

SENATE BILL No. 1523

September 28, 2010, Introduced by Senators WHITMER and HUNTER and referred to the Committee on Banking and Financial Institutions.

A bill to amend 2003 PA 238, entitled
"Michigan notary public act,"
by amending sections 41, 43, and 49 (MCL 55.301, 55.303, and
55.309).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 41. (1) If a notary public of this state is convicted of
2 a felony or of a substantially corresponding violation of another
3 state, the secretary shall automatically revoke the notary public
4 commission of that person on the date that the person's felony
5 conviction is entered.

6 ~~— (2) If a notary public of this state is convicted of 2 or more~~
7 ~~misdemeanor offenses involving a violation of this act within a 12-~~
8 ~~month period while commissioned, or of 3 or more misdemeanor~~
9 ~~offenses involving a violation of this act within a 5 year period~~

1 ~~regardless of being commissioned, the secretary shall automatically~~
2 ~~revoke the notary public commission of that person on the date that~~
3 ~~the person's most recent misdemeanor conviction is entered.~~

4 (2) ~~(3)~~ If a person holding office as a notary public is
5 sentenced to a term of imprisonment in a state correctional
6 facility or jail in this or any other state or in a federal
7 correctional facility, that person's commission as a notary public
8 is revoked automatically on the day on which the person begins
9 serving the sentence in the jail or correctional facility. If a
10 person's commission as a notary public is revoked because the
11 person begins serving a term of imprisonment and that person
12 performs or attempts to perform a notarial act while imprisoned,
13 that person is not eligible to receive a commission as a notary
14 public for at least 10 years after the person completes his or her
15 term of imprisonment.

16 (3) ~~(4)~~ A person found guilty of performing a notarial act
17 after his or her commission is revoked under this section is guilty
18 of a felony punishable by a fine of not more than \$3,000.00 or by
19 imprisonment for not more than 5 years, or both.

20 (4) ~~(5)~~ A person, regardless of whether he or she has ever
21 been commissioned as a notary public, that is convicted of a felony
22 is disqualified from being commissioned as a notary public for not
23 less than 10 years after the person completes his or her sentence
24 for that crime, including any term of imprisonment, parole, or
25 probation, and pays all fines, costs, and assessments. As used in
26 this section, a "felony" means a violation of a penal law of this
27 state, another state, or the United States for which the offender,

1 upon conviction, may be punished by death or imprisonment for more
2 than 1 year or an offense expressly designated by law to be a
3 felony.

4 (5) ~~(6)~~ If a person is convicted of a violation described in
5 subsection ~~(5)~~ **(4)**, the court shall make a determination of whether
6 the person is a notary. If the person is a notary, the court shall
7 inform the secretary of the conviction.

8 Sec. 43. (1) Cancellation of a commission is without prejudice
9 to reapplication at any time. Except as otherwise provided for in
10 section ~~41(3)~~ **41(2)**, a person whose commission is revoked is
11 ineligible for the issuance of a new commission for at least 5
12 years.

13 (2) A fine imposed under this act that remains unpaid for more
14 than 180 days may be referred to the department of treasury for
15 collection. The department of treasury may collect the fine by
16 deducting the amount owed from a payroll or tax refund warrant. The
17 secretary may bring an action in a court of competent jurisdiction
18 to recover the amount of a civil fine.

19 Sec. 49. (1) Except as otherwise provided for in section ~~41(4)~~
20 **41(3)** or as provided by law, a person who violates this act is
21 guilty of a ~~misdemeanor~~ **FELONY** punishable by a fine of not more
22 than \$5,000.00 or by imprisonment for not more than ~~1 year~~ **4 YEARS**,
23 or both.

24 (2) An action concerning a fee charged for a notarial act
25 shall be filed in the district court in the place where the
26 notarial act occurred.

27 (3) The penalties and remedies under this act are cumulative.

- 1 The bringing of an action or prosecution under this act does not
- 2 bar an action or prosecution under any other applicable law.