



**Senate Fiscal Agency**  
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BILL



ANALYSIS

**Telephone: (517) 373-5383**  
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House Bill 5004 (as passed by the House)  
House Bill 5005 (Substitute H-1 as passed by the House)  
House Bill 5106 (Substitute H-2 as passed by the House)  
Sponsor: Representative Ilona Varga (H.B. 5004 and 5005)  
Representative Mary Schroer (H.B. 5106)  
House Committee: Regulatory Affairs (H.B. 5004 and 5005)  
Judiciary and Civil Rights (H.B. 5106)  
Senate Committee: Economic Development, International Trade and Regulatory Affairs

Date Completed: 11-13-96

## **CONTENT**

**House Bill 5004 would amend the Uniform Recognition of Acknowledgments Act, and House Bills 5005 (H-1) and 5106 (H-2) would amend Chapter 14 of the Revised Statutes of 1846 to grant State legislators the powers of a notary public, allow a notary public to sign a document for a physically disabled person, require a nonresident notary public to have his or her principal place of business in Michigan, change the term of office as a notary public for licensed attorneys, and define “satisfactory evidence”.**

House Bill 5005 (H-1) is tie-barred to House Bill 5004.

Following is a more detailed description of the bills.

### **House Bill 5004**

The bill would define “satisfactory evidence” as evidence upon which reliance was placed upon either the sworn word of a credible witness who was personally known to the notary public and who personally knew the signer, or a current identification card or document issued by a Federal or State government that contained the bearer’s photograph and signature.

(The Act requires a person taking an acknowledgment to certify that the person acknowledging appeared before him or her and acknowledged that he or she executed the instrument and that the person acknowledging was known to the person taking the acknowledgment, or that the person taking the acknowledgment had satisfactory evidence that the person acknowledging was the person described in and who executed the instrument.)

### **House Bill 5005 (H-1)**

The bill would allow a notary public to sign the name of a person whose physical characteristics limited his or her capacity to sign or make a mark on a document presented for notarization under all of the following circumstances:

- The notary public was directed to do so by that person--whether orally, verbally, or through electronic or mechanical means provided by the person.

- The person was in the physical presence of the notary public.
- The notary public inscribed "signature affixed pursuant to Section 55.113(2) of the Michigan Compiled Laws" beneath the signature.

Currently, the Act specifies that for his or her services a notary public is to receive such fees as are provided by law. The bill specifies, instead, that a notary public could receive a service fee of not more than \$2 per acknowledgment or jurat.

### **House Bill 5106 (H-2)**

The Revised Statutes of 1846 allow the Secretary of State to appoint one or more notaries public in each county in Michigan. An applicant for appointment must be 18 years old when he or she applies, a Michigan citizen, and a resident of the county for which he or she seeks to be appointed. Notaries are appointed for four-year terms, with their term expiring on their birthday four years after appointment.

The bill would add that the term of office of attorneys licensed by the State Bar of Michigan who received a notary public appointment and who were otherwise in compliance with the Revised Statutes would expire at such time as membership in the State Bar of Michigan was suspended, revoked, relinquished, or otherwise terminated.

The bill also specifies that a person would have to be *at least* 18 years old for a notary public appointment. A nonresident of the State who was a notary public would have to have his or her principal place of business in the county in which he or she was appointed, and would have to indicate that he or she was engaged in an activity in which he or she was likely to be required to perform notarial acts. An application for appointment as a notary public for a nonresident of the State would have to demonstrate that the person's principal place of business was in the county in which he or she requested appointment, and indicate that he or she was engaged in an activity in which he or she was likely to be required to perform notarial acts. ("Notarial acts" is defined in the Uniform Recognition of Acknowledgments Act as acts that the laws of this State authorize notaries public of this State to perform, including the administering of oaths and affirmations, taking proof of execution and acknowledgments of instruments, and attesting documents.)

In addition, the bill provides that Michigan State legislators would have the powers of a notary public.

Finally, the bill would make it permissive, rather than mandatory, that notaries public receive fees for their services.

MCL 565.262 (H.B. 5004)  
55.113 et al. (H.B. 5005)  
55.107 & 55.117 (H.B. 5106)

Legislative Analyst: L. Burghardt

### **FISCAL IMPACT**

The bills would have no fiscal impact on State or local government.

Fiscal Analyst: R. Ross

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.