

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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HOUSE BILL 926

Short Title: Notaries/Private Right of Action. (Public)

Sponsors: Representatives Bryan and Jordan (Primary Sponsors).

For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Judiciary Subcommittee B.

April 15, 2013

1 A BILL TO BE ENTITLED
2 AN ACT CREATING A PRIVATE RIGHT OF ACTION AGAINST NOTARIES WHO
3 VIOLATE THE NOTARY PUBLIC ACT.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** Part 8 of Article 1 of Chapter 10B of the General Statutes is amended
6 by adding a new section to read:

7 "**§ 10B-61. Private right of action.**

8 (a) Any party to a transaction requiring a notarial certificate for verification, and any
9 attorney licensed in this State who is involved in such a transaction in any capacity, whether or
10 not the attorney is representing one of the parties to the transaction, shall have standing to bring
11 a civil action in superior court against any public notary commissioned under this Chapter who
12 violates the provisions of this act in connection with that transaction.

13 (b) A party or attorney having standing under subsection (a) of this section may
14 maintain an action for damages against the notary or may seek injunctive relief against the
15 notary, or both. The action shall be brought in the county where the transaction took place, and
16 if that cannot be determined, then the action may be filed in the Superior Court of Wake
17 County.

18 (c) If judgment is rendered in favor of the plaintiff in the action authorized by this
19 section, the court shall also tax as part of the costs reasonable attorneys' fees in favor of the
20 plaintiff against the defendant. If judgment is rendered in favor of the defendant and the court
21 finds that the plaintiff's suit was frivolous or brought in bad faith, then the court shall tax as part
22 of the costs reasonable attorneys' fees in favor of the defendant against the plaintiff.

23 (d) The remedies available in this section are cumulative and do not affect the
24 availability of any other sanction, remedy, or claim against a notary allowed under this Chapter
25 or other State or federal law.

26 (e) It is the intention of the General Assembly that if the provisions of this act are held
27 invalid as a grant of an exclusive or separate emolument or privilege or as a denial of the equal
28 protection of the laws, within the meaning of Article I, Sections 19 and 32 of the North
29 Carolina Constitution, the remainder of this act shall be given effect without the invalid
30 provision or provisions."

31 **SECTION 2.** This act is effective when it becomes law and applies to notarial acts
32 and omissions occurring on or after that date.

