

HOUSE BILL No. 4374

March 16, 2017, Introduced by Rep. Webber and referred to the Committee on Judiciary.

A bill to amend 2003 PA 238, entitled "Michigan notary public act," by amending sections 11, 19, and 25 (MCL 55.271, 55.279, and 55.285), sections 11 and 19 as amended by 2006 PA 510 and section 25 as amended by 2006 PA 426, and by adding section 12.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 11. (1) The secretary may appoint as a notary public a
2 ~~person~~ **AN INDIVIDUAL** who applies to the secretary and meets all of
3 the following 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.~~ **HAS NOT BEEN**

1 **CONVICTED OF A FELONY AS DEFINED IN SECTION 41(5) OR A SPECIFIED**
2 **MISDEMEANOR AS DEFINED IN SECTION 41(2).**

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

10 (f) If applicable, has filed with the county clerk of his or
11 her county of residence or expected appointment a ~~proper surety~~
12 ~~bond and an oath taken as prescribed by the constitution~~ **UNDER**
13 **SECTION 13**, in a format acceptable to the secretary. The
14 requirement of filing a bond does not apply to an applicant that
15 demonstrates, in a manner acceptable to the secretary, licensure as
16 an attorney at law in this state.

17 **(G) BEGINNING JANUARY 1, 2018, SUBMITS PROOF ACCEPTABLE TO THE**
18 **SECRETARY THAT HE OR SHE SUCCESSFULLY COMPLETED AN EDUCATION**
19 **PROGRAM DESCRIBED IN SECTION 12 BEFORE SUBMITTING HIS OR HER**
20 **APPLICATION.**

21 **(H) BEGINNING JANUARY 1, 2018, PASSES THE EXAMINATION**
22 **DESCRIBED IN SECTION 12.**

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

25 **SEC. 12. (1) BEFORE JANUARY 1, 2018, THE SECRETARY SHALL**
26 **DEVELOP OR APPROVE AN EDUCATION PROGRAM FOR PURPOSES OF SECTIONS 11**
27 **AND 19. ALL OF THE FOLLOWING APPLY TO THE EDUCATION PROGRAM:**

1 (A) THE PROGRAM SHALL CONSIST OF AT LEAST 4 HOURS OF
2 INSTRUCTION.

3 (B) THE PROGRAM SHALL ADDRESS TOPICS THAT THE SECRETARY
4 CONSIDERS RELEVANT TO THE DUTIES AND RESPONSIBILITIES OF A NOTARY
5 PUBLIC.

6 (C) THE PROGRAM MAY BE PROVIDED BY THE DEPARTMENT OR BY THE
7 NATIONAL NOTARY ASSOCIATION OR ANOTHER PERSON APPROVED BY THE
8 SECRETARY.

9 (2) BEFORE JANUARY 1, 2018, FOR PURPOSES OF SECTIONS 11 AND
10 19, THE SECRETARY SHALL DEVELOP AND PROVIDE FOR THE ADMINISTRATION
11 OF AN EXAMINATION OF APPLICANTS FOR APPOINTMENT OR REAPPOINTMENT.
12 BEFORE HE OR SHE IS PERMITTED TO TAKE THE EXAMINATION, AN APPLICANT
13 FOR APPOINTMENT OR REAPPOINTMENT MUST SHOW PROOF THAT HE OR SHE
14 SUCCESSFULLY COMPLETED THE EDUCATION PROGRAM DESCRIBED IN
15 SUBSECTION (1), EITHER BEFORE HIS OR HER INITIAL APPOINTMENT OR
16 BEFORE HIS OR HER FIRST REAPPOINTMENT AFTER JANUARY 1, 2018.

17 Sec. 19. (1) The secretary shall not automatically reappoint a
18 notary public **WHEN HIS OR HER CURRENT COMMISSION AS A NOTARY PUBLIC**
19 **EXPIRES.**

20 (2) ~~A person desiring~~ **AN INDIVIDUAL WHO IS SEEKING** another
21 notary public appointment may apply to the secretary, in a format
22 prescribed by the secretary, for an original appointment as a
23 notary public. ~~The application may be submitted~~ **INDIVIDUAL SHALL**
24 **SUBMIT THE APPLICATION** not more than 60 days before the expiration
25 of his or her current notary public commission.

26 (3) ~~In the case of~~ **IF** a licensed attorney **IS** granted an
27 appointment as a notary public under this act, ~~and after the~~

1 ~~initial application under section 15,~~ the secretary shall send a
2 reappointment application form to the licensed attorney at least 90
3 days before the expiration of ~~the~~**HIS OR HER** current notary
4 appointment. The application for reappointment shall contain a
5 certification to be completed by the applicant certifying that he
6 or she is still a member in good standing in the ~~state bar~~**STATE**
7 **BAR** of Michigan. The applicant shall otherwise comply with the
8 requirements for appointment as a notary public as described in
9 section 15.

10 (4) The secretary shall automatically cancel the notary public
11 commission of any ~~person~~**INDIVIDUAL** who makes, draws, utters, or
12 delivers any check, draft, or order for the payment of a processing
13 fee under this act that is not honored by the bank, financial
14 institution, or other depository expected to pay the check, draft,
15 or order for payment ~~upon~~**ON** its first presentation.

