 ~~in the parishes of Iberia, St. Martin, and St. Mary. No additional bonding or further~~
147 ~~application or examination shall be required due to the expanded jurisdictional limits authorized~~
148 ~~by this Subsection.~~

149 S. ~~Notwithstanding any other provision of law to the contrary, any person who is a validly appointed~~
150 ~~notary public in and for either of the parishes of Sabine or Vernon is hereby authorized and deemed~~
151 ~~eligible and qualified to exercise any and all of the functions of a notary public in the parishes of Sabine~~
152 ~~and Vernon. No additional bonding or further application or examination shall be required due to the~~
153 ~~expanded jurisdictional limits authorized by this Subsection.~~

154 T. ~~Notwithstanding any other provision of law to the contrary, any person who is a validly appointed~~
155 ~~notary public in and for any of the parishes of Avoyelles, Grant, or Rapides is hereby authorized and~~
156 ~~deemed eligible and qualified to exercise any and all of the functions of a notary public in the parishes of~~
157 ~~Avoyelles, Grant, and Rapides. No additional bonding or further application or examination shall be~~
158 ~~required due to the expanded jurisdictional limits authorized by this Subsection.~~

159 U. ~~Notwithstanding any other provision of law to the contrary, any person who is validly appointed~~
160 ~~notary public in and for the parish of St. Mary, the parish of Assumption, the parish of Lafourche, or the~~
161 ~~parish of Terrebonne is hereby authorized and deemed eligible and qualified to exercise any and all of~~
162 ~~the functions of notary in the parishes of St. Mary, Assumption, Lafourche, and Terrebonne.~~

163 **R.S. 35:321 et seq.**

164 **PART III. OFFICE AND CUSTODIAN OF NOTARIAL RECORDS**

165 **§321. Terms defined**

166 As used in this Part, the terms defined in this Section shall have the meanings here given to them, except
167 when the context clearly indicates otherwise:

168 (1) "~~Notary~~" or "~~Notary Public~~" shall mean a "~~Notary Public in and for the Parish of Orleans~~".

169 (1) "Custodian" means "Custodian of Notarial Records in and for the Parish of Orleans".

170 (2) "New Orleans Notarial Archives" means "office of notarial records in and for the parish of Orleans".

171 §322. Appointment and qualifications; vacancies

172 A. The governor by and with the advice and consent of the Senate shall appoint a custodian of notarial
173 records, whose term of office shall be for four years, and run concurrent with the governor. In the event
174 of a vacancy in said office, the governor by and with the advice and consent of the Senate shall appoint
175 a custodian for the unexpired term.

176 B. The custodian shall be a duly licensed and practicing attorney at law and notary public ~~in the parish~~
177 ~~of Orleans~~, of this state and shall be a member in good standing of the Louisiana State Bar

178 Association, or a notary public of this state listed as active with the Secretary of State.

179 §323. Central office; preservation of notarial records; permanent volumes

180 A. The custodian shall maintain a central office in the city of New Orleans in the Civil District Court
181 Building in quarters presently provided by the city of New Orleans or other quarters in said courthouse
182 to be provided in the city of New Orleans. The custodian shall demand, take possession of, collect,
183 keep, and preserve in this office or in an archival-safe environment the notarial records of notaries in the
184 parish of Orleans.

185 B.(1)(a) The original of every authentic act, except chattel mortgages and acts relating to real property
186 outside of Orleans Parish, passed before a notary public in Orleans Parish, and also every act, contract,
187 and instrument except money judgments and chattel mortgages filed for record in the office of either the
188 recorder of mortgages or the register of conveyances for the parish of Orleans shall, as a condition
189 precedent to such filing in the office of the recorder of mortgages or the register of conveyances for the
190 parish of Orleans, be first filed in the office of the custodian of notarial records for the parish of Orleans.

191 (b) The custodian shall endorse on each act, contract, or instrument filed in his office the date of such
192 filing and a serial number, and shall issue a receipt for such act, contract, or instrument, showing the
193 date of its filing and the serial number. All acts, contracts, or instruments so endorsed, if required by
194 law, shall be filed for record with the recorder of mortgages or the register of conveyances for the
195 parish of Orleans, or both, and shall be registered and/or recorded with the serial number furnished by
196 the custodian; however, nothing herein shall be deemed to impose upon the custodian any obligation to
197 file any act, contract, or instrument with either the recorder of mortgages or the register of conveyances.

