

SENATE BILL No. 77

February 24, 1987, Introduced by Senators KELLY and NICHOLS and referred to the Committee on Judiciary.

A bill to provide for the effectiveness of notarial acts performed in this and other jurisdictions; and to repeal certain acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "uniform law on notarial acts".

3 Sec. 2. As used in this act:

4 (a) "Acknowledgment" means a declaration by a person that
5 the person has executed an instrument for the purposes stated
6 and, if the instrument is executed in a representative capacity,
7 that the person signed the instrument with proper authority and
8 executed it as the act of the person or entity represented and
9 identified.

10 (b) "In a representative capacity" means 1 or more of the
11 following:

1 (i) For and on behalf of a corporation, partnership, trust,
2 or other entity, as an authorized officer, agent, partner, trust-
3 ee, or other representative.

4 (ii) As a public officer, personal representative, guardian,
5 or other representative, in the capacity recited in the
6 instrument.

7 (iii) As an attorney-in-fact for a principal.

8 (iv) In any other capacity as an authorized representative
9 of another.

10 (c) "Notarial act" means any act that a notary public of
11 this state is authorized to perform, and includes taking an
12 acknowledgment, administering an oath or affirmation, taking a
13 verification upon oath or affirmation, witnessing or attesting a
14 signature, certifying or attesting a copy, and noting a protest
15 of a negotiable instrument.

16 (d) "Notarial officer" means a notary public or other offi-
17 cer authorized to perform notarial acts.

18 (e) "Verification upon oath or affirmation" means a declara-
19 tion that a statement is true made by a person upon oath or
20 affirmation.

21 Sec. 3. (1) In taking an acknowledgment, the notarial offi-
22 cer must determine, either from personal knowledge or from satis-
23 factory evidence, that the person appearing before the officer
24 and making the acknowledgment is the person whose true signature
25 is on the instrument.

26 (2) In taking a verification upon oath or affirmation, the
27 notarial officer must determine, either from personal knowledge

1 or from satisfactory evidence, that the person appearing before
2 the officer and making the verification is the person whose true
3 signature is on the statement verified.

4 (3) In witnessing or attesting a signature, the notarial
5 officer must determine, either from personal knowledge or from
6 satisfactory evidence, that the signature is that of the person
7 appearing before the officer and named therein.

8 (4) In certifying or attesting a copy of a document or other
9 item, the notarial officer must determine that the proffered copy
10 is a full, true, and accurate transcription or reproduction of
11 that which was copied.

12 (5) In making or noting a protest of a negotiable instru-
13 ment, the notarial officer must determine the matters set forth
14 in section 3509 of the uniform commercial code, Act No. 174 of
15 the Public Acts of 1962, being section 440.3509 of the Michigan
16 Compiled Laws.

17 (6) A notarial officer has satisfactory evidence that a
18 person is the person whose true signature is on a document if
19 that person is personally known to the notarial officer, is iden-
20 tified upon the oath or affirmation of a credible witness person-
21 ally known to the notarial officer, or is identified on the basis
22 of identification documents.

23 Sec. 4. (1) A notarial act may be performed within this
24 state by any of the following persons:

25 (a) A notary public of this state.

26 (b) A judge, clerk, or deputy clerk of any court of this
27 state.

1 (c) A person licensed to practice law in this state.

2 (d) A person authorized by the law of this state to adminis-
3 ter oaths.

4 (e) Any other person authorized to perform the specific act
5 by the law of this state.

6 (2) Notarial acts performed within this state under federal
7 authority as provided in section 6 have the same effect as if
8 performed by a notarial officer of this state.

9 (3) The signature and title of a person performing a notar-
10 ial act are prima facie evidence that the signature is genuine
11 and that the person holds the designated title.

12 Sec. 5. (1) A notarial act has the same effect under the
13 law of this state as if performed by a notarial officer of this
14 state, if performed in another state, commonwealth, territory,
15 district, or possession of the United States by any of the fol-
16 lowing persons:

17 (a) A notary public of that jurisdiction.

18 (b) A judge, clerk, or deputy clerk of a court of that
19 jurisdiction.

20 (c) Any other person authorized by the law of that jurisdic-
21 tion to perform notarial acts.

22 (2) Notarial acts performed in other jurisdictions of the
23 United States under federal authority as provided in section 6
24 have the same effect as if performed by a notarial officer of
25 this state.

1 (3) The signature and title of a person performing a
2 notarial act are prima facie evidence that the signature is
3 genuine and that the person holds the designated title.

4 (4) The signature and indicated title of an officer listed
5 in subsection (1)(a) or (b) conclusively establish the authority
6 of a holder of that title to perform a notarial act.

7 Sec. 6. (1) A notarial act has the same effect under the
8 law of this state as if performed by a notarial officer of this
9 state if performed anywhere by any of the following persons under
10 authority granted by the law of the United States:

11 (a) A judge, clerk, or deputy clerk of a court.

12 (b) A commissioned officer on active duty in the military
13 service of the United States.

14 (c) An officer of the foreign service or consular officer of
15 the United States.

16 (d) Any other person authorized by federal law to perform
17 notarial acts.

18 (2) The signature and title of a person performing a notar-
19 ial act are prima facie evidence that the signature is genuine
20 and that the person holds the designated title.

