

SENATE BILL No. 1266

May 16, 2006, Introduced by Senators BISHOP, PATTERSON, CROPSEY and SANBORN and referred to the Committee on Local, Urban and State Affairs.

A bill to amend 2003 PA 238, entitled
"Michigan notary public act,"
by amending sections 11, 13, 15, 27, and 29 (MCL 55.271, 55.273,
55.275, 55.287, and 55.289).

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
3 following qualifications:

- 4 (a) Is at least 18 years of age.
5 (b) Is a resident of this state or maintains a principal
6 place of business in this state.
7 (c) Reads and writes in the English language.
8 (d) Is free of any felony convictions, misdemeanor

1 convictions, and violations as described in section 41.

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

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

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

17 Sec. 13. (1) Within 90 days before filing an application for
18 a 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 take the oath 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
25 for monetary loss caused through the official misconduct of the
26 notary public in the performance of a notarial act. The surety is
27 required to indemnify or reimburse only after a judgment based on

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

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

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

1 (a) The applicant's name, residence address, business
2 address, date of birth, and residence and business telephone
3 numbers.

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

6 (c) ~~A~~ **IF APPLICABLE, A** copy of the bond and oath
7 certificate of filing received from the county clerk.

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

14 (e) A statement describing the date and circumstances of any
15 felony or other conviction of the applicant during the preceding
16 10 years.

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

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

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

1 (3) Upon receipt of an application that is accompanied by
2 the prescribed service charge, the secretary may inquire as to
3 the qualifications of the applicant and shall determine whether
4 the applicant meets the qualifications prescribed in this act. To
5 assist in deciding whether the applicant is qualified, the
6 secretary may use the law enforcement information network as
7 provided in the ~~L.E.I.N.~~ C.J.I.S. policy council act of 1974,
8 1974 PA 163, MCL 28.211 to ~~28.216~~ 28.215, to check the criminal
9 background of the applicant.

10 (4) After approval of the application, the secretary shall
11 mail directly to the applicant the certificate of appointment as
12 a notary public. Each certificate of appointment shall identify
13 the person as a notary public of this state and shall specify the
14 term of the person's commission. **IN THE CASE OF AN APPLICANT**
15 **LICENSED AS AN ATTORNEY AT LAW AND GRANTED A COMMISSION, THE TERM**
16 **SHALL CONTINUE AS LONG AS THE INDIVIDUAL IS LICENSED AS AN**
17 **ATTORNEY AT LAW.**

18 Sec. 27. (1) A notary public shall place his or her
19 signature on every record upon which he or she performs a
20 notarial act. The notary public shall sign his or her name
21 exactly as his or her name appears on his or her notary public
22 certificate of appointment received from the secretary.

23 (2) On each record that a notary public performs a notarial
24 act and immediately near the notary public's signature, as is
25 practical, the notary public shall print, type, stamp, or
26 otherwise imprint mechanically or electronically clearly and
27 legibly and in a manner capable of photographic reproduction all

1 of the following:

2 (a) The name of the notary public exactly as it appears on
3 his or her notary public certificate of appointment.

4 (b) The statement: "Notary public, State of Michigan, County
5 of _____."

6 (c) The statement: "My commission expires _____ **OR**
7 **STATE BAR OF MICHIGAN NUMBER.**"

8 (d) The statement: "Acting in the County of _____."

9 (3) A notary public may use a stamp seal or electronic
10 process that contains, at a minimum, all of the information
11 required by subsection (2). However, the seal or process shall
12 not be used in a manner that renders anything illegible on the
13 record being notarized. An embosser alone or any other method
14 that cannot be reproduced shall not be used.

15 (4) The illegibility of the statements required in
16 subsection (2) does not affect the validity of the transaction or
17 record that was notarized.

18 Sec. 29. (1) A notary public may use a notary form set forth
19 in this section. A notary form set forth in this section shall be
20 known as a plain English notary form and may be referred to by
21 that name. A notary form set forth in this section that is
22 properly executed is considered sufficient to accomplish its
23 stated purpose under the law of this state. This section does not
24 prohibit the use of other notary forms.