198 (c) The recorder of mortgages and register of conveyances for the parish of Orleans shall thereafter
199 endorse said act, contract, or instrument to the custodian, showing the date and time of filing, and the
200 book and folio or instrument number endorsed thereon by the recorder of mortgages or the registrar of
201 conveyances, and shall return the act to the custodian who shall thereupon have permanent custody of
202 the said act, contract, or instrument, and shall file same in his office in permanent, bound form according
203 to the serial number endorsed thereon by the custodian.

204 (2) It shall be the duty of all Orleans parish notaries public filing acts for registration and/or recordation
205 pursuant hereto to deposit with the custodian all attachments such as certificates, tax researches,
206 surveys, and other documents pertaining to any act passed before them and this deposit must be made
207 within sixty days of the date of registration and/or recordation of said act. It shall be the duty of the
208 custodian to file these attachments in permanent, bound form, to the act to which they pertain. The
209 bookbinding shall be done in accordance to standards that will ensure the indefinite survival of the
210 records.

211 C.(1) The custodian of notarial records shall charge the sum of ten dollars for each act, contract, or
212 other instrument thus filed and deposited in his office, and twenty dollars for each sketch, blueprint, or
213 survey, with one-half of the fee collected to be dedicated to microfilm or other
214 imaging projects, with the remainder to be used only for the expenses and maintenance of said office.

215 (2) Notwithstanding the provisions of this subsection, all veterans of the armed forces of the United
216 States of America shall be exempt from paying any fee for the filing and depositing of their discharge
217 certificates or other evidence of honorable separation from the armed forces with the custodian of
218 notarial records.

219 (3) Notwithstanding the provisions of this Subsection, the city of New Orleans shall be exempt from
220 payment of any filing fees.

221 D. Repealed by Acts 1997, No. 1102, § 2.

222 E. Every living, qualified notary public is authorized to certify true copies of any authentic act or any
223 instrument under private signature hereafter or heretofore passed before him or acknowledged before
224 him, and to make and certify copies, by any method, of any certificate, research, resolution, survey or
225 other document annexed to the original of any authentic acts passed before him, and may certify such
226 copies as true copies of the original document attached to the original passed before him.

227 F. Whenever any notary public for the parish of Orleans shall fail to comply with the provisions of this
228 section then it shall be the duty of the custodian of notarial records to institute proceedings by rule in the
229 Civil District Court for the parish of Orleans to require said notary public to show cause why his

230 notarial commission should not be forfeited and why he should not be ordered to turn over all his
 231 notarial archives and records to the custodian of notarial records and pay all costs of said proceedings.

232 G. Repealed by Acts 1997, No. 1102, § 2.

233 §325. Lists of notaries, central notary examination question bank

234 (a) The custodian shall keep an accurate alphabetical list of all notaries public, showing their
 235 business and residence addresses and the expiration date of their bonds; he shall keep this list at all
 236 times open to public inspection during his office hours, and furnish the Secretary of State and the district
 237 ~~attorney-attorneys of every parish of this state in and for the Parish of Orleans,~~ annually on or before
 238 October 1st, a certified list of all notaries ~~in and for the Parish of Orleans,~~ in the case of the Secretary
 239 of State, and all notaries of their respective parishes, in the case of district attorneys, showing the
 240 number of notaries and the number and names of those who have ceased to be notaries, and the
 241 number and names of those whose bonds have expired.

242 He shall diligently, by every means in his power, keep the list accurate and up to date at all times, and
 243 shall immediately notify the governor and the Secretary of State of each vacancy caused by death,
 244 resignation, removal from Orleans Parish, or any other cause, as soon as such facts are ascertained by
 245 him.

246 (b) The central bank of questions and answer key provided for in paragraph 191 shall be composed,
 247 maintained and issued by the Custodian of Notarial Records at no cost to the
 248 examining committees, and he shall diligently, by every means in his power, keep the list accurate,
 249 current and up to date as to the law at all times.

