

SUBSTITUTE FOR
SENATE BILL NO. 996

A bill to amend 2003 PA 238, entitled
"Michigan notary public act,"
by amending the title and sections 1 and 11 (MCL 55.261 and
55.271), section 11 as amended by 2006 PA 510, and by adding
section 25a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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TITLE

An act to provide for the qualification, appointment, and
regulation of notaries; to provide for the levy, assessment, and
collection of certain service charges and fees and to provide for
their disposition; to create ~~certain funds; for certain purposes;~~
to provide for liability for certain persons; to provide for the
admissibility of ~~certain~~ evidence; **TO ESTABLISH THE RECOGNITION TO**

1 **BE GIVEN IN THIS STATE TO ACKNOWLEDGMENTS AND OTHER NOTARIAL ACTS**
 2 **PERFORMED OUTSIDE OF THIS STATE;** to prescribe powers and duties of
 3 ~~certain-state~~ agencies and local officers; to provide for remedies
 4 and penalties; and to repeal acts and parts of acts.

5 Sec. 1. This act shall be known and may be cited as the
 6 "Michigan ~~notary public act~~". **LAW ON NOTARIAL ACTS**".

7 Sec. 11. (1) The secretary may appoint as a notary public a
 8 ~~person~~ **AN INDIVIDUAL** who applies to the secretary and meets all of
 9 the following qualifications:

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

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

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

14 (d) ~~Is free of any felony convictions, misdemeanor~~
 15 ~~convictions, and violations as~~ **HAS NOT BEEN CONVICTED OF A FELONY,**
 16 **MISDEMEANOR, OR VIOLATION** described in section 41.

17 (e) For ~~a person~~ **AN APPLICANT** who does not reside in the state
 18 of Michigan, demonstrates that his or her principal place of
 19 business is located in the county in which he or she requests
 20 appointment and indicates that he or she is engaged in an activity
 21 **IN CONNECTION WITH THAT BUSINESS** in which he or she is likely to be
 22 required to perform notarial acts. ~~as that word is defined in~~
 23 ~~section 2 of the uniform recognition of acknowledgments act, 1969~~
 24 ~~PA 57, MCL 565.262.~~

25 (f) If applicable, has filed with the county clerk of his or
 26 her county of residence or expected appointment a ~~proper~~ surety
 27 bond and an oath ~~taken as prescribed by the constitution~~ **UNDER**

1 **SECTION 13**, in a format acceptable to the secretary. The
2 requirement of filing a bond does not apply to an applicant that
3 demonstrates, in a manner acceptable to the secretary, licensure as
4 an attorney at law in this state.

5 (2) The secretary shall, on a monthly basis, notify the county
6 clerk's office of the appointment of any notaries **IN THAT COUNTY**.

7 **SEC. 25A. (1) ALL OF THE FOLLOWING APPLY WITH REGARD TO A**
8 **NOTARIAL ACT THAT IS PERFORMED IN ANOTHER STATE:**

9 (A) A NOTARIAL ACT PERFORMED IN ANOTHER STATE HAS THE SAME
10 EFFECT UNDER THE LAW OF THIS STATE AS IF PERFORMED BY A NOTARIAL
11 OFFICER OF THIS STATE, IF THE ACT PERFORMED IN THAT STATE IS
12 PERFORMED BY ANY OF THE FOLLOWING INDIVIDUALS:

13 (i) A NOTARY PUBLIC WHO IS AUTHORIZED TO PERFORM NOTARIAL ACTS
14 IN THE STATE IN WHICH THE ACT IS PERFORMED.

15 (ii) A JUDGE, CLERK, OR DEPUTY CLERK OF ANY COURT OF RECORD IN
16 THE STATE IN WHICH THE NOTARIAL ACT IS PERFORMED.

17 (iii) ANY OTHER INDIVIDUAL WHO IS AUTHORIZED TO PERFORM
18 NOTARIAL ACTS IN THE STATE IN WHICH THE ACT IS PERFORMED.

19 (B) THE SIGNATURE AND TITLE OF AN INDIVIDUAL DESCRIBED IN
20 SUBDIVISION (A) (i) TO (iii) WHO PERFORMS A NOTARIAL ACT IN ANOTHER
21 STATE ARE PRIMA FACIE EVIDENCE THAT THE SIGNATURE IS GENUINE AND
22 THAT THE INDIVIDUAL HOLDS THE DESIGNATED TITLE.

