

SENATE BILL No. 996

May 15, 2018, Introduced by Senators SCHMIDT, HERTEL, MACGREGOR, MARLEAU, BOOHER and GREGORY and referred to the Committee on Banking and Financial Institutions.

A bill to amend 2003 PA 238, entitled "Michigan notary public act," by amending the title and sections 1, 5, and 11 (MCL 55.261, 55.265, and 55.271), section 5 as amended by 2006 PA 426 and 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. 5. As used in this act:

6 (a) "Jurat" means a certification by a notary public that a
7 signer, whose identity is personally known to the notary public or
8 proven on the basis of satisfactory evidence, has made in the
9 presence of the notary public a voluntary signature and taken an
10 oath or affirmation vouching for the truthfulness of the signed
11 record.

12 (b) "Lineal ancestor" means an individual **WHO IS** in the direct
13 line of ascent including, but not limited to, a parent or
14 grandparent.

15 (c) "Lineal descendant" means an individual **WHO IS** in the
16 direct line of descent including, but not limited to, a child or
17 grandchild.

18 (d) "Notarial act" means any **OF THE FOLLOWING**:

19 (i) **AN** act that a notary public commissioned in this state is
20 authorized to perform, including, but not limited to, ~~the taking of~~
21 an acknowledgment, ~~the administration of~~ **ADMINISTERING** an oath or
22 affirmation, ~~the taking of~~ a verification upon oath or affirmation,
23 ~~and the~~ **OR** witnessing or attesting a signature performed in
24 compliance with this act. ~~and the uniform recognition of~~
25 ~~acknowledgments act, 1969 PA 57, MCL 565.261 to 565.270.~~

26 (ii) **AN ACT DESCRIBED IN SUBPARAGRAPH (i) THAT IS PERFORMED IN**
27 **ANOTHER JURISDICTION AND MEETS THE REQUIREMENTS OF SECTION 25A.**

1 (e) "Notify" means to communicate or send a message by a
2 recognized mail, delivery service, or electronic means.

3 (f) "Official misconduct" means ~~either or both~~ **1 OR MORE** of
4 the following:

5 (i) The exercise of power or the performance of a duty that is
6 unauthorized, unlawful, abusive, negligent, reckless, or injurious.

7 (ii) The charging of a fee that exceeds the maximum amount
8 authorized by law.

9 (g) "Person" means ~~every natural person,~~ **AN INDIVIDUAL OR A**
10 corporation, **LIMITED LIABILITY COMPANY**, partnership, trust,
11 association, or other legal entity. ~~and its legal successors.~~

12 (h) "Record" means that term as defined in **SECTION 2 OF** the
13 uniform electronic transactions act, 2000 PA 305, ~~MCL 450.831 to~~
14 ~~450.849.~~ **450.832.**

15 (i) "Revocation" means the termination of a notary public's
16 commission **TO PERFORM NOTARIAL ACTS.**

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

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

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

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

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

27 (e) For a ~~person~~ **AN APPLICANT** who does not reside in the state

1 of Michigan, demonstrates that his or her principal place of
 2 business is located in the county in which he or she requests
 3 appointment and indicates that he or she is engaged in an activity
 4 **IN CONNECTION WITH THAT BUSINESS** in which he or she is likely to be
 5 required to perform notarial acts. ~~as that word is defined in~~
 6 ~~section 2 of the uniform recognition of acknowledgments act, 1969~~
 7 ~~PA 57, MCL 565.262.~~

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

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

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

19 **(A) A NOTARIAL ACT PERFORMED IN ANOTHER STATE HAS THE SAME**
 20 **EFFECT UNDER THE LAW OF THIS STATE AS IF PERFORMED BY A NOTARIAL**
 21 **OFFICER OF THIS STATE, IF THE ACT PERFORMED IN THAT STATE IS**
 22 **PERFORMED BY ANY OF THE FOLLOWING INDIVIDUALS:**

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

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

27 **(iii) ANY OTHER INDIVIDUAL WHO IS AUTHORIZED TO PERFORM**

1 NOTARIAL ACTS IN THE STATE IN WHICH THE ACT IS PERFORMED.

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

6 (C) THE SIGNATURE AND TITLE OF AN INDIVIDUAL DESCRIBED IN
7 SUBDIVISION (A) (i) OR (ii) WHO PERFORMS A NOTARIAL ACT IN ANOTHER
8 STATE CONCLUSIVELY ESTABLISH THE AUTHORITY OF THE INDIVIDUAL TO
9 PERFORM THE NOTARIAL ACT.