250 (f) The Custodian of Notarial Records shall certify his central bank of questions as accurate, current
 251 and up to date as to the law through the date of each examination given, and he shall not issue his
 252 questions to any but lawful examining committees.

253 §326. Execution and recordation of bond; filing of certificate of competency;

254 filing of annual statement, annual fee

255 A. Each Notary shall, annually, before September 1st, furnish to the custodian a statement showing his
 256 office and residence address, the date of his bond and the surety thereon, with address, and proof of
 257 successful completion of at least 10 hours of Continuing Legal Education in Notarial law and practice,
 258 including 1 hour of instruction in ethics and 1 hour of instruction in professionalism, in courses
 259 accredited by the Mandatory Continuing Legal Education Committee of the Supreme Court of

260 Louisiana. The failure to furnish the statement is cause for the revocation of the notary's commission.

261 B. The proof of Continuing Legal Education provided for in this Section may be dispensed with by the
262 court if the notary has been duly admitted to practice law in this state and is in good standing with the
263 Louisiana Bar Association.

264 C. Proof of Continuing Legal Education shall be dispensed with for any Notary who shall have attained
265 the age of 65 years.

266 D. Notarial practice shall be further governed by the Code of Ethics and Professional Code of Notaries
267 as provided for in La. R.S. 35:329, which Code of Ethics and Professional Code and no other shall be
268 enforced by the Louisiana Board of Ethics, which shall have jurisdiction under Subchapter F, against
269 notaries public not licensed to practice law in this state and not in good standing with the Louisiana
270 State Bar Association.

271 E The provisions of Subsection A of this Section shall not affect the validity of bonds given or recorded
272 in the mortgage or conveyance office of any parish prior to September 9, 1977.

273 §327. Fee payable to custodian by notaries

274 Each notary shall pay an annual fee of twenty dollars, on or before September first of each year, to the
275 custodian, the said fees to be used by the custodian for expenses of his office.

276 Amended by Acts 1972, No. 467, § 1; Acts 1988, No. 650, § 1, eff. July 15, 1988; Acts 1997, No.
277 1102, § 1.

278 §328. Testing sureties on bonds, residency, law license, good standing in Bar; proof, new bond;
279 forfeiture of commission for failure to give

280 A. The custodian shall institute proceedings by rule in ~~the Civil District Court of the parish of Orleans~~
281 any district court of proper venue and jurisdiction at least once every twelve months, and more often if
282 he deems it proper and necessary, without the payment of costs by the custodian, on all notaries in the
283 state parish to test the surety on their official bonds, in the case of non-attorney notaries, their license to
284 practice law and good standing status with the Louisiana State Bar Association, in the case of attorney-
285 notaries, residency within the parish of commission, and, in the case of resident citizens, residency-
286 based voter registration, and payment of the annual fee to the custodian, and should the sureties on the
287 official bonds so tested be judicially declared not good and solvent as required by law, or should any
288 other requirements so tested be judicially declared deficient, the non-attorney notary whose surety or

289 any other requirement has been so declared shall pay the costs of the rule, and shall be allowed thirty
 290 days within which to give a new bond, in the case of a non-attorney notary, and, as the case may be, to
 291 correct any other of said deficiencies, upon the payment of all costs which have been assessed against
 292 him in any proceeding filed by the custodian under the provisions of this Part.

293 B.(1) Whenever the ~~non-attorney~~ notary's commission is revoked for failure to comply with the
 294 requirements of this Part, no judgment of any court reinstating the ~~non-attorney~~ notary rendered after
 295 the expiration of thirty days as hereinabove provided for shall be valid, and all notaries whose
 296 commissions has been revoked hereunder must comply with the requirements set forth under Louisiana
 297 Revised Statues 35:191.A, 35:191.B, 35:191.C.1.a, 35:191.C.1.b, 35:191.C.1.c, 35:191.C.1.d,
 298 35:191.C.1.e, 35:191.C.1.f, 35:191.C.1.g., unless otherwise disqualified to hold the office, to obtain a
 299 commission.

300 (2) He shall not be entitled to act as a notary during the period of thirty days.