23 (C) THE SIGNATURE AND TITLE OF AN INDIVIDUAL DESCRIBED IN
24 SUBDIVISION (A) (i) OR (ii) WHO PERFORMS A NOTARIAL ACT IN ANOTHER
25 STATE CONCLUSIVELY ESTABLISH THE AUTHORITY OF THE INDIVIDUAL TO
26 PERFORM THE NOTARIAL ACT.

27 (2) ALL OF THE FOLLOWING APPLY WITH REGARD TO A NOTARIAL ACT

1 THAT IS PERFORMED UNDER THE AUTHORITY AND IN THE JURISDICTION OF A
2 FEDERALLY RECOGNIZED INDIAN TRIBE:

3 (A) A NOTARIAL ACT PERFORMED UNDER THE AUTHORITY AND IN THE
4 JURISDICTION OF A FEDERALLY RECOGNIZED INDIAN TRIBE HAS THE SAME
5 EFFECT AS IF PERFORMED BY A NOTARIAL OFFICER OF THIS STATE, IF THE
6 ACT PERFORMED IN THE JURISDICTION OF THE TRIBE IS PERFORMED BY ANY
7 OF THE FOLLOWING INDIVIDUALS:

8 (i) A NOTARY PUBLIC OF THE TRIBE.

9 (ii) A JUDGE, CLERK, OR DEPUTY CLERK OF A COURT OF THE TRIBE.

10 (iii) ANY OTHER INDIVIDUAL WHO IS AUTHORIZED UNDER THE LAW OF
11 THE TRIBE TO PERFORM NOTARIAL ACTS.

12 (B) THE SIGNATURE AND TITLE OF AN INDIVIDUAL DESCRIBED IN
13 SUBDIVISION (A) (i) TO (iii) WHO PERFORMS A NOTARIAL ACT UNDER THE
14 AUTHORITY OF AND IN THE JURISDICTION OF A FEDERALLY RECOGNIZED
15 INDIAN TRIBE ARE PRIMA FACIE EVIDENCE THAT THE SIGNATURE IS GENUINE
16 AND THAT THE INDIVIDUAL HOLDS THE DESIGNATED TITLE.

17 (C) THE SIGNATURE AND TITLE OF AN INDIVIDUAL DESCRIBED IN
18 SUBDIVISION (A) (i) OR (ii) WHO PERFORMS A NOTARIAL ACT UNDER THE
19 AUTHORITY OF AND IN THE JURISDICTION OF A FEDERALLY RECOGNIZED
20 INDIAN TRIBE CONCLUSIVELY ESTABLISH THE AUTHORITY OF THE INDIVIDUAL
21 TO PERFORM THE NOTARIAL ACT.

22 (3) ALL OF THE FOLLOWING APPLY WITH REGARD TO A NOTARIAL ACT
23 THAT IS PERFORMED UNDER FEDERAL LAW:

24 (A) A NOTARIAL ACT PERFORMED UNDER FEDERAL LAW HAS THE SAME
25 EFFECT UNDER THE LAW OF THIS STATE AS IF PERFORMED BY A NOTARY
26 PUBLIC OF THIS STATE, IF THE ACT PERFORMED UNDER FEDERAL LAW IS
27 PERFORMED BY ANY OF THE FOLLOWING INDIVIDUALS:

1 (i) A JUDGE, CLERK, OR DEPUTY CLERK OF A FEDERAL COURT.

2 (ii) AN INDIVIDUAL WHO IS IN MILITARY SERVICE, OR IS
3 PERFORMING DUTIES UNDER THE AUTHORITY OF MILITARY SERVICE, WHO IS
4 AUTHORIZED TO PERFORM NOTARIAL ACTS UNDER FEDERAL LAW.

5 (iii) AN INDIVIDUAL WHO IS DESIGNATED AS A NOTARIZING OFFICER
6 BY THE UNITED STATES DEPARTMENT OF STATE TO PERFORM NOTARIAL ACTS
7 OUTSIDE OF THE UNITED STATES.

8 (iv) ANY OTHER INDIVIDUAL WHO IS AUTHORIZED BY FEDERAL LAW TO
9 PERFORM THE NOTARIAL ACT.

