

MICHIGAN COMPILED LAWS

**CHAPTER 55. NOTARIES PUBLIC
MICHIGAN NOTARY PUBLIC ACT**

Act 238 of 2003 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.

History: 2003, Act 238, Eff. Apr. 1, 2004.

The People of the State of Michigan enact:

55.261. Short title.

Sec. 1.

This act shall be known and may be cited as the “Michigan notary public act”.

History: 2003, Act 238, Eff. Apr. 1, 2004.

55.263. Definitions; A to I.

Sec. 3.

As used in this act:

(a) “Acknowledgment” means the confirmation by a person in the presence of a notary public that he or she is placing or has placed his or her signature on a record for the purposes stated in the record and, if the record is signed in a representative capacity, that he or she is placing or has placed his or her signature on the record with the proper authority and in the capacity of the person represented and identified in the record.

(b) “Cancellation” means the nullification of a notary public commission due to an error or defect or because the notary public is no longer entitled to the commission.

(c) “Department” means the department of state.

(d) “Electronic” means that term as defined in the uniform electronic transactions act, 2000 PA 305, MCL 450.831 to 450.849.

(e) “Electronic signature in global and national commerce act” means Public Law 106-229, 114 Stat. 464.

(f) “Information” means that term as defined in the electronic signature in global and national commerce act.

(g) “In a representative capacity” means any of the following:

(i) For and on behalf of a corporation, partnership, trust, association, or other legal entity as an authorized officer, agent, partner, trustee, or other representative of the entity.

(ii) As a public officer, personal representative, guardian, or other representative in the capacity recited in the document.

(iii) As an attorney in fact for a principal.

(iv) In any other capacity as an authorized representative of another person.

(h) “In the presence of” means in compliance with section 101(g) of title I of the electronic signature in global and national commerce act, 15 USC 7001.

History: 2003, Act 238, Eff. Apr. 1, 2004.

55.265. Definitions; J to R.

Sec. 5.

As used in this act:

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

(b) "Notarial act" means any act that a notary public commissioned in this state is authorized to perform including, but not limited to, the taking of an acknowledgment, the administration of an oath or affirmation, the taking of a verification upon oath or affirmation, and the witnessing or attesting a signature performed in compliance with this act and the uniform recognition of acknowledgments act, 1969 PA 57, MCL 565.261 to 565.270.

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

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

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

(e) "Official misconduct" means either or both of the following:

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

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

(g) "Person" means every natural person, corporation, partnership, trust, association, or other legal entity and its legal successors.

(h) "Record" means that term as defined in the uniform electronic transactions act, 2000 PA 305, MCL 450.831 to 450.849.

(i) "Revocation" means the termination of a notary public's commission.

History: 2003, Act 238, Eff. Apr. 1, 2004; Am.—2006, Act 426, Imd. Eff. Oct. 3, 2006.

55.267. Definitions; S to V.

Sec. 7.

As used in this act:

(a) "Secretary" means the secretary of state acting directly or through his or her duly authorized deputies, assistants, and employees.

(b) "Signature" means a person's written or printed name or electronic signature as that term is defined in the uniform electronic transactions act, 2000 PA 305, MCL 450.831 to 450.849, or the person's mark attached to or logically associated with a record including, but not limited to, a contract and executed or adopted by the person with the intent to sign the record.

(c) "Suspension" means the temporary withdrawal of the notary's commission to perform notarial acts during the period of the suspension.

(d) "Verification upon oath or affirmation" means the declaration by oath or affirmation that a statement is true.

History: 2003, Act 238, Eff. Apr. 1, 2004.

55.269. Notary public; appointment.

Sec. 9.

(1) The secretary may appoint as a notary public a person who complies with the

requirements of this act.

(2) A notary public may reside in, move to, and perform notarial acts anywhere in this state from the date of appointment until the notary's birthday occurring not less than 6 years and not more than 7 years after the date of his or her appointment unless the appointment is canceled, suspended, or revoked by the secretary or by operation of law.

(3) The secretary shall not appoint as a notary public a person who is serving a term of imprisonment in a state correctional facility or jail in this or any other state or in a federal correctional facility.