301 §329. ~~Repealed by Acts 1997, No. 1102, § 2~~ Code of ethics and professional code of notaries

302 A. Duties and obligations towards the public

303 (1.) The notary must support every measure likely to improve the quality and availability of
 304 professional services in the field in which he practices.

305 (2) A notary must promote measures of education and information pertinent to the field in which he
 306 practices. Except for serious reasons, he must also perform the necessary acts to ensure such education
 307 and information in the field in which he practices.

308 (3) A notary must act with dignity and must refrain from using methods or from adopting attitudes
 309 that may detract from the good name of the profession and public office of notary or from the notary's
 310 ability to serve the public interest. A notary's conduct must in no way be influenced by pecuniary or
 311 commercial consideration.

312 (4) A notary must promptly report to competent authority the fact that he has reason to believe that
 313 a notary has used sums of money or other securities for purposes other than those for which they were
 314 entrusted to him in the practice of his profession.

315 B. Duties and obligations towards clients- general provisions

316 (1) Before accepting engagement from a client to provide notarial services, a notary must bear in
 317 mind the extent of his proficiency and the means at his disposal to carry out the tasks for which he is
 318 contracted.

319 (2) A notary must at all times acknowledge his client's right to consult another notary or another

320 competent person.

321 (3) A notary must not practice under conditions or in situations likely to impair the quality of his
322 services.

323 (4) A notary must try to establish a mutual trust relationship between himself and his client.

324 For that purpose, he must, in particular:

325 (a) refrain from practicing his profession and conducting the public office of notary in an
326 impersonal manner;

327 (b) conduct his interviews in such a way as to respect his client's scale of values and personal
328 convictions.

329 (5) A notary must give disinterested, frank and honest advice to his clients or parties.

330 (6) A non-attorney notary shall refrain from intervening in his clients' personal affairs concerning
331 matters which are not within the scope generally acknowledged to the profession and public office of
332 notary.

333 (7) A notary must be familiar with the standards of professional practice provided for in this code
334 of ethics and professional code, as amended, and apply them to the professional services he renders.

335 C. Duties and obligations towards clients-integrity

336 (1) A notary must discharge his professional and public duties with integrity.

337 (2) A notary must avoid any false representation with respect to his level of competence or the
338 efficiency of his own services or of those generally provided by the members of his profession and
339 public office. If the client's best interests so require, he must, upon the latter's authorization, consult a
340 colleague, a member of another profession, such as an attorney-at-law or certified public accountant, or
341 another competent person, or refer him to one of these persons.

342 (3) A notary must inform his client as early as possible of the extent and the terms and conditions of
343 the engagement to provide notarial services entrusted to him by the latter and obtain his agreement in
344 that respect.

345 (4) A notary must inform the parties of the nature of an act arising out of the engagement to provide
346 notarial services entrusted to him and of its usual legal consequences. He must also inform them of the
347 existing fiscal implications of such act, and, depending upon the circumstances, refer them to a person
348 who is competent in such matter.

349 (5) A notary must ascertain the facts essential to the support of an act, instrument or agreement and
350 inform his client on the formalities required for the validity and efficacy of such act or such agreement.

351 (6) A notary may not use, for his own purposes, the securities of which he has custody. He
352 shall not, in particular:

353 (a) use as a personal loan the monies entrusted to him for investment;

354 (b) invest to his advantage, either in his own name, or through an intermediary, the funds received in
355 trust.

356 (7) Every loan obtained by a notary from a client other than a corporation must be acknowledged
357 by notarial act.

358 (8) A notary must refrain from endorsing a check made to the order of a client unless he has
359 received the latter's authorization to that effect and provided that the endorsement is made solely for
360 deposit in a trust account.

361 (9) A notary must refuse to loan his professional services for improper or fraudulent transactions.

362 (10) A notary who enters upon or participates in matters which are not connected with the practice
363 of his profession, must exercise prudence in order not to jeopardize his personal solvency, his
364 professional independence or his professional obligations.

365 D. Duties and obligations towards clients-availability and diligence

366

367 (1) A notary must show, in all matters entrusted to him, reasonable availability and diligence. In
368 addition to opinion and advice, a notary must provide his client with any explanations necessary for the
369 understanding and evaluation of the services rendered to him.

370 (2) A notary must give an account to his client when so requested by the latter.