10 (B) THE SIGNATURE AND TITLE OF AN INDIVIDUAL DESCRIBED IN
11 SUBDIVISION (A) (i) TO (iv) WHO PERFORMS A NOTARIAL ACT UNDER
12 FEDERAL AUTHORITY ARE PRIMA FACIE EVIDENCE THAT THE SIGNATURE IS
13 GENUINE AND THAT THE INDIVIDUAL HOLDS THE DESIGNATED TITLE.

14 (C) THE SIGNATURE AND TITLE OF AN INDIVIDUAL DESCRIBED IN
15 SUBDIVISION (A) (i) TO (iii) WHO PERFORMS A NOTARIAL ACT UNDER
16 FEDERAL AUTHORITY CONCLUSIVELY ESTABLISH THE AUTHORITY OF THE
17 INDIVIDUAL TO PERFORM THE NOTARIAL ACT.

18 (4) ALL OF THE FOLLOWING APPLY WITH REGARD TO A NOTARIAL ACT
19 PERFORMED BY AN INDIVIDUAL UNDER THE AUTHORITY AND IN THE
20 JURISDICTION OF A FOREIGN COUNTRY OR A CONSTITUENT UNIT OF A
21 FOREIGN COUNTRY:

22 (A) IF A NOTARIAL ACT IS PERFORMED UNDER AUTHORITY AND IN THE
23 JURISDICTION OF A FOREIGN COUNTRY OR CONSTITUENT UNIT OF THE
24 FOREIGN COUNTRY OR IS PERFORMED UNDER THE AUTHORITY OF A
25 MULTINATIONAL OR INTERNATIONAL GOVERNMENTAL ORGANIZATION, THE ACT
26 HAS THE SAME EFFECT UNDER THE LAW OF THIS STATE AS IF PERFORMED BY
27 A NOTARIAL OFFICER OF THIS STATE.

1 (B) IF THE TITLE OF OFFICE AND INDICATION OF AUTHORITY TO
2 PERFORM NOTARIAL ACTS IN A FOREIGN COUNTRY APPEARS IN A DIGEST OF
3 FOREIGN LAW OR IN A LIST CUSTOMARILY USED AS A SOURCE FOR THAT
4 INFORMATION, THE AUTHORITY OF AN OFFICER WITH THAT TITLE TO PERFORM
5 NOTARIAL ACTS IS CONCLUSIVELY ESTABLISHED.

6 (C) THE SIGNATURE AND OFFICIAL STAMP OF AN INDIVIDUAL WHO
7 HOLDS AN OFFICE DESCRIBED IN THIS SUBSECTION ARE PRIMA FACIE
8 EVIDENCE THAT THE SIGNATURE IS GENUINE AND THE INDIVIDUAL HOLDS THE
9 DESIGNATED TITLE.

10 (D) AN APOSTILLE IN THE FORM PRESCRIBED BY THE HAGUE
11 CONVENTION OF OCTOBER 5, 1961, AND ISSUED BY A FOREIGN COUNTRY
12 PARTY TO THE CONVENTION, CONCLUSIVELY ESTABLISHES THAT THE
13 SIGNATURE IS GENUINE AND THAT THE INDIVIDUAL HOLDS THE INDICATED
14 OFFICE.

15 (E) A CONSULAR AUTHENTICATION THAT IS ISSUED BY AN INDIVIDUAL
16 WHO IS DESIGNATED AS A NOTARIZING OFFICER BY THE UNITED STATES
17 DEPARTMENT OF STATE TO PERFORM NOTARIAL ACTS OUTSIDE OF THE UNITED
18 STATES AND ATTACHED TO A RECORD WITH RESPECT TO WHICH THE NOTARIAL
19 ACT IS PERFORMED CONCLUSIVELY ESTABLISHES THAT THE SIGNATURE IS
20 GENUINE AND THAT THE INDIVIDUAL HOLDS THE INDICATED OFFICE.

21 (5) AS USED IN THIS SECTION, "FOREIGN COUNTRY" MEANS A
22 GOVERNMENT OTHER THAN THE UNITED STATES, A STATE, OR A FEDERALLY
23 RECOGNIZED INDIAN TRIBE.

24 Enacting section 1. This amendatory act takes effect 90 days
25 after the date it is enacted into law.

26 Enacting section 2. This amendatory act does not take effect
27 unless all of the following bills of the 99th Legislature are

1 enacted into law:

2 (a) Senate Bill No. 664.

3 (b) Senate Bill No. 997.

4 (c) Senate Bill No. 998.