

MICHIGAN ELECTION LAW (EXCERPT)
Act 116 of 1954

168.961 Recall petition; filing; receipt; duties of filing official; duties of city or township clerk; certificate; duties of village clerk; use of qualified voter file.

Sec. 961. (1) A recall petition shall be filed with the filing officer provided in section 959 or 960. The filing official shall give a receipt showing the date of filing, the number of recall petition sheets filed, and the number of signatures claimed by the filer. This shall constitute the total filing, and additional recall petition sheets for this filing shall not be accepted by the filing official.

(2) Within 7 days after a recall petition is filed, the filing official with whom the recall petition was filed shall examine the recall petition. The filing official shall determine if the recall petition is in proper form and shall determine the number of signatures of the recall petition. In determining the number of signatures, the filing official shall not count signatures on a recall petition sheet if 1 or more of the following apply:

(a) The execution of the certificate of circulator is not in compliance with this act.

(b) The heading of the recall petition sheet is improperly completed.

(c) The reasons for recall are different than those determined under section 951a by the board of state canvassers or the Michigan court of appeals or under section 952 by the board of county election commissioners or the circuit court to be factual and of sufficient clarity to enable the officer whose recall is sought and the electors to identify the course of conduct which is the basis for this recall.

(d) The signature was obtained before the date of determination as provided under section 951a(8) by the board of state canvassers or the Michigan court of appeals, whichever occurs later, or as provided under section 952(8) by the board of county election commissioners or the circuit court, whichever occurs later, or more than 60 days before the filing of the recall petition.

(3) If the filing official determines that the form of the recall petition is improper or that the number of signatures is less than the minimum number required in section 955, the filing official shall proceed as provided in section 963(1).

(4) If the filing official determines that the number of signatures is in excess of the minimum number required in section 955, the filing official shall determine the validity of the signatures by verifying the registration of signers under subsection (6) and may determine the genuineness of signatures under subsection (7) or shall forward each recall petition sheet to the clerk of the city or township appearing on the head of the recall petition sheet. However, the recall petition shall not be forwarded to the secretary of a school district.

(5) The city or township clerk shall determine the validity of the signatures by verifying the registration of signers under subsection (6) and may determine the genuineness of signatures under subsection (7). Within 15 days after receipt of the recall petition, the city or township clerk shall attach to the recall petition a certificate indicating the number of signers on each recall petition sheet that are registered electors in the city or township and in the governmental unit for which the recall is sought. The certificate shall be on a form approved by the secretary of state and may be a part of the recall petition sheet. If the recall petition is for the recall of a village official, the county clerk shall forward the recall petition to the clerk of the village, and the duties and responsibilities of the city or township clerk as set forth in this section shall be performed by the village clerk.

(6) The qualified voter file shall be used to determine the validity of recall petition signatures by verifying the registration of signers. If the qualified voter file indicates that, on the date the elector signed the recall petition, the elector was not registered to vote, there is a rebuttable presumption that the signature is invalid. If the qualified voter file indicates that, on the date the elector signed the recall petition, the elector was not registered to vote in the city or township designated on the recall petition, there is a rebuttable presumption that the signature is invalid.

(7) The qualified voter file shall be used to determine the genuineness of a challenged petition signature appearing on a recall petition. Signature comparisons shall be made with the digitized signature in the qualified voter file. If the qualified voter file does not contain a digitized signature of an elector, the official with whom the recall petition was filed shall compare the challenged signature to the signature on the master card.

History: 1954, Act 116, Eff. June 1, 1955;—Am. 1956, Act 37, Imd. Eff. Mar. 28, 1956;—Am. 1976, Act 66, Imd. Eff. Apr. 2, 1976;—Am. 1978, Act 533, Imd. Eff. Dec. 21, 1978;—Am. 1982, Act 456, Imd. Eff. Dec. 30, 1982;—Am. 1999, Act 219, Eff. Mar. 10, 2000;—Am. 2005, Act 71, Eff. Jan. 1, 2007;—Am. 2012, Act 417, Imd. Eff. Dec. 20, 2012.

Compiler's note: Enacting section 4 of Act 71 of 2005 provides:

"Enacting section 4. If any portion of this amendatory act or the application of this amendatory act to any person or circumstances is found invalid by a court, the invalidity shall not affect the remaining portions or applications of this amendatory act that can be given effect without the invalid portion or application, if the remaining portions are not determined by the court to be inoperable, and to this end

this amendatory act is declared to be severable."

Enacting section 2 of Act 417 of 2012 provides:

"Enacting section 2. As provided in section 5 of 1846 RS 1, MCL 8.5, this act is severable."

Enacting section 3 of Act 417 of 2012 provides:

"Enacting section 3. The legislature recognizes the importance of the electoral process, and it is the intent of the legislature that this amendatory act uphold each of the following:

(a) Section 4 of article II of the state constitution of 1963.

(b) Section 8 of article II of the state constitution of 1963.

(c) Section 26 of article V of the state constitution of 1963."

Popular name: Election Code