History: 2003, Act 238, Eff. Apr. 1, 2004.

55.271. Notary public; qualifications.

Sec. 11.

(1) The secretary may appoint as a notary public a person 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) Is free of any felony convictions, misdemeanor convictions, and violations as described in section 41.

(e) For a person 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 which he or she is likely to be required to perform notarial acts as that word is defined in section 2 of the uniform recognition of acknowledgments act, 1969 PA 57, MCL 565.262.

(f) Has filed with the county clerk of his or her county of residence or expected appointment a proper surety bond and an oath taken as prescribed by the constitution in a format acceptable to the secretary..

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

History: 2003, Act 238, Eff. Apr. 1, 2004; Am. —2006, Act 426, Imd. Eff. Oct. 3, 2006.

55.273. Filing; oath; bond; fee.

Sec. 13.

(1) Within 90 days before filing an application for a notary public appointment, a person shall file with the county clerk of his or her residence or expected appointment a proper surety bond and an oath taken as prescribed by the constitution.

(2) The bond shall be in the sum of \$10,000.00 with good and sufficient surety by a surety licensed to do business in this state. The bond shall be conditioned upon indemnifying or reimbursing a person, financing agency, or governmental agency for monetary loss caused through the official misconduct of the notary public in the performance of a notarial act. The surety is required to indemnify or reimburse only after a judgment based on official misconduct has been entered in a court of competent jurisdiction against the notary public. The aggregate liability of the surety shall not exceed the sum of the bond. The surety on the bond may cancel the bond 60 days after the surety notifies the notary, the secretary, and the county clerk of the cancellation. The surety is not liable for a breach of a condition occurring after the effective date of the cancellation. The county clerk shall not accept the personal assets of an applicant as security for a surety bond under this act.

(3) Each person who files an oath and bond with a county clerk as required in

subsection (1) shall pay a \$10.00 filing fee to the county clerk. Upon receipt of the filing fee, the county clerk shall give a bond and oath certificate of filing to the person as prescribed by the secretary. A charter county with a population of more than 2,000,000 may impose by ordinance a fee for the county clerk's services different than the amount prescribed by this subsection. Two dollars of each fee collected under this subsection shall be deposited into the notary education and training fund established in section 17 on a schedule determined by the secretary.

History: 2003, Act 238, Eff. Apr. 1, 2004; Am.—2006, Act 426, Imd. Eff. Oct. 3, 2006.

55.275. Application; format; fee; use of L.E.I.N. to check criminal background; certificate of appointment.

Sec. 15.

(1) A person shall apply to the secretary for appointment as a notary public in a format as prescribed by the secretary. An application for appointment as a notary public shall contain the signature of the applicant. In addition to other information as may be required by the secretary, the application shall include all of the following:

(a) The applicant's name, residence address, business address, date of birth, and residence and business telephone numbers.

(b) The applicant's driver license or state personal identification card number.

(c) A validated copy of the filing of the bond and oath certificate received from the county clerk.

(d) If applicable, a statement showing whether the applicant has previously applied for an appointment as a notary public in this or any other state, the result of the application, and whether the applicant has ever been the holder of a notary public appointment that was revoked, suspended, or canceled in this or any other state.

(e) A statement describing the date and circumstances of any felony or misdemeanor conviction of the applicant during the preceding 10 years.

(f) A declaration that the applicant is a citizen of the United States or, if not a citizen of the United States, proof of the applicant's legal presence in this country.

(g) An affirmation by the applicant that the application is correct, that the applicant has read this act, and that the applicant will perform his or her notarial acts faithfully.

(2) Each application shall be accompanied by an application processing fee of \$10.00. One dollar of each fee collected under this subsection shall be deposited into the notary education and training fund established in section 17 on a schedule determined by the secretary.

(3) Upon receipt of an application that is accompanied by the prescribed processing fee, the secretary may inquire as to the qualifications of the applicant and shall determine whether the applicant meets the qualifications prescribed in this act. To assist in deciding whether the applicant is qualified, the secretary may use the law enforcement information network as provided in the C.J.I.S. policy council act, 1974 PA 163, MCL 28.211 to 28.215, to check the criminal background of the applicant.

