

Senate Fiscal Agency  
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**SFA**



**BILL ANALYSIS**

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House Bill 4237 (Substitute S-2 as reported)  
Sponsor: Representative Mary Schroer  
House Committee: Regulatory Affairs  
Senate Committee: Economic Development, International Trade and Regulatory Affairs

Date Completed: 5-28-97

### **RATIONALE**

Although notaries public once appointed may officially act in other parts of the State, the existing law requires that notaries public reside in the county for which they are appointed. Apparently, an attorney for a title insurance company in Ann Arbor married and moved to Ohio but continues to work in Ann Arbor. He wishes to keep his appointment as notary public since his position with the title insurance company requires this. Because of his change in residence, however, under current law he no longer qualifies for the appointment as notary public.

### **CONTENT**

**The bill would amend Chapter 14 of the Revised Statutes of 1846 ("Of county officers") to allow the appointment of nonresident notaries public.**

Specifically, the bill would allow people who do not reside in Michigan to become notaries public in the State as long as their principal place of business was in the county in which they requested appointment and they were engaged in an activity that likely would require them to perform notarial acts as defined in the Uniform Recognition of Acknowledgments Act.

Currently, the law allows the Secretary of State to appoint one or more notaries public in each county of Michigan. Applicants for appointment must be at least 18 years old, Michigan citizens, and residents of the county for which they seek to be appointed. Notaries are appointed for four-year terms, with their term expiring on their birthday four years after appointment.

MCL 55.107 et al.

### **BACKGROUND**

A notary public is a public official who is authorized to administer oaths, witness signatures, and "acknowledge" documents such as deeds, mortgages, and liens. An "acknowledgment" requires a person to go before a notary public and acknowledge, or state, that he or she has signed a document. An acknowledgment is required before a document can be recorded in a county register of deeds office. The Uniform Recognition of Acknowledgments Act defines "notarial acts" as the administration of oaths and affirmations, documentation of execution and acknowledgment of instruments, and certification of documents.

A person who wishes to become a notary public must submit a written application endorsed by a member of the Legislature or by a circuit or probate judge of the county, district, or circuit where the applicant lives, along with a \$3 application fee. Within 90 days of receiving notice of his or her appointment, the notary public must take and file an oath and a \$10,000 surety bond with his or her county clerk.

### **ARGUMENTS**

*(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)*

#### **Supporting Argument**

Under existing law, only Michigan residents can be appointed notaries public in this State. The bill would allow persons not residing in Michigan to be appointed notaries public if their principal place of business was in Michigan.

Apparently, people often do not live in the communities in which they work (and vice versa), and there seems little reason to restrict the function of notary public to residents, particularly if that function is necessary for persons to perform their job properly in Michigan. Although the bill would

remove the requirement that notaries public be citizens of Michigan and reside in the county in which they were appointed notary, the bill would continue to tie the appointment of notaries to specific counties. Reportedly, the National Notary Association has stated that nonresident notary appointments are becoming increasingly common across the nation, especially in large metropolitan areas with workers who commute from neighboring states.

**Opposing Argument**

Although the bill would make appointments for notaries public more convenient, there are concerns that this would make it less convenient for the residents of the county if their notary public did not reside in the county or in the State.

**Response:** The bill specifies that notaries public would have to have their principal place of business in Michigan, therefore making them readily available for residents of their county during business hours.

Legislative Analyst: N. Nagata

**FISCAL IMPACT**

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

Fiscal Analyst: B. Bowerman

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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.