

HOUSE BILL NO. 5249

July 01, 2021, Introduced by Reps. Young, Brenda Carter, Pohutsky, Aiyash, Neeley, Hood and Scott and referred to the Committee on Judiciary.

A bill to amend 2003 PA 238, entitled
"Michigan law on notarial acts,"
by amending section 25 (MCL 55.285), as amended by 2018 PA 330.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 25. (1) A notary public may perform notarial acts that
2 include, but are not limited to, the following:
3 (a) Taking acknowledgments.
4 (b) Administering oaths and affirmations.
5 (c) Witnessing or attesting to a signature.

1 (2) In taking an acknowledgment, the notary public shall
2 determine, either from personal knowledge or from satisfactory
3 evidence, that the individual in the presence of the notary public
4 and making the acknowledgment is the individual whose signature is
5 on the record.

6 (3) In taking a verification upon oath or affirmation, the
7 notary public shall determine, either from personal knowledge or
8 from satisfactory evidence, that the individual in the presence of
9 the notary public and making the verification is the individual
10 whose signature is on the record being verified.

11 (4) In witnessing or attesting to a signature, the notary
12 public shall determine, either from personal knowledge or from
13 satisfactory evidence, that the signature is that of the individual
14 in the presence of the notary public and is the individual named in
15 the record.

16 (5) In all matters where the notary public takes a
17 verification upon oath or affirmation, or witnesses or attests to a
18 signature, the notary public shall require that the individual sign
19 the record being verified, witnessed, or attested in the presence
20 of the notary public.

21 (6) A notary public has satisfactory evidence that an
22 individual is the individual whose signature is on a record if that
23 individual is any of the following:

24 (a) Personally known to the notary public.

25 (b) Identified upon the oath or affirmation of a credible
26 witness personally known by the notary public and who personally
27 knows the individual.

28 (c) Identified on the basis of a current license,
29 identification card, or record issued by a federal or state

1 government that contains the individual's photograph and signature.

2 (d) With regard to a notarial act performed under section 26b,
3 identified and verified through an identity proofing process or
4 service that is part of a remote electronic notarization platform
5 approved under section 26b(1), and the person presents an identity
6 document described in subdivision (c) that is verified through a
7 credential analysis process or service that is part of a remote
8 electronic notarization platform approved under section 26b(1).

9 (7) ~~The~~ **Except as otherwise provided in this subsection, the**
10 fee charged by a notary public for performing a notarial act shall
11 not be more than \$10.00 for any individual transaction or notarial
12 act. **A notary public may charge an additional technology fee for**
13 **performing a notarial act using a remote electronic notarization**
14 **platform under section 26b if the notary public and the individual**
15 **requesting the notarial act agree upon the additional fee in**
16 **advance of the notarial act being performed and the notary explains**
17 **to the individual requesting the notarial act that the technology**
18 **fee is separate from any notarial fee and is not specified or**
19 **mandated by law.** A notary public shall either conspicuously display
20 a sign or expressly advise an individual concerning the fee amount
21 to be charged for a notarial act before the notary public performs
22 the act. Before the notary public commences to travel in order to
23 perform a notarial act, the notary public and client may agree
24 concerning a separate travel fee to be charged by the notary public
25 for traveling to perform the notarial act.

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

27 (9) The secretary shall prescribe the form that a notary
28 public shall use for a jurat, the taking of an acknowledgment, the
29 administering of an oath or affirmation, the taking of a

1 verification upon an oath or affirmation, the witnessing or
2 attesting to a signature, or any other act that a notary public is
3 authorized to perform in this state.

4 (10) A county clerk may collect a processing fee of \$10.00 for
5 certifying a notarial act of a notary public.