371 (3) Unless he has sound and reasonable grounds therefor, a notary may not cease to act for the
372 account of a client. The following shall, in particular, constitute sound and reasonable grounds:

373 (a) loss of the client's confidence;

374 (b) the fact that the notary is in a situation of conflict of interest or in a situation such that his professional
375 independence could be called in question;

376 (c) inducement by the client to perform illegal, unfair and fraudulent acts.

377 (4) Before he ceases to exercise his functions for the account of a client, the notary must
378 forward an advance notice of withdrawal within a reasonable time.

379

380 E. Duties and obligations towards clients-independence and impartiality

381 (1) A notary must subordinate his personal interest to that of his client.

382 (2) A notary must ignore any intervention by a third party which could influence the performance of
383 his professional duties to the detriment of his client.

384 (3) A notary must at all times safeguard his professional independence and avoid any situation
385 in which he would be in conflict of interest. Without restricting the generality of the foregoing, a notary:

386 (a) shall not constitute himself, in any capacity whatsoever, the surety of a client;

387 (b) must refrain from paying advances to his clients, except in the form of regular disbursements;

388 (c) shall not advise a client to make investments in a corporation, firm or property in which he holds,
389 directly or indirectly, majority interest or an interest that permits him to act significantly upon the
390 decisions.

391 (4) As soon as he ascertains that he is in a situation of conflict of interest, the notary must notify his
392 client thereof and ask for authorization to continue his engagement to provide notarial services.

393 (5) A notary must not share his fees with a person who is not a notary or remit such fees to him.

394 (6) A notary shall share his fees with a colleague only to the extent that such sharing corresponds to
395 a distribution of services and responsibilities.

396 (7) Save for the remuneration to which he is entitled, a notary shall not pay or receive any rebate or
397 commission relative to the practice of his profession and public office.

398

399 F. Duties and obligations towards clients-professional secrecy

400 (1) A notary has a duty to hold in strict confidence all confidential information acquired in the
401 practice of his profession and public office.

402 (2) A notary must ensure that his employees do not disclose to other persons the confidential
403 information of which they may have taken cognizance.

404 (3) A notary may be released from professional secrecy only with the authorization of his client or
405 whenever so ordered by law.

406 (4) A notary shall not disclose that a person retained his services when such disclosure might cause
407 prejudice to that person.

408 (5) A notary must avoid indiscreet conversations concerning a client and the services rendered him.

409 (6) A notary shall not make use of confidential information which may be prejudicial to a client or
410 with a view to obtaining a direct or indirect benefit for himself or for another person.

411 F. Duties and obligations towards clients-accessibility of records

412

413 (1) A notary must respect the right of his client to take cognizance of the documents that concern
414 him in any file drawn up in his regard and, subject to inconsistent legislative provisions, to obtain a copy
415 or photocopy of such documents

416 (2) A notary shall not unduly retain a file or document which belongs to a client.

417 (3) A notary must provide his client with all the explanations necessary to the understanding of his
418 statement of fees.

419 (4) A notary must not determine the amount of his fees without knowing all the elements essential to
420 establishing the said amount. He must, however, ensure that his client is notified of the approximate and
421 foreseeable cost of his services. If he foresees that the actual cost will exceed the approximate cost he
422 has determined, he must so inform his client as soon as possible.

423 (5) A notary must refrain from demanding advance payment of his fees; he may, however, demand
424 retainers on his fees and costs.

425 (6) A notary may not charge interest on outstanding accounts unless there is an agreement to the
426 contrary or a notice of putting in default has been given.

427 (7) A notary shall not, without his client's authorization, deduct his fees and costs from the latter's
428 funds, no matter the reason for his holding them.

429 G. Duties and obligations towards clients-determination and payment of fees

430 The fees demanded by a notary must be fair and reasonable. Fees are fair and reasonable if
431 they are warranted under the circumstances and proportional to the services rendered in accordance
432 with the standards of professional practice. In determining his fees, a notary must take the following
433 factors into account: (1) the time and effort devoted to the matter; (2) the complexity of the matter; (3)
434 the importance of the matter; (4) his experience and expertise; (5) the performance of services requiring
435 particular competence or exceptional celerity; (6) the degree of responsibility assumed; (7) the result
436 obtained where the matter involved special difficulties or where its outcome was uncertain.

