

## **PROGRAM BILL #10**

### **Memorandum**

AN ACT to amend the executive law relating to procedure of appointment and reappointment of notaries public, certificates of official character, and certification of electronic notarial records

Purpose of the bill: This legislation would amend the Executive Law to require renewal of notary public commissions to be submitted to and processed by the Secretary of State. The legislation would also clarify requirements relating to transmission of records between the Secretary of State and County Clerks, add language relating to electronic notary public registration, and align the fees in the Executive Law associated with certificates of official character of notaries public and certification of notarial signatures with the fees for the same services set forth in the Civil Practice Law and Rules (CPLR). Finally, this legislation makes a technical correction to the process by which an electronic notary may certify a papered out copy of the signature page of an electronically notarized document.

#### Summary of provisions:

Section 1 would amend section 131 of the Executive Law to require applications seeking renewal of notary public commissions to be submitted to and processed by the Secretary of State, expressly authorize electronic transmission of records from the Secretary of State to the County Clerk upon issuance of a notary public commission and add language relating to transmission of records and issuance of commissions upon receipt of registration of the capability to perform electronic notarial acts.

Section 2 would amend section 132 of the Executive Law to align the fee in the executive law associated with certificates of official character of notaries public with the fee for the same service set forth in the CPLR.

Section 3 would amend section 133 of the Executive Law to align the fee in the Executive Law associated with certification of notarial signatures with the fee for the same service set forth in the CPLR.

Section 4 would amend section 135-c of the Executive Law to remove the word “remotely” from the reference to an electronic record in the law relating to certification by a notary public of the signature page of an electronically notarized record.

Section 5 provides for an immediate effective date and allows the County Clerk to process applications for reappointment that were post-marked, submitted, or received by a County Clerk prior to the effective date.

Justification: There are approximately a quarter of a million commissioned notaries public in the state of New York, each of which is commissioned for a four-year term. The Secretary of State and county clerks each have duties and responsibilities relating to commissioning notaries public. Each have recordkeeping and record sharing responsibilities, and current law provides for a part-state, part-local framework by which notaries must obtain their commissions (i.e., license). Under this framework, persons seeking a new notary commission (new license) must apply to the Department of State (DOS) and if approved, receive their license by DOS, whereas a notary seeking to renew their commission must apply to their county clerk and, if approved, receive their renewal license by such county clerk. The law relating to appointment of notaries public also requires the Secretary of State to sign off on reappointments regarding applicants with a criminal conviction and authorizes the Secretary of State to weigh in on applicants regarding good moral character issues but doesn't prescribe how those things happen. The resulting lack

of statutory clarity has resulted in a process by which the county clerk receives applications for individuals seeking reappointment, but instead of issuing a commission after determining completeness and checking with the Secretary of State on any criminal convictions or good moral character issues, the county clerk forwards by mail the completed application for reappointment to the Secretary of State for processing and issuance of a reappointment (i.e., renewal) commission. The result of this cumbersome process has been delays in the issuance of renewals that disenfranchises the end user (the notary) and the businesses they serve.

With the recent enactment of the new law providing for electronic notary services in the state of New York, the Secretary of State launched a new application and records management system that processes not only electronic notary registrations, but new notary applications for traditional notary commissions. The system is capable of processing renewal applications as well, and a change in law directing renewals to the Secretary of State will eliminate the chronic renewal backlog associated with the antiquated, paper and mail-based process and deliver a modern online application with the efficiency that the public has become accustomed to receiving with many other government services.

Prior legislative history: None.

Fiscal implications: None.

Effective date: Immediate.