## GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2001

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## HOUSE BILL 955

Senate Judiciary I Committee Substitute Adopted 9/18/01

|           | Short Title: Notary Authority M   | lisrepresentation.                           | (Public)         |
|-----------|---|--|------------------|
|           | Sponsors:   |  |                  |
|           | Referred to:  |  |                  |
|           |   | April 3, 2001                                |                  |
| 1         | A E   | BILL TO BE ENTITLED                          |                  |
| 2         | AN ACT TO PREVENT THE MISREPRESENTATION OF THE AUTHORITY OF A   |  |                  |
| 3         | NOTARY PUBLIC.  |  |                  |
| 4         | The General Assembly of North Carolina enacts:  |  |                  |
| 5         | <b>SECTION 1.</b> G.S. 10A-4(c) reads as rewritten:   |  |                  |
| 6         | "(c) The Secretary may deny an application for commission or recommission as a  |  |                  |
| 7         | notary if any of the following applies to the applicant:  |  |                  |
| 8         | (1) The applicant h   | as been convicted of a crime involving       | dishonesty or    |
| 9         | moral turpitude.  |  |                  |
| 10        | (1a) The applicant ha   | as been convicted of a felony and the app    | plicant's rights |
| 11        | have not been re  | estored.                                     |                  |
| 12        | (2) The applicant h   | as had a notarial commission or profes       | ssional license  |
| 13        | -   | ded, or restricted by this or any other stat |                  |
| 14        |   | has engaged in official misconduct, w        | hether or not    |
| 15        | disciplinary action   |  |                  |
| 16        |   | nowingly uses false or misleading advert     | -                |
| 17        |   | s a notary represents that the applican      |                  |
| 18        |   | privileges that the applicant does not pos   |                  |
| 19        |   | s found by a court of this State or any      | other state to   |
| 20        | •••   | the unauthorized practice of law."           |                  |
| 21        |   | 0-9 is amended by adding the following       | subsections to   |
| 22        | read:   |  | : 41-: C4-4-     |
| 23        |   | s not an attorney licensed to practice law   |                  |
| 24<br>25  | who advertises the person's services as a notary public in a language other than English,   |  |                  |
| 25<br>26  | by radio, television, signs, pamphlets, newspapers, other written communication, or in  |  |                  |
| 20<br>27  | any other manner, shall post or otherwise include with the advertisement the notice set   |  |                  |
| 27        | forth in this subsection in English and in the language used for the advertisement. The   |  |                  |
| 28<br>29  | notice shall be of conspicuous size, if in writing, and shall state: "I AM NOT AN ATTORNEY LICENSED TO PRACTICE LAW IN THE STATE OF NORTH |  |                  |
| <i>47</i> | ATTORNET LICENSED IU  | TRACTICE LAW IN THE STATE                    | OF NORTH         |

## GENERAL ASSEMBLY OF NORTH CAROLINA

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| 1        | CAROLINA, AND I MAY NOT GIVE LEGAL ADVICE OR ACCEPT FEES FOR                                |  |  |
|----------|---|--|--|
| 2        | LEGAL ADVICE." If the advertisement is by radio or television, the statement may be         |  |  |
| 3        | modified but must include substantially the same message.                                   |  |  |
| 4        | Literal translation of the words "notary" and "notary public" by or on behalf of a          |  |  |
| 5        | notary public into a language other than English in a manner that is designed to            |  |  |
| 6        | misrepresent the authority of a notary public is prohibited, including, but not limited to, |  |  |
| 7        | use of the words "notario(a) publico(a)". For purposes of this subsection, "literal         |  |  |
| 8        | translation" of a word or phrase from one language to another means the translation of a    |  |  |
| 9        | word or phrase without regard to the true meaning of the word or phrase in the language     |  |  |
| 10       | which is being translated or that in any manner misrepresents the authority of a notary     |  |  |
| 11       | public.   |  |  |
| 12       | (h) A notary public who is not an attorney licensed to practice law in this State is        |  |  |
| 13       | prohibited from representing or advertising that the notary public is an "immigration       |  |  |
| 14       | consultant" or expert on immigration matters unless the notary public is an accredited      |  |  |
| 15       | representative of an organization recognized by the Board of Immigration Appeals            |  |  |
| 16       | pursuant to Title 8, Part 292, Section 2(a-e) of the Code of Federal Regulations (8 CFR     |  |  |
| 17       | <u>292.2(a-e)).</u>   |  |  |
| 18       | (i) <u>A notary public who is not an attorney licensed to practice law in this State is</u> |  |  |
| 19       | prohibited from rendering any service that constitutes the unauthorized practice of law.    |  |  |
| 20       | (j) <u>A notary public required to comply with the provisions of subsection (g) of</u>      |  |  |
| 21       | this section shall prominently post at the notary public's place of business a schedule of  |  |  |
| 22       | fees established by law, which a notary public may charge. The fee schedule shall be        |  |  |
| 23       | written in English and in the non-English language in which the notary services were        |  |  |
| 24       | solicited, and shall contain the notice required in subsection (g) of this section, unless  |  |  |
| 25<br>26 | the notice is otherwise prominently posted at the notary public's place of business."       |  |  |
| 20<br>27 | <b>SECTION 3.</b> G.S. 10A-12 is amended by adding the following subsections to read:       |  |  |
| 27       | "(f) The Secretary of State, through the Attorney General, may seek injunctive              |  |  |
| 28<br>29 | relief against any notary public who violates the provisions of this Chapter. Nothing in    |  |  |
| 30       | this Chapter diminishes the authority of the North Carolina State Bar.                      |  |  |
| 31       | (g) A violation of G.S. 10A-9(h) or (i) constitutes a deceptive trade practice              |  |  |
| 32       | under G.S. 75-1.1."   |  |  |
| 33       | <b>SECTION 4.</b> The Department of the Secretary of State may study the                    |  |  |
| 34       | Notary Public Act, Chapter 10A of the General Statutes, and conforming amendments           |  |  |
| 35       | that may be needed to other sections of the General Statutes, and report any                |  |  |
| 36       | recommendations for changes, including recommended legislation, to the 2002 Regular         |  |  |
| 37       | Session of the 2001 General Assembly.   |  |  |
| 38       | <b>SECTION 5.</b> This act becomes effective January 1, 2002, and applies to acts           |  |  |
| 39       | committed on or after that date.  |  |  |