

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**
BE GIVEN IN THIS STATE TO ACKNOWLEDGMENTS AND OTHER NOTARIAL ACTS
PERFORMED OUTSIDE OF THIS STATE; to prescribe powers and duties of

1 ~~certain~~ state agencies and local officers; to provide for remedies
2 and penalties; and to repeal acts and parts of acts.

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

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

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

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

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

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

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

23 (f) If applicable, has filed with the county clerk of his or
24 her county of residence or expected appointment a ~~proper~~ surety
25 bond and an oath ~~taken as prescribed by the constitution~~ **UNDER**
26 **SECTION 13**, in a format acceptable to the secretary. The
27 requirement of filing a bond does not apply to an applicant that

1 demonstrates, in a manner acceptable to the secretary, licensure as
2 an attorney at law in this state.

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

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

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

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

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

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

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

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

25 (2) ALL OF THE FOLLOWING APPLY WITH REGARD TO A NOTARIAL ACT
26 THAT IS PERFORMED UNDER THE AUTHORITY AND IN THE JURISDICTION OF A
27 FEDERALLY RECOGNIZED INDIAN TRIBE:

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

6 (i) A NOTARY PUBLIC OF THE TRIBE.

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

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

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

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

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

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

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

27 (ii) AN INDIVIDUAL WHO IS IN MILITARY SERVICE, OR IS

1 PERFORMING DUTIES UNDER THE AUTHORITY OF MILITARY SERVICE, WHO IS
2 AUTHORIZED TO PERFORM NOTARIAL ACTS UNDER FEDERAL LAW.

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

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

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

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

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

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

26 (B) IF THE TITLE OF OFFICE AND INDICATION OF AUTHORITY TO
27 PERFORM NOTARIAL ACTS IN A FOREIGN COUNTRY APPEARS IN A DIGEST OF

1 FOREIGN LAW OR IN A LIST CUSTOMARILY USED AS A SOURCE FOR THAT
2 INFORMATION, THE AUTHORITY OF AN OFFICER WITH THAT TITLE TO PERFORM
3 NOTARIAL ACTS IS CONCLUSIVELY ESTABLISHED.

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

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

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

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

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

24 Enacting section 2. This amendatory act does not take effect
25 unless all of the following bills of the 99th Legislature are
26 enacted into law:

27 (a) Senate Bill No. 664.

- 1 (b) Senate Bill No. 997.
- 2 (c) Senate Bill No. 998.
- 3 (d) Senate Bill No. 999.