(4) After approval of the application, the secretary shall mail directly to the applicant the certificate of appointment as a notary public. Each certificate of appointment shall identify the person as a notary public of this state and shall specify the term and county of the person's commission.

History: 2003, Act 238, Eff. Apr. 1, 2004; Am.—2006, Act 426, Imd. Eff. Oct. 3, 2006.

55.277. Notary education and training fund.

Sec. 17.

(1) The notary education and training fund is created within the state treasury. Money from fees collected under sections 13(3), 15(2), and 21(4) shall be deposited into the fund.

(2) The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments.

(3) Up to \$150,000.00 shall remain in the fund at the close of each fiscal year and shall not lapse to the general fund. Any amount in excess of \$150,000.00 shall lapse to the general fund.

(4) The secretary shall expend money from the fund in the form of grants, upon appropriation, for the purposes of providing education and training programs for county clerks and their staffs including, but not limited to, notary responsibilities, election worker training, and election processes. The secretary shall consult with the president of the Michigan association of county clerks, or his or her designee, when approving grant applications under this section.

(5) The secretary shall annually file a report regarding the balance of the fund at the time of the report and a detailed account of the expenditures in the preceding fiscal year. This report shall be sent to the speaker of the house of representatives, the minority leader of the house of representatives, the majority leader of the senate, and the minority leader of the senate.

History: 2003, Act 238, Eff. Apr. 1, 2004; Am. —2006, Act 426, Imd. Eff. Oct. 3, 2006.

55.279. Reappointment; cause for cancellation of appointment.

Sec. 19.

(1) The secretary shall not automatically reappoint a notary public.

(2) A person desiring another notary public appointment may apply to the secretary, in a format prescribed by the secretary, for an original appointment as a notary public. The application may be made not more than 60 days before the expiration of his or her current notary public commission.

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

History: 2003, Act 238, Eff. Apr. 1, 2004; Am. —2006, Act 426, Imd. Eff. Oct. 3, 2006.

55.281. Corrected notary public commission.

Sec. 21.

(1) A notary public shall immediately apply to the secretary, in a format prescribed by the secretary, for a corrected notary public commission upon the occurrence of any of the following circumstances:

(a) A change in the notary public's name.

(b) A change in the notary public's residence or business address.

(c) The issuance by the secretary of a notary public commission that contains an error in the person's name, birth date, county, or other pertinent information if the error was made on the notary public's application and was used by the secretary to appoint the person as a notary public.

(2) A notary public shall immediately notify both the secretary and the county clerk of his or her appointment, in a format prescribed by the secretary, upon any change in the

factual information stated in the notary public's application for appointment.

(3) The secretary shall notify the county clerk of the applicant's appointment when a corrected commission is issued by the secretary.

(4) If a notary public's certificate of appointment becomes lost, mutilated, or illegible, the notary public shall promptly apply to the secretary for the issuance of a duplicate certificate. The application shall be made on a form prescribed by the secretary and be accompanied by a processing fee of \$10.00. One dollar of each processing fee collected under this subsection shall be deposited into the notary education and training fund established in section 17.

History: 2003, Act 238, Eff. Apr. 1, 2004; Am. —2006, Act 426, Imd. Eff. Oct. 3, 2006.

55.283. Obtaining and reading state statutes.

Sec. 23.

Before a notary public performs any notarial act, the notary public shall obtain and read a copy of all the current statutes of this state that regulate notarial acts.

History: 2003, Act 238, Eff. Apr. 1, 2004.

55.285. Performance of notarial acts; scope; verification.

Sec. 25.

(1) A notary public may perform notarial acts that include, but are not limited to, the following:

- (a) Taking acknowledgments.
- (b) Administering oaths and affirmations.
- (c) Witnessing or attesting to a signature.

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

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

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

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

(6) A notary public has satisfactory evidence that a person is the person whose signature is on a record if that person is any of the following:

- (a) Personally known to the notary public.
- (b) Identified upon the oath or affirmation of a credible witness personally known by the notary public and who personally knows the person.
- (c) Identified on the basis of a current license, identification card, or record issued by a federal or state government that contains the person's photograph and signature.