437 H. Duties and obligations towards clients-advertising

438 (1) A notary may not engage in or allow, through any means whatsoever, advertising that is false,
439 deceitful, incomplete or liable to be misleading.

440 (2) All the associates in an office are jointly and severally responsible for complying with the rules
441 that govern advertising, unless the advertising clearly indicates the name of one or more persons who
442 are responsible.

443 (3) A notary may not claim to possess specific qualifications or skills, particularly with respect to
444 his level of competence or to the range and efficiency of his services, unless he is able to substantiate his
445 claims on request.

446 (4) In his advertising, a notary may not refer to or allow reference to citations or awards conferred
447 on him, except reference to awards for excellence or merit received in recognition of a contribution or
448 an achievement the honor of which is shared by all members of the profession.

449 (5) A notary who announces his fees in an advertisement must do so in a manner that can be
450 understood by persons having no particular knowledge of notarial law. The notary must:

451 (a) keep the fees in force for the period of time indicated in the advertisement, with that period lasting
452 no less than 90 days following the last authorized broadcasting or publication of the advertisement;

453 (b) indicate the services covered by the fees;

454 (c) indicate whether or not costs are included.

455 (6) A notary must keep the original, full copy of the negative and print and of any reduction or
456 enlargement or any other reproduction of an advertisement for one full year from the last authorized
457 broadcasting or publication of the advertisement.

458 (7) Where a notary uses the coat of arms or the graphic symbol of a notary association or notary
459 organization, or the state seal, for advertising that will be broadcast through a print or an electronic
460 medium, the following notice must be included in the advertisement: "This advertisement is not paid for
461 by (notary association or notary organization and/or the State of Louisiana) and it/they is/are in no way
462 responsible for its content."

463 I. Duties and obligations towards clients-firm name

464 (1) The firm name of an office may comprise only the name of a notary or the names of several
465 notaries who practice together, except in the case referred to in section I(2) hereunder.

466 (2) Notwithstanding the foregoing, the firm name may include the name of a deceased or
467 retired member. The firm name of an office may end with the words "and Associates" where the names
468 of at least 2 associates do not appear in the firm name.

469 (3) Where a notary withdraws from an office or dies, his name must no longer appear in the firm
470 name of the office he has left, unless an agreement to the contrary has been entered into with him or
471 with his successors and assigns.

472 J. Duties and obligations towards the profession-acts derogatory to the dignity of the profession
473

474 (1) In addition to those crimes, misdemeanors and delicts referred to elsewhere in the
475 Louisiana Civil Code, The Louisiana Criminal Code, the Louisiana Code of Civil Procedure and the
476 Louisiana Revised Statutes, as amended, the following acts are derogatory to the dignity of the
477 profession:

478 (a) pressing or repeated inducement to retain his own services;

479 (b) misappropriating or using for purposes other than those authorized by the client the monies or
480 securities entrusted to the notary in the practice of his profession;

- 481 (c) giving authenticity to illegal or fraudulent acts;
482 (d) committing or participating, in the practice of his profession, in the commission of an illegal act;
483 (e) an understanding or agreement with a person other than a practicing notary the purpose of which is
484 to divide or remit fees;
485 (f) the habitual use of drugs and habitual drunkenness;
486 (g) refusal by the notary to submit to the procedure of conciliation and arbitration as well as to the
487 arbitrators' decisions in accordance with the regulation respecting the procedure for conciliation and
488 arbitration of disputes among notaries;
489 (h) taking legal action against a colleague in connection with a matter related to the practice of the
490 profession and public office without having previously referred the dispute to mediation and or
491 arbitration.
- 492 (3) The notary shall not, for any reason whatsoever, loan his services or collaboration to a notary
493 who is suspended or whose commission has been revoked in allowing him to use his name to draw up a
494 document or notarial act or to practice the profession and public office. He shall not hire or keep in his
495 employ a notary who is suspended or whose commission has been revoked, nor tolerate, without valid
496 reason, the latter's presence in his office.
- 497 K. Duties and obligations towards the profession-relations with oversight authority and colleagues
- 498 (1) The notary whose participation on a committee for mediation and/or arbitration of a
499 dispute between colleagues is requested by a colleague or colleagues, or by any person appointed to
500 assist them, or whose participation on a committee on notarial examination or discipline for a single term
501 is requested by competent authority must accept that duty unless he has exceptional reasons for refusing
502 it.
- 503 (2) A notary must reply promptly to all correspondence addressed to him by the officers of
504 competent authority or by any person appointed to assist them.
- 505 (3) A notary must, when requested by a colleague duly authorized by a client, transmit to that
506 colleague the files and documents which belong to the client.
- 507 (4) A notary shall not abuse a colleague's good faith or be guilty of breach of trust or disloyal
508 practices towards him.
- 509 (4) A notary who requests a colleague to execute an act which he has himself drawn up must
510 discharge him in writing from all responsibility in respect of the content of that act.