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

13 (A) A NOTARIAL ACT PERFORMED UNDER THE AUTHORITY AND IN THE
14 JURISDICTION OF A FEDERALLY RECOGNIZED INDIAN TRIBE HAS THE SAME
15 EFFECT AS IF PERFORMED BY A NOTARIAL OFFICER OF THIS STATE, IF THE
16 ACT PERFORMED IN THE JURISDICTION OF THE TRIBE IS PERFORMED BY ANY
17 OF THE FOLLOWING INDIVIDUALS:

18 (i) A NOTARY PUBLIC OF THE TRIBE.

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

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

22 (B) THE SIGNATURE AND TITLE OF AN INDIVIDUAL DESCRIBED IN
23 SUBDIVISION (A) (i) TO (iii) WHO PERFORMS A NOTARIAL ACT UNDER THE
24 AUTHORITY OF AND IN THE JURISDICTION OF A FEDERALLY RECOGNIZED
25 INDIAN TRIBE ARE PRIMA FACIE EVIDENCE THAT THE SIGNATURE IS GENUINE
26 AND THAT THE INDIVIDUAL HOLDS THE DESIGNATED TITLE.

27 (C) THE SIGNATURE AND TITLE OF AN INDIVIDUAL DESCRIBED IN

1 SUBDIVISION (A) (i) OR (ii) WHO PERFORMS A NOTARIAL ACT UNDER THE
2 AUTHORITY OF AND IN THE JURISDICTION OF A FEDERALLY RECOGNIZED
3 INDIAN TRIBE CONCLUSIVELY ESTABLISH THE AUTHORITY OF THE INDIVIDUAL
4 TO PERFORM THE NOTARIAL ACT.

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

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

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

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

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

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

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

24 (C) THE SIGNATURE AND TITLE OF AN INDIVIDUAL DESCRIBED IN
25 SUBDIVISION (A) (i) TO (iii) WHO PERFORMS A NOTARIAL ACT UNDER
26 FEDERAL AUTHORITY CONCLUSIVELY ESTABLISH THE AUTHORITY OF THE
27 INDIVIDUAL TO PERFORM THE NOTARIAL ACT.

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

5 (A) IF A NOTARIAL ACT IS PERFORMED UNDER AUTHORITY AND IN THE
6 JURISDICTION OF A FOREIGN COUNTRY OR CONSTITUENT UNIT OF THE
7 FOREIGN COUNTRY OR IS PERFORMED UNDER THE AUTHORITY OF A
8 MULTINATIONAL OR INTERNATIONAL GOVERNMENTAL ORGANIZATION, THE ACT
9 HAS THE SAME EFFECT UNDER THE LAW OF THIS STATE AS IF PERFORMED BY
10 A NOTARIAL OFFICER OF THIS STATE.

11 (B) IF THE TITLE OF OFFICE AND INDICATION OF AUTHORITY TO
12 PERFORM NOTARIAL ACTS IN A FOREIGN COUNTRY APPEARS IN A DIGEST OF
13 FOREIGN LAW OR IN A LIST CUSTOMARILY USED AS A SOURCE FOR THAT
14 INFORMATION, THE AUTHORITY OF AN OFFICER WITH THAT TITLE TO PERFORM
15 NOTARIAL ACTS IS CONCLUSIVELY ESTABLISHED.

16 (C) THE SIGNATURE AND OFFICIAL STAMP OF AN INDIVIDUAL WHO
17 HOLDS AN OFFICE DESCRIBED IN THIS SUBSECTION ARE PRIMA FACIE
18 EVIDENCE THAT THE SIGNATURE IS GENUINE AND THE INDIVIDUAL HOLDS THE
19 DESIGNATED TITLE.

20 (D) AN APOSTILLE IN THE FORM PRESCRIBED BY THE HAGUE
21 CONVENTION OF OCTOBER 5, 1961, AND ISSUED BY A FOREIGN COUNTRY
22 PARTY TO THE CONVENTION, CONCLUSIVELY ESTABLISHES THAT THE
23 SIGNATURE IS GENUINE AND THAT THE INDIVIDUAL HOLDS THE INDICATED
24 OFFICE.

25 (E) A CONSULAR AUTHENTICATION THAT IS ISSUED BY AN INDIVIDUAL
26 WHO IS DESIGNATED AS A NOTARIZING OFFICER BY THE UNITED STATES
27 DEPARTMENT OF STATE TO PERFORM NOTARIAL ACTS OUTSIDE OF THE UNITED

1 STATES AND ATTACHED TO A RECORD WITH RESPECT TO WHICH THE NOTARIAL
2 ACT IS PERFORMED CONCLUSIVELY ESTABLISHES THAT THE SIGNATURE IS
3 GENUINE AND THAT THE INDIVIDUAL HOLDS THE INDICATED OFFICE.

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

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

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

12 (a) Senate Bill No. 664.

13 (b) Senate Bill No. 997.

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15 (c) Senate Bill No. 998.

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17 (d) Senate Bill No. 999.

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