(7) The fee charged by a notary public for performing a notarial act shall not be more than \$10.00 for any individual transaction or notarial act. A notary public shall either conspicuously display a sign or expressly advise a person concerning the fee amount to

be charged for a notarial act before the notary public performs the act. Before the notary public commences to travel in order to perform a notarial act, the notary public and client may agree concerning a separate travel fee to be charged by the notary public for traveling to perform the notarial act.

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

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

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

History: 2003, Act 238, Eff. Apr. 1, 2004; Am.—2006, Act 426, Imd. Eff. Oct. 3, 2006.

55.287. Signature of notary public; statement; stamp seal or electronic process; effect of illegible statement.

Sec. 27.

(1) A notary public shall place his or her signature on every record upon which he or she performs a notarial act. The notary public shall sign his or her name exactly as his or her name appears on his or her application for commission as a notary public.

(2) On each record that a notary public performs a notarial act and immediately near the notary public's signature, as is practical, the notary public shall print, type, stamp, or otherwise imprint mechanically or electronically sufficiently clear and legible to be read by the secretary and in a manner capable of photographic reproduction all of the following in this format or in a similar format that conveys all of the same information:

(a) The name of the notary public exactly as it appears on his or her application for commission as a notary public.

(b) The statement: "Notary public, State of Michigan, County of _____."

(c) The statement: "My commission expires _____."

(d) If performing a notarial act in a county other than the county of commission, the statement: "Acting in the County of _____."

(e) The date the notarial act was performed.

(3) A notary public may use a stamp, seal, or electronic process that contains all of the information required by subsection (2). However, the stamp, seal, or electronic process shall not be used in a manner that renders anything illegible on the record being notarized. An embosser alone or any other method that cannot be reproduced shall not be used.

(4) The illegibility of the statements required in subsection (2) does not affect the validity of the transaction or record that was notarized.

History: 2003, Act 238, Eff. Apr. 1, 2004; 2006, Act 155, Eff. May 26, 2006.

55.289. Repealed.

History: 2003, Act 238, Eff. Apr. 1, 2004.

Repealed: 2006, Act 155, Eff. May 26, 2006.

55.291. Notary public; prohibited conduct.

Sec. 31.

(1) A notary public shall not certify or notarize that a record is either of the following:

(a) An original.

(b) A true copy of another record.

(2) A notary public shall not do any of the following:

(a) Perform a notarial act upon any record executed by himself or herself.

(b) Notarize his or her own signature.

(c) Take his or her own deposition or affidavit.

(3) A notary public shall not claim to have powers, qualifications, rights, or privileges that the office of notary does not provide, including the power to counsel on immigration matters.

(4) A notary public shall not, in any document, advertisement, stationery, letterhead, business card, or other comparable written material describing the role of the notary public, literally translate from English into another language terms or titles including, but not limited to, notary public, notary, licensed, attorney, lawyer, or any other term that implies the person is an attorney.

(5) A notary public who is not a licensed attorney and who advertises notarial services in a language other than English shall include in the document, advertisement, stationery, letterhead, business card, or other comparable written material the following, prominently displayed in the same language:

(a) The statement: "I am not an attorney and have no authority to give advice on immigration or other legal matters".

(b) The fees for notarial acts as specified by statute.

(6) A notary public may not use the term "notario publico" or any equivalent non-English term in any business card, advertisement, notice, or sign.

(7) A notary public shall not perform any notarial act in connection with a transaction if the notary public has a conflict of interest. As used in this subsection, "conflict of interest" means either or both of the following:

(a) The notary public has a direct financial or beneficial interest, other than the notary public fee, in the transaction.

(b) The notary public is named, individually, as a grantor, grantee, mortgagor, mortgagee, trustor, trustee, beneficiary, vendor, vendee, lessor, or lessee or as a party in some other capacity to the transaction.

(8) A notary public shall not perform a notarial act for a spouse, lineal ancestor, lineal descendant, or sibling including in-laws, steps, or half-relatives.

