

**SUBSTITUTE FOR
SENATE BILL NO. 1266**

A bill to amend 2003 PA 238, entitled
"Michigan notary public act,"
by amending sections 11, 13, 15, and 19 (MCL 55.271, 55.273,
55.275, and 55.279), as amended by 2006 PA 426.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 11. (1) The secretary may appoint as a notary public a
2 person who applies to the secretary and meets all of the following
3 qualifications:

4 (a) Is at least 18 years of age.

5 (b) Is a resident of this state or maintains a principal place
6 of business in this state.

7 (c) Reads and writes in the English language.

8 (d) Is free of any felony convictions, misdemeanor
9 convictions, and violations as described in section 41.

1 (e) For a person who does not reside in the state of Michigan,
2 demonstrates that his or her principal place of business is located
3 in the county in which he or she requests appointment and indicates
4 that he or she is engaged in an activity in which he or she is
5 likely to be required to perform notarial acts as that word is
6 defined in section 2 of the uniform recognition of acknowledgments
7 act, 1969 PA 57, MCL 565.262.

8 (f) ~~Has~~ **IF APPLICABLE, HAS** filed with the county clerk of
9 his or her county of residence or expected appointment a proper
10 surety bond and an oath taken as prescribed by the constitution in
11 a format acceptable to the secretary. **THE REQUIREMENT OF FILING A**
12 **BOND DOES NOT APPLY TO AN APPLICANT THAT DEMONSTRATES, IN A MANNER**
13 **ACCEPTABLE TO THE SECRETARY, LICENSURE AS AN ATTORNEY AT LAW IN**
14 **THIS STATE.**

15 (2) The secretary shall, on a monthly basis, notify the county
16 clerk's office of the appointment of any notaries.

17 Sec. 13. (1) Within 90 days before filing an application for a
18 notary public appointment, a person shall file with the county
19 clerk of his or her residence or expected appointment a proper
20 surety bond and an oath taken as prescribed by the constitution.

21 (2) The bond shall be in the sum of \$10,000.00 with good and
22 sufficient surety by a surety licensed to do business in this
23 state. The bond shall be conditioned upon indemnifying or
24 reimbursing a person, financing agency, or governmental agency for
25 monetary loss caused through the official misconduct of the notary
26 public in the performance of a notarial act. The surety is required
27 to indemnify or reimburse only after a judgment based on official

1 misconduct has been entered in a court of competent jurisdiction
2 against the notary public. The aggregate liability of the surety
3 shall not exceed the sum of the bond. The surety on the bond may
4 cancel the bond 60 days after the surety notifies the notary, the
5 secretary, and the county clerk of the cancellation. The surety is
6 not liable for a breach of a condition occurring after the
7 effective date of the cancellation. The county clerk shall not
8 accept the personal assets of an applicant as security for a surety
9 bond under this act.

10 (3) Each person who files an oath and, **IF APPLICABLE, A** bond
11 with a county clerk as required in subsection (1) shall pay a
12 \$10.00 filing fee to the county clerk. Upon receipt of the filing
13 fee, the county clerk shall give ~~a bond and~~ **AN** oath certificate
14 of filing **AND A BOND, IF APPLICABLE**, to the person as prescribed by
15 the secretary. A charter county with a population of more than
16 2,000,000 may impose by ordinance a fee for the county clerk's
17 services different than the amount prescribed by this subsection.
18 Two dollars of each fee collected under this subsection shall be
19 deposited into the notary education and training fund established
20 in section 17 on a schedule determined by the secretary.

21 Sec. 15. (1) A person shall apply to the secretary for
22 appointment as a notary public in a format as prescribed by the
23 secretary. An application for appointment as a notary public shall
24 contain the signature of the applicant. In addition to other
25 information as may be required by the secretary, the application
26 shall include all of the following:

27 (a) The applicant's name, residence address, business address,

1 date of birth, and residence and business telephone numbers.

2 (b) The applicant's driver license or state personal
3 identification card number.

4 (c) A validated copy of the filing of the bond, **IF APPLICABLE**,
5 and oath certificate received from the county clerk.

6 (d) If applicable, a statement showing whether the applicant
7 has previously applied for an appointment as a notary public in
8 this or any other state, the result of the application, and whether
9 the applicant has ever been the holder of a notary public
10 appointment that was revoked, suspended, or canceled in this or any
11 other state.

12 (e) A statement describing the date and circumstances of any
13 felony or misdemeanor conviction of the applicant during the
14 preceding 10 years.

15 (f) A declaration that the applicant is a citizen of the
16 United States or, if not a citizen of the United States, proof of
17 the applicant's legal presence in this country.

18 (g) An affirmation by the applicant that the application is
19 correct, that the applicant has read this act, and that the
20 applicant will perform his or her notarial acts faithfully.

21 (2) Each application shall be accompanied by an application
22 processing fee of \$10.00. One dollar of each fee collected under
23 this subsection shall be deposited into the notary education and
24 training fund established in section 17 on a schedule determined by
25 the secretary.

26 (3) Upon receipt of an application that is accompanied by the
27 prescribed processing fee, the secretary may inquire as to the

1 qualifications of the applicant and shall determine whether the
2 applicant meets the qualifications prescribed in this act. To
3 assist in deciding whether the applicant is qualified, the
4 secretary may use the law enforcement information network as
5 provided in the C.J.I.S. policy council act, 1974 PA 163, MCL
6 28.211 to 28.215, to check the criminal background of the
7 applicant.

8 (4) After approval of the application, the secretary shall
9 mail directly to the applicant the certificate of appointment as a
10 notary public. Each certificate of appointment shall identify the
11 person as a notary public of this state and shall specify the term
12 and county of the person's commission.

13 Sec. 19. (1) The secretary shall not automatically reappoint a
14 notary public.

15 (2) A person desiring another notary public appointment may
16 apply to the secretary, in a format prescribed by the secretary,
17 for an original appointment as a notary public. The application may
18 be ~~made~~ **SUBMITTED** not more than 60 days before the expiration of
19 his or her current notary public commission.

20 (3) **IN THE CASE OF A LICENSED ATTORNEY GRANTED AN APPOINTMENT**
21 **AS A NOTARY PUBLIC UNDER THIS ACT AND AFTER THE INITIAL APPLICATION**
22 **UNDER SECTION 15, THE SECRETARY SHALL SEND A REAPPOINTMENT**
23 **APPLICATION FORM TO THE LICENSED ATTORNEY AT LEAST 90 DAYS BEFORE**
24 **THE EXPIRATION OF THE CURRENT NOTARY APPOINTMENT. THE APPLICATION**
25 **FOR REAPPOINTMENT SHALL CONTAIN A CERTIFICATION TO BE COMPLETED BY**
26 **THE APPLICANT CERTIFYING THAT HE OR SHE IS STILL A MEMBER IN GOOD**
27 **STANDING IN THE STATE BAR OF MICHIGAN. THE APPLICANT SHALL**

1 OTHERWISE COMPLY WITH THE REQUIREMENTS FOR APPOINTMENT AS A NOTARY
2 PUBLIC AS DESCRIBED IN SECTION 15.

3 (4) ~~—(3)—~~ The secretary shall automatically cancel the notary
4 public commission of any person who makes, draws, utters, or
5 delivers any check, draft, or order for the payment of a processing
6 fee under this act that is not honored by the bank, financial
7 institution, or other depository expected to pay the check, draft,
8 or order for payment upon its first presentation.

9 Enacting section 1. This amendatory act takes effect April 1,
10 2007.