25 (2) An affidavit or sworn statement may be substantially in
26 the following form:

SWORN STATEMENT OF MARY DOE

1
2 I, Mary Doe, (explanation of who Mary Doe is, followed by
3 statements of fact made by Mary Doe).

4 Signature of Mary Doe
5 Mary Doe

6 Signed and sworn to before me in _____ County,
7 Michigan, on _____, _____ (year)

8 Notary's Notary's
9 Stamp _____ Signature _____

10 (Notary's name, county,
11 acting in county, and date
12 commission expires **OR STATE**
13 **BAR OF MICHIGAN NUMBER**)

14 (3) An acknowledgment for an individual acting in his or her
15 own behalf may be substantially in the following form:

16 Acknowledged before me in _____ County, Michigan,
17 on _____, _____ (year) by Mary Doe.

18 Notary's Notary's
19 Stamp _____ Signature _____

20 (Notary's name, county,
21 acting in county, and date
22 commission expires **OR STATE**
23 **BAR OF MICHIGAN NUMBER**)

24 (4) An acknowledgment for a copartnership may be
25 substantially in the following form:

26 Acknowledged before me in _____ County, Michigan,
27 on _____, _____ (year) by Mary Doe, partner of X

1 partnership, a Michigan copartnership, for the copartnership.

2 Notary's _____ Notary's _____
3 Stamp _____ Signature _____

4 (Notary's name, county,
5 acting in county, and date
6 commission expires **OR STATE**
7 **BAR OF MICHIGAN NUMBER**)

8 (5) An acknowledgment for a limited partnership may be
9 substantially in the following form:

10 Acknowledged before me in _____ County, Michigan,
11 on _____, _____ (year) by Mary Doe, general partner
12 of X partnership, a Michigan limited partnership, for the
13 limited partnership.

14 Notary's _____ Notary's _____
15 Stamp _____ Signature _____

16 (Notary's name, county,
17 acting in county, and date
18 commission expires **OR STATE**
19 **BAR OF MICHIGAN NUMBER**)

20 (6) An acknowledgment for a corporation may be substantially
21 in the following form:

22 Acknowledged before me in _____ County, Michigan,
23 on _____, _____ (year) by Mary Doe, president of X
24 company, a Michigan corporation, for the corporation.

25 Notary's _____ Notary's _____
26 Stamp _____ Signature _____

27 (Notary's name, county,

1 acting in county, and date
2 commission expires **OR STATE**
3 **BAR OF MICHIGAN NUMBER)**

4 (7) An acknowledgment for a limited liability company may be
5 substantially in the following form:

6 Acknowledged before me in _____ County, Michigan,
7 on _____, _____ (year) by Mary Doe, member of X
8 company, a Michigan limited liability company, for the company.

9 Notary's _____ Notary's _____
10 Stamp _____ Signature _____
11 (Notary's name, county,
12 acting in county, and date
13 commission expires **OR STATE**
14 **BAR OF MICHIGAN NUMBER)**

15 (8) An acknowledgment for a public officer may be
16 substantially in the following form:

17 Acknowledged before me in _____ County, Michigan,
18 on _____, _____ (year) by Mary Doe, director of
19 the Michigan department of X.

20 Notary's _____ Notary's _____
21 Stamp _____ Signature _____
22 (Notary's name, county,
23 acting in county, and date
24 commission expires **OR STATE**
25 **BAR OF MICHIGAN NUMBER)**

26 (9) An acknowledgment for a trustee may be substantially in

1 the following form:

2 Acknowledged before me in _____ County, Michigan,
3 on _____, _____ (year) by Mary Doe, trustee of
4 the X trust.

5 Notary's _____ Notary's _____
6 Stamp _____ Signature _____

7 (Notary's name, county,
8 acting in county, and date
9 commission expires **OR STATE**
10 **BAR OF MICHIGAN NUMBER**)

11 (10) An acknowledgment for a personal representative may be
12 substantially in the following form:

13 Acknowledged before me in _____ County, Michigan,
14 on _____, _____ (year) by Mary Doe, personal
15 representative of the estate of John Doe.

16 Notary's _____ Notary's _____
17 Stamp _____ Signature _____

18 (Notary's name, county,
19 acting in county, and date
20 commission expires **OR STATE**
21 **BAR OF MICHIGAN NUMBER**)