(9) A notary public who is a stockholder, director, officer, or employee of a bank or other corporation may take the acknowledgment of a party to a record executed to or by the corporation, or to administer an oath to any other stockholder, director, officer, employee, or agent of the corporation. A notary public shall not take the acknowledgment of a record by or to a bank or other corporation of which he or she is a stockholder, director, officer, or employee, under circumstances where the notary public is named as a party to the record, either individually or as a representative of the bank or other corporation and the notary public is individually a party to the record.

(10) For purposes of subsection (7), a notary public has no direct financial or beneficial interest in a transaction where the notary public acts in the capacity of an agent, employee, insurer, attorney, escrow, or lender for a person having a direct financial or beneficial interest in the transaction.

History: 2003, Act 238, Eff. Apr. 1, 2004; Am. —2006, Act 426, Imd. Eff. Oct. 3, 2006.

55.293. Person with physical limitations; signature by notary public.

Sec. 33.

A notary public may sign the name of a person whose physical characteristics limit his or

her capacity to sign or make a mark on a record presented for notarization under all of the following conditions:

(a) The notary public is orally, verbally, physically, or through electronic or mechanical means provided by the person and directed by that person to sign that person's name.

(b) The person is in the physical presence of the notary public.

(c) The notary public inscribes beneath the signature:

“Signature affixed pursuant to section 33 of the Michigan notary public act.”.

History: 2003, Act 238, Eff. Apr. 1, 2004.

55.295. Request by secretary of state; failure to respond.

Sec. 35.

(1) Upon receiving a written or electronic request from the secretary, a notary public shall do all of the following as applicable:

(a) Furnish the secretary with a copy of the notary public's records that relate to the request.

(b) Within 15 days after receiving the request, respond to the secretary with information that relates to the official acts performed by the notary public.

(c) Permit the secretary to inspect his or her notary public records, contracts, or other information that pertains to the official acts of a notary public, if those records, contracts, or other information is maintained by the notary public.

(2) Upon presentation to the secretary of satisfactory evidence that a notary public has failed to respond within 15 days or another time period designated under this act to a request of the secretary under subsection (1), the secretary may notify the notary public that his or her notary public commission is suspended indefinitely until he or she provides a satisfactory response to the request.

History: 2003, Act 238, Eff. Apr. 1, 2004; Am.—2006, Act 426, Imd. Eff. Oct. 3, 2006.

55.297. Misconduct; civil liability; conditions.

Sec. 37.

(1) For the official misconduct of a notary public, the notary public and the sureties on the notary public's surety bond are liable in a civil action for the damages sustained by the persons injured. The employer of a notary public is also liable if both of the following conditions apply:

(a) The notary public was acting within the actual or apparent scope of his or her employment.

(b) The employer had knowledge of and consented to or permitted the official misconduct.

(2) A notary public and the notary public's sureties are not liable for the truth, form, or correctness of the contents of a record upon which the notary public performs a notarial act.

History: 2003, Act 238, Eff. Apr. 1, 2004.

55.299. Violations of notary public laws.

Sec. 39.

The secretary may investigate, or cause to be investigated by local authorities, the administration of notary public laws and shall report violations of the notary public laws and rules to the attorney general or prosecuting attorney, or both, for prosecution.

History: 2003, Act 238, Eff. Apr. 1, 2004.

55.300. Investigation by secretary of state; complaint.

Sec. 40.

(1) The secretary may, on his or her own initiative or in response to a complaint, make a reasonable and necessary investigation within or outside of this state and gather evidence concerning a person who violated, allegedly violated, or is about to violate this act, a rule promulgated under this act, or an order issued under this act or concerning whether a notary public is in compliance with this act, a rule promulgated under this act, or an order issued under this act.

(2) A person may file a complaint against a notary public with the secretary. A complaint shall be made in a format prescribed by the secretary and contain all of the following:

(a) The complainant's name, address, and telephone number.

(b) The complainant's signature and the date the complaint was signed.

(c) A complete statement describing the basis for the complaint.

(d) The actual record that is the basis for the complaint or a copy, photocopy, or other replica of the record.

(3) The secretary may investigate compliance with this act, the rules promulgated under it, or an order issued under it by examination of a notary public's records, contracts, and other pertinent records or information that relate to the official acts of the notary public.

History: 2003, Act 238, Eff. Apr. 1, 2004.