21 (3) The signature and indicated title of an officer listed
22 in subsection (1)(a), (b), or (c) conclusively establish the
23 authority of a holder of that title to perform a notarial act.

24 Sec. 7. (1) A notarial act has the same effect under the
25 law of this state as if performed by a notarial officer of this
26 state if performed within the jurisdiction of and under authority

1 of a foreign nation or its constituent units or a multinational
2 or international organization by any of the following persons:

3 (a) A notary public or notary.

4 (b) A judge, clerk, or deputy clerk of a court of record.

5 (c) Any other person authorized by the law of that jurisdic-
6 tion to perform notarial acts.

7 (2) An "apostille" in the form prescribed by the Hague con-
8 vention of October 3, 1961 conclusively establishes that the sig-
9 nature of the notarial officer is genuine and that the officer
10 holds the indicated office.

11 (3) A certificate by a foreign service or consular officer
12 of the United States stationed in the nation under the jurisdic-
13 tion of which the notarial act was performed, or a certificate by
14 a foreign service or consular officer of that nation stationed in
15 the United States, conclusively establishes any matter relating
16 to the authenticity or validity of the notarial act set forth in
17 the certificate.

18 (4) An official stamp or seal of the person performing the
19 notarial act is prima facie evidence that the signature is genu-
20 ine and that the person holds the indicated title.

21 (5) An official stamp or seal of an officer listed in
22 subsection (1)(a) or (b) is prima facie evidence that a person
23 with the indicated title has authority to perform notarial acts.

24 (6) If the title of office and indication of authority to
25 perform notarial acts appears either in a digest of foreign law
26 or in a list customarily used as a source for that information,

1 the authority of an officer with that title to perform notarial
2 acts is conclusively established.

3 Sec. 8. (1) A notarial act must be evidenced by a certifi-
4 cate signed and dated by a notarial officer. The certificate
5 must include identification of the jurisdiction in which the
6 notarial act is performed and the title of the office of the
7 notarial officer and may include the official stamp or seal of
8 office. If the officer is a notary public, the certificate must
9 also indicate the date of expiration, if any, of the commission
10 of office, but omission of that information may subsequently be
11 corrected. If the officer is a commissioned officer on active
12 duty in the military service of the United States, it must also
13 include the officer's rank.

14 (2) A certificate of a notarial act is sufficient if it
15 meets the requirements of subsection (1) and it is 1 or more of
16 the following:

17 (a) Is in the short form set forth in section 9.

18 (b) Is in a form otherwise prescribed by the law of this
19 state.

20 (c) Is in a form prescribed by the laws or regulations
21 applicable in the place in which the notarial act was performed.

22 (d) Sets forth the actions of the notarial officer and those
23 are sufficient to meet the requirements of the designated notar-
24 ial act.

25 (3) By executing a certificate of a notarial act, the notar-
26 ial officer certifies that the officer has made the
27 determinations required by section 3.

1 Sec. 9. The following short form certificates of notarial
 2 acts are sufficient for the purposes indicated, if completed with
 3 the information required by section 8(1):

4 (a) For an acknowledgment in an individual capacity:

5 State of _____

6 (County) of _____

7 This instrument was acknowledged before me on _____ (date)

8 by _____ (name(s) of person(s)) .

9
 10 _____ (Signature of notarial officer)
 11 (Seal, if any)

12
 13 _____ Title (and Rank)
 14 [My commission expires: _____]

15 (b) For an acknowledgment in a representative capacity:

16 State of _____

17 (County) of _____

18 This instrument was acknowledged before me on _____ (date)

19 by _____ (name(s) of person(s)) as _____ (type of authority, e.g.,
 20 officer, trustee, etc.) of _____ (name of party on behalf of whom
 21 instrument was executed.)

22
 23 _____ (Signature of notarial officer)
 24 (Seal, if any)

25
 26 _____ Title (and Rank)
 27 [My commission expires: _____]

1 (c) For a verification upon oath or affirmation:

2 State of _____

3 (County) of _____

4 Signed and sworn to (or affirmed) before me on _____ (date)

5 by _____ (name(s) of person(s) making statement) .

6
7 _____
8 (Seal, if any) (Signature of notarial officer)

9
10 _____
11 Title (and Rank)
[My commission expires: _____]

12 (d) For witnessing or attesting a signature:

13 State of _____

14 (County) of _____

15 Signed or attested before me on _____ (date) by _____ (name(s)

16 of person(s)) .

17
18 _____
19 (Seal, if any) (Signature of notarial officer)

20
21 _____
22 Title (and Rank)
[My commission expires: _____]

1 (e) For attestation of a copy of a document:

2 State of _____

3 (County) of _____

4 I certify that this is a true and correct copy of a document
5 in the possession of _____.

6 Dated _____

7 _____
8 (Signature of notarial officer)
9 (Seal, if any)

10 _____
11 Title (and Rank)
12 [My commission expires: _____]

13 Sec. 10. This act applies to notarial acts performed on or
14 after its effective date.

15 Sec. 11. This act shall be applied and construed to effec-
16 tuate its general purpose to make uniform the laws with respect
17 to notarial acts among the states enacting it.

18 Sec. 12. Act No. 57 of the Public Acts of 1969, being sec-
19 tions 565.261 to 565.270 of the Michigan Compiled Laws, is
20 repealed.