16 (5) **BEGINNING JANUARY 1, 2018, THE SECRETARY SHALL NOT**
17 **REAPPOINT A NOTARY PUBLIC UNDER THIS SECTION UNLESS HE OR MEETS**
18 **BOTH OF THE FOLLOWING:**

19 (A) **SUBMITS PROOF ACCEPTABLE TO THE SECRETARY THAT HE OR SHE**
20 **SUCCESSFULLY COMPLETED AN EDUCATION PROGRAM DESCRIBED IN SECTION 12**
21 **BEFORE SUBMITTING HIS OR HER APPLICATION FOR REAPPOINTMENT. THIS**
22 **SUBDIVISION DOES NOT APPLY TO AN APPLICANT WHO PREVIOUSLY COMPLETED**
23 **AN EDUCATION PROGRAM DESCRIBED IN SECTION 12 AND SUBMITTED PROOF OF**
24 **COMPLETION OF THE EDUCATION PROGRAM IN CONNECTION WITH A PREVIOUS**
25 **APPLICATION FOR APPOINTMENT OR REAPPOINTMENT.**

26 (B) **PASSES THE EXAMINATION DESCRIBED IN SECTION 12.**

27 Sec. 25. (1) A notary public may perform notarial acts that

1 include, but are not limited to, the following:

2 (a) Taking acknowledgments.

3 (b) Administering oaths and affirmations.

4 (c) Witnessing or attesting to a signature.

5 (2) In taking an acknowledgment, the notary public shall
6 determine, either from personal knowledge or from satisfactory
7 evidence, that the ~~person~~**INDIVIDUAL** in the presence of the notary
8 public and making the acknowledgment is the ~~person~~**INDIVIDUAL** whose
9 signature is on the record.

10 (3) In taking a verification upon oath or affirmation, the
11 notary public shall determine, either from personal knowledge or
12 from satisfactory evidence, that the ~~person~~**INDIVIDUAL** in the
13 presence of the notary public and making the verification is the
14 ~~person~~**INDIVIDUAL** whose signature is on the record being verified.

15 (4) In witnessing or attesting to a signature, the notary
16 public shall determine, either from personal knowledge or from
17 satisfactory evidence, that the signature is that of the ~~person~~
18 **INDIVIDUAL** in the presence of the notary public and is the ~~person~~
19 **INDIVIDUAL** named in the record.

20 (5) In all matters where the notary public takes a
21 verification upon oath or affirmation, or witnesses or attests to a
22 signature, the notary public shall require that the ~~person~~
23 **INDIVIDUAL** sign the record being verified, witnessed, or attested
24 in the presence of the notary public.

25 (6) A notary public has satisfactory evidence that a ~~person~~**AN**
26 **INDIVIDUAL** is the ~~person~~**INDIVIDUAL** whose signature is on a record
27 if that ~~person~~**INDIVIDUAL** is any of the following:

1 (a) Personally known to the notary public.

2 (b) Identified upon the oath or affirmation of a credible
3 witness personally known by the notary public and who personally
4 knows the ~~person~~-**INDIVIDUAL**.

5 (c) Identified on the basis of a current license,
6 identification card, or record issued by a federal or state
7 government that contains the ~~person's~~-**INDIVIDUAL'S** photograph and
8 signature.

9 (7) The fee charged by a notary public for performing a
10 notarial act shall not be more than \$10.00 for any individual
11 transaction or notarial act. A notary public shall either
12 conspicuously display a sign or expressly advise a ~~person~~-**AN**
13 **INDIVIDUAL** concerning the fee amount to be charged for a notarial
14 act before the notary public performs the act. Before the notary
15 public commences to travel in order to perform a notarial act, the
16 notary public and client may agree concerning a separate travel fee
17 to be charged by the notary public for traveling to perform the
18 notarial act.

19 (8) A notary public may refuse to perform a notarial act.

20 (9) The secretary shall prescribe the form that a notary
21 public shall use for a jurat, the taking of an acknowledgment, the
22 administering of an oath or affirmation, the taking of a
23 verification upon an oath or affirmation, the witnessing or
24 attesting to a signature, or any other act that a notary public is
25 authorized to perform in this state.

26 **(10) A NOTARY PUBLIC SHALL KEEP, MAINTAIN, AND PROTECT, UNDER**
27 **HIS OR HER EXCLUSIVE CONTROL, A CHRONOLOGICAL PAPER OR ELECTRONIC**

1 OFFICIAL JOURNAL OF EVERY NOTARIAL ACT PERFORMED BY HIM OR HER. THE
2 JOURNAL SHALL CONTAIN THE FOLLOWING ENTRIES FOR EACH NOTARIAL ACT:

3 (A) THE DATE AND TIME OF THE NOTARIAL ACT.

4 (B) THE TYPE OF NOTARIAL ACT.

5 (C) THE TYPE, TITLE, OR DESCRIPTION AND DATE OF EVERY RECORD
6 NOTARIZED.

7 (D) THE NAME, ADDRESS, SIGNATURE, AND, IN THE CASE OF REAL
8 ESTATE RECORDS, THE RIGHT THUMBPRINT OF EACH INDIVIDUAL WHOSE
9 SIGNATURE IS NOTARIZED.

10 (E) A DESCRIPTION OF THE SATISFACTORY EVIDENCE RELIED UPON TO
11 IDENTIFY EACH INDIVIDUAL WHOSE SIGNATURE IS NOTARIZED, INCLUDING 1
12 OR MORE OF THE FOLLOWING:

13 (i) A STATEMENT THAT THE INDIVIDUAL IS "PERSONALLY KNOWN" TO
14 THE NOTARY.

15 (ii) A NOTATION OF THE TYPE OF IDENTIFICATION DOCUMENT, ITS
16 ISSUING AGENCY, ITS SERIAL OR IDENTIFICATION NUMBER, AND ITS DATE
17 OF ISSUANCE OR EXPIRATION.

18 (iii) THE NAME, ADDRESS, AND SIGNATURE OF ANY CREDIBLE
19 WITNESS.

20 (F) THE FEE, IF ANY, CHARGED FOR THE NOTARIAL ACT.

21 (11) ~~(10)~~—A county clerk may collect a processing fee of
22 \$10.00 for certifying a notarial act of a notary public.

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