55.300a. Penalties; evidence; notice and hearing; revocation of commission; fine.

Sec. 40a.

(1) An applicant for an appointment or a commissioned notary public who has engaged in conduct prohibited by this act, a rule promulgated under this act, or an order issued under this act is subject to 1 or more of the following penalties, in addition to any criminal penalties otherwise imposed:

(a) Suspension or revocation of his or her certificate of appointment.

(b) Denial of an application for appointment.

(c) A civil fine paid to the department in an amount not to exceed \$1,000.00.

(d) A requirement to take the affirmative action determined necessary by the secretary, including payment of restitution to an injured person.

(e) A letter of censure.

(f) A requirement to reimburse the secretary for the costs of the investigation.

(2) The secretary may impose 1 or more of the penalties listed in subsection (1) upon presentation to the secretary of satisfactory evidence that the applicant for an appointment or a commissioned notary public has done 1 or more of the following:

(a) Violated this act, a rule promulgated under this act, or an order issued under this act or assisted others in the violation of this act, a rule promulgated under this act, or an order issued under this act.

(b) Committed an act of official misconduct, dishonesty, fraud, deceit, or of any cause substantially relating to the duties or responsibilities of a notary public or the character or public trust necessary to be a notary public.

(c) Failed to perform his or her notary public duties in accordance with this act, a rule promulgated under this act, or an order issued under this act.

(d) Failed to fully and faithfully discharge a duty or responsibility required of a notary public.

- (e) Been found liable in a court of competent jurisdiction for damages in an action grounded in fraud, misrepresentation, or violation of this act.
 - (f) Represented, implied, or used false or misleading advertising that he or she has duties, rights, or privileges that he or she does not possess by law.
 - (g) Charged a fee for a notarial act that was more than is allowed under this act.
 - (h) Failed to complete the notary public's acknowledgment at the time the notary public signed or affixed his or her signature or seal to a record.
 - (i) Failed to administer an oath or affirmation as required by law.
 - (j) Engaged in the unauthorized practice of law as determined by a court of competent jurisdiction.
 - (k) Ceased to maintain his or her residence or principal place of business in this state.
 - (l) Lacks adequate ability to read and write English.
 - (m) Hindered or refused a request by the secretary for notary public records or papers.
 - (n) Engaged in a method, act, or practice that is unfair or deceptive including the making of an untrue statement of a material fact relating to a duty or responsibility of a notary public.
 - (o) Violated a condition of probation imposed under subsection (1).
 - (p) Permitted an unlawful use of a notary public's seal.
 - (q) Failed to maintain good moral character as defined and determined under 1974 PA 381, MCL 338.41 to 338.47.
- (3) Before the secretary takes any action under subsection (2), the person affected shall be given notice and an opportunity for a hearing.
- (4) If a person holding office as a notary public is sentenced to a term of imprisonment in a state correctional facility or jail in this or any other state or in a federal correctional facility, that person's commission as a notary public is revoked automatically on the day on which the person begins serving the sentence in the jail or correctional facility. If a person's commission as a notary public is revoked because the person begins serving a term of imprisonment and that person performs or attempts to perform a notarial act while imprisoned, that person is not eligible to receive a commission as a notary public for at least 10 years after the person completes his or her term of imprisonment.
- (5) Cancellation of a commission is without prejudice to reapplication at any time. A person whose commission is revoked is ineligible for the issuance of a new commission for at least 5 years.
- (6) A fine imposed under this act that remains unpaid for more than 180 days may be referred to the department of treasury for collection. The department of treasury may collect the fine by deducting the amount owed from a payroll or tax refund warrant. The secretary may bring an action in a court of competent jurisdiction to recover the amount of a civil fine.

History: 2003, Act 238, Eff. Apr. 1, 2004.

55.301. Automatic revocation; violation as felony.

Sec. 41.

- (1) If a notary public of this state is convicted of a felony or of a substantially corresponding violation of another state, the secretary shall automatically revoke the notary public commission of that person on the date that the person's felony conviction is entered.
- (2) If a notary public of this state is convicted of 2 or more misdemeanor offenses

involving a violation of this act within a 12-month period while commissioned, or of 3 or more misdemeanor offenses involving a violation of this act within a 5-year period regardless of being commissioned, the secretary shall automatically revoke the notary public commission of that person on the date that the person's most recent misdemeanor conviction is entered.

