

Act No. 361
Public Acts of 2018
Approved by the Governor
December 12, 2018
Filed with the Secretary of State
December 12, 2018
EFFECTIVE DATE: March 12, 2019

**STATE OF MICHIGAN
99TH LEGISLATURE
REGULAR SESSION OF 2018**

Introduced by Senators Schmidt, Hertel, MacGregor, Marleau, Booher and Gregory

ENROLLED SENATE BILL No. 996

AN ACT to amend 2003 PA 238, entitled “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 prescribe powers and duties of certain state agencies and local officers; to provide for remedies and penalties; and to repeal acts and parts of acts,” 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:

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 funds; to provide for liability for certain persons; to provide for the admissibility of 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 state agencies and local officers; to provide for remedies and penalties; and to repeal acts and parts of acts.

Sec. 1. This act shall be known and may be cited as the “Michigan law on notarial acts”.

Sec. 11. (1) The secretary may appoint as a notary public an individual who applies to the secretary and meets all of the following qualifications:

- (a) Is at least 18 years of age.
- (b) Is a resident of this state or maintains a principal place of business in this state.
- (c) Reads and writes in the English language.
- (d) Has not been convicted of a felony, misdemeanor, or violation described in section 41.

(e) For an applicant who does not reside in the state of Michigan, demonstrates that his or her principal place of business is located in the county in which he or she requests appointment and indicates that he or she is engaged in an activity in connection with that business in which he or she is likely to be required to perform notarial acts.

(f) If applicable, has filed with the county clerk of his or her county of residence or expected appointment a surety bond and an oath under section 13, in a format acceptable to the secretary. The requirement of filing a bond does not apply to an applicant that demonstrates, in a manner acceptable to the secretary, licensure as an attorney at law in this state.

(2) The secretary shall, on a monthly basis, notify the county clerk’s office of the appointment of any notaries in that county.

Sec. 25a. (1) All of the following apply with regard to a notarial act that is performed in another state:

(a) A notarial act performed in another state has the same effect under the law of this state as if performed by a notarial officer of this state, if the act performed in that state is performed by any of the following individuals:

- (i) A notary public who is authorized to perform notarial acts in the state in which the act is performed.
- (ii) A judge, clerk, or deputy clerk of any court of record in the state in which the notarial act is performed.
- (iii) Any other individual who is authorized to perform notarial acts in the state in which the act is performed.

(b) The signature and title of an individual described in subdivision (a)(i) to (iii) who performs a notarial act in another state are prima facie evidence that the signature is genuine and that the individual holds the designated title.

(c) The signature and title of an individual described in subdivision (a)(i) or (ii) who performs a notarial act in another state conclusively establish the authority of the individual to perform the notarial act.

(2) All of the following apply with regard to a notarial act that is performed under the authority and in the jurisdiction of a federally recognized Indian tribe:

(a) A notarial act performed under the authority and in the jurisdiction of a federally recognized Indian tribe has the same effect as if performed by a notarial officer of this state, if the act performed in the jurisdiction of the tribe is performed by any of the following individuals:

- (i) A notary public of the tribe.
- (ii) A judge, clerk, or deputy clerk of a court of the tribe.
- (iii) Any other individual who is authorized under the law of the tribe to perform notarial acts.

(b) The signature and title of an individual described in subdivision (a)(i) to (iii) who performs a notarial act under the authority of and in the jurisdiction of a federally recognized Indian tribe are prima facie evidence that the signature is genuine and that the individual holds the designated title.

(c) The signature and title of an individual described in subdivision (a)(i) or (ii) who performs a notarial act under the authority of and in the jurisdiction of a federally recognized Indian tribe conclusively establish the authority of the individual to perform the notarial act.

(3) All of the following apply with regard to a notarial act that is performed under federal law:

(a) A notarial act performed under federal law has the same effect under the law of this state as if performed by a notary public of this state, if the act performed under federal law is performed by any of the following individuals:

- (i) A judge, clerk, or deputy clerk of a federal court.
- (ii) An individual who is in military service, or is performing duties under the authority of military service, who is authorized to perform notarial acts under federal law.

(iii) An individual who is designated as a notarizing officer by the United States Department of State to perform notarial acts outside of the United States.

(iv) Any other individual who is authorized by federal law to perform the notarial act.

(b) The signature and title of an individual described in subdivision (a)(i) to (iv) who performs a notarial act under federal authority are prima facie evidence that the signature is genuine and that the individual holds the designated title.

(c) The signature and title of an individual described in subdivision (a)(i) to (iii) who performs a notarial act under federal authority conclusively establish the authority of the individual to perform the notarial act.

(4) All of the following apply with regard to a notarial act performed by an individual under the authority and in the jurisdiction of a foreign country or a constituent unit of a foreign country:

(a) If a notarial act is performed under authority and in the jurisdiction of a foreign country or constituent unit of the foreign country or is performed under the authority of a multinational or international governmental organization, the act has the same effect under the law of this state as if performed by a notarial officer of this state.

(b) If the title of office and indication of authority to perform notarial acts in a foreign country appears in a digest of foreign law or in a list customarily used as a source for that information, the authority of an officer with that title to perform notarial acts is conclusively established.

(c) The signature and official stamp of an individual who holds an office described in this subsection are prima facie evidence that the signature is genuine and the individual holds the designated title.

(d) An apostille in the form prescribed by the Hague Convention of October 5, 1961, and issued by a foreign country party to the convention, conclusively establishes that the signature is genuine and that the individual holds the indicated office.

(e) A consular authentication that is issued by an individual who is designated as a notarizing officer by the United States Department of State to perform notarial acts outside of the United States and attached to a record with

respect to which the notarial act is performed conclusively establishes that the signature is genuine and that the individual holds the indicated office.

(5) As used in this section, "foreign country" means a government other than the United States, a state, or a federally recognized Indian tribe.

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

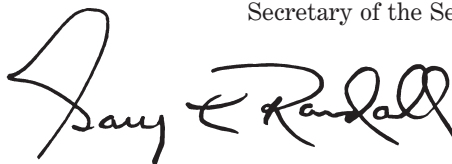
Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 99th Legislature are enacted into law:

- (a) Senate Bill No. 664.
- (b) Senate Bill No. 997.
- (c) Senate Bill No. 998.

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved

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Governor