511 (5) The notary who is consulted by a colleague must give the latter his opinion and
512 recommendations as promptly as possible.

513 (6) A notary who is called upon to cooperate with a colleague must maintain his professional
514 independence. If a task is entrusted to him which is in conflict with his conscience or his principles, he
515 may ask to be excused from doing it.

516 L. Duties and obligations towards the profession- contribution to the advancement of the
517 profession

518 (1) A notary must, as far as he is able, maintain his professional knowledge continuously up to date.
519 He must always keep himself abreast of the evolution of law in the different fields of his activity, in
520 particular by following the continuing education, upgrading and retraining courses recommended by the
521 several notary associations and organizations of this state.

522 (2) A notary must, as far as he is able, contribute to the development of his profession through the
523 exchange of his knowledge and experience with his colleagues or students, by collaborating in
524 vocational training programs, and in the work of universities and notary associations and in contributing
525 to professional publications.

526 §330. Proceedings by custodian against absent notaries

527 Should the proper official be unable to find any notary upon whom he desires to make service of
528 process in any cause brought by the custodian under the authority of this Part, the custodian shall
529 advertise such cause at least three times at intervals of not less than seven or more than ten days, in the
530 official journals of the Parish parishes of Orleans of each absent defendant notary, and if no appearance
531 has been made by the defendant notary in said cause, the custodian shall proceed against him as against
532 an absent defendant, as provided by law.

533 §331. Revocation of non-attorney notary's commission for failure to furnish bond

534 Failure of any non-attorney notary to furnish proper surety bond and proof of successful completion of
535 at least 10 hours of Continuing Legal Education in Notarial law and practice, including 1 hour of
536 instruction in ethics and 1 hour of instruction in professionalism, in courses accredited by the Mandatory
537 Continuing Legal Education Committee of the Supreme Court of
538 Louisiana, shall be just cause for revocation of his notarial commission by a court of proper jurisdiction.

539 §332. Notice by custodian of expiration date of bond

540 It is the duty of the custodian to notify each non-attorney notary of the expiration date of his bond,
541 within sixty and not less than thirty days of the date of expiration; but the failure of the custodian to give
542 such notice shall not prevent the custodian from proceeding to cancel the non-attorney notary's
543 commission as provided herein, nor shall it relieve the non-attorney notary of any duties prescribed by
544 law.

545 §333. Rule to revoke notary's commission

546 Should any notary fail or refuse to pay the annual fee fixed by R.S. 35:327, or fail or refuse to furnish
547 the information required, or fail to provide the proper bond and proof of successful completion of at
548 least 10 hours of Continuing Legal Education, as required by law, the custodian shall promptly file a rule
549 in the civil district court in and for ~~Parish of Orleans, or any other~~ each court of proper jurisdiction, to
550 have the notary's commission revoked, and the notary shall pay all costs of the proceeding.

551 §334. Misdemeanor to act after expiration of bond or after surety canceled

552 It is a misdemeanor, punishable as provided in R.S. 35:335, for any non-attorney notary knowingly to
553 act as such after the expiration of his bond, or after the surety on his bond has been canceled as
554 provided by law.

555 §335. Willful violations

556 The custodian or notary willfully violating the provisions of this Part shall be fined not less than five
557 hundred dollars nor more than one thousand dollars, or imprisoned for not less than ten days nor more
558 than six months.