(3) If a person holding office as a notary public is sentenced to a term of imprisonment in a state correctional facility or jail in this or any other state or in a federal correctional facility, that person's commission as a notary public is revoked automatically on the day on which the person begins serving the sentence in the jail or correctional facility. If a person's commission as a notary public is revoked because the person begins serving a term of imprisonment and that person performs or attempts to perform a notarial act while imprisoned, that person is not eligible to receive a commission as a notary public for at least 10 years after the person completes his or her term of imprisonment.

(4) A person found guilty of performing a notarial act after his or her commission is revoked under this section is guilty of a felony punishable by a fine of not more than \$3,000.00 or by imprisonment for not more than 5 years, or both.

(5) A person, regardless of whether he or she has ever been commissioned as a notary public, that is convicted of a felony is disqualified from being commissioned as a notary public for not less than 10 years after the person completes his or her sentence for that crime, including any term of imprisonment, parole, or probation, and pays all fines, costs, and assessments. As used in this section, a "felony" means a violation of a penal law of this state, another state, or the United States for which the offender, upon conviction, may be punished by death or imprisonment for more than 1 year or an offense expressly designated by law to be a felony.

(6) If a person is convicted of a violation described in subsection (5), the court shall make a determination of whether the person is a notary. If the person is a notary, the court shall inform the secretary of the conviction.

History: 2003, Act 238, Eff. Apr. 1, 2004.

55.303. New reapplication after revocation; unpaid fine.

Sec. 43.

(1) Cancellation of a commission is without prejudice to reapplication at any time. Except as otherwise provided for in section 41(3), a person whose commission is revoked is ineligible for the issuance of a new commission for at least 5 years.

(2) A fine imposed under this act that remains unpaid for more than 180 days may be referred to the department of treasury for collection. The department of treasury may collect the fine by deducting the amount owed from a payroll or tax refund warrant. The secretary may bring an action in a court of competent jurisdiction to recover the amount of a civil fine.

History: 2003, Act 238, Eff. Apr. 1, 2004.

55.305. Injunction or restraining order.

Sec. 45.

(1) Whenever it appears to the secretary that a person has engaged or is about to engage in an act or practice that constitutes or will constitute a violation of this act, a rule promulgated under this act, or an order issued under this act, the attorney general may petition a circuit court for injunctive relief. Upon a proper showing, a circuit court may issue a permanent or temporary injunction or restraining order to enforce the provisions

of this act. A party to the action has the right to appeal within 60 days from the date the order or judgment of the court was issued.

(2) The court may order a person subject to an injunction or restraining order provided for in this section to reimburse the secretary for the actual expenses incurred in the investigation related to the petition. The secretary shall refund any amount received as reimbursement should the injunction or restraining order later be dissolved by an appellate court.

History: 2003, Act 238, Eff. Apr. 1, 2004.

55.307. Presumption.

Sec. 47.

(1) Subject to subsection (2) and in the courts of this state, the certificate of a notary public of official acts performed in the capacity of a notary public, under the seal of office, is presumptive evidence of the facts contained in the certificate except that the certificate is not evidence of a notice of nonacceptance or nonpayment in any case in which a defendant attaches to his or her pleadings an affidavit denying the fact of having received that notice of nonacceptance or nonpayment.

(2) Notwithstanding subsection (1), the court may invalidate any notarial act not performed in compliance with this act.

History: 2003, Act 238, Eff. Apr. 1, 2004; 2006, Act 155, Eff. May 26, 2006.

55.309. New violation as misdemeanor; penalties and remedies as cumulative.

Sec. 49.

(1) Except as otherwise provided for in section 41(4) or as provided by law, a person who violates this act is guilty of a misdemeanor punishable by a fine of not more than \$5,000.00 or by imprisonment for not more than 1 year, or both.

(2) An action concerning a fee charged for a notarial act shall be filed in the district court in the place where the notarial act occurred.

(3) The penalties and remedies under this act are cumulative. The bringing of an action or prosecution under this act does not bar an action or prosecution under any other applicable law.

History: 2003, Act 238, Eff. Apr. 1, 2004.

55.311. Notary fees fund.

Sec. 51.

(1) The notary fees fund is created in the state treasury. Except as otherwise provided in sections 15(2) and 21(4), an application processing fee, duplicate notary public certificate of appointment service charge, certification processing fee, copying processing fee, reimbursement costs, or administrative fine collected under this act by the secretary shall be deposited by the state treasurer in the notary fees fund and is appropriated to defray the costs incurred by the secretary in administering this act.

(2) A processing fee paid to the secretary or county clerk under this act is not refundable.

History: 2003, Act 238, Eff. Apr. 1, 2004; Am. —2006, Act 426, Imd. Eff. Oct. 3, 2006.

55.313. Maintenance of records.

Sec. 53.

A person, or the personal representative of a person who is deceased, who both performed a notarial act and created a record of the act performed while commissioned as

a notary public under this act shall maintain all the records of that notarial act for at least 5 years after the date of the notarial act.

History: 2003, Act 238, Eff. Apr. 1, 2004; Am.—2006, Act 426, Imd. Eff. Oct. 3, 2006.

55.315. Rules.

Sec. 55.

The secretary may promulgate rules pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to implement this act.

History: 2003, Act 238, Eff. Apr. 1, 2004.

**CHAPTER 565. CONVEYANCE OF REAL PROPERTY
UNIFORM RECOGNITION OF ACKNOWLEDGMENTS ACT**

Table of Jurisdictions Wherein Act Has Been Adopted. For text of Uniform Act, and variation notes and annotation materials for adopting jurisdictions, see Uniform Laws Annotated Master Edition, Volume 14.

Jurisdiction

Alaska
Arizona
Colorado
Connecticut
Illinois
Kentucky
Maine
Michigan
Nebraska
New Hampshire
North Dakota
Ohio
South Carolina
Virgin Islands
West Virginia

The People of the State of Michigan enact:

565.261. Short title.

Sec. 1. This act shall be known and may be cited as the “Uniform Recognition of Acknowledgments Act”.

565.262. Notarial acts, definition; persons performing out of state.

Sec. 2. As used in this act:

(a) “Notarial acts” means acts that the laws of this state authorize notaries public of this state to perform, including the administering of oaths and affirmations, taking proof of execution and acknowledgments of instruments, and attesting documents. Notarial acts may be performed outside this state for use in this state with the same effect as if performed by a notary public of this state by the following persons authorized pursuant to the laws and regulations of other governments in addition to any other person authorized

by the laws of this state:

(i) A notary public authorized to perform notarial acts in the place in which the act is performed.

(ii) A judge, clerk or deputy clerk of any court of record in the place in which the notarial act is performed.

(iii) An officer of the foreign service of the United States, a consular agent or any other person authorized by regulation of the United States department of state to perform notarial acts in the place in which the act is performed.

(iv) A commissioned officer in active service with the armed forces of the United States and any other person authorized by regulation of the armed forces to perform notarial acts if the notarial act is performed for 1 of the following or his dependents:

(A) A merchant seaman of the United States,

(B) A member of the armed forces of the United States

(C) Any other person serving with or accompanying the armed forces of the United States.

(v) Any other person authorized to perform notarial acts in the place in which the act is performed.

(b) "Satisfactory evidence" means evidence upon which reliance is placed upon either of the following:

(i) The sworn word of a credible witness who is personally known to the notary public and who personally knows the signer.

(ii) A current identification card or document issued by a federal or state government that contains the bearer's photograph and signature.

565.263. Authority of officer, authentication.

Sec. 3. (1) If the notarial act is performed by any of the persons described in subdivisions (a) to (d) of section 2, other than a person authorized to perform notarial acts by the laws or regulations of a foreign country, the signature, rank or title and serial number, if any, of the person are sufficient proof of the authority of a holder of that rank or title to perform the act. Further proof of his authority is not required.

(2) If the notarial act is performed by a person authorized by the laws or regulations of a foreign country to perform the act, there is sufficient proof of the authority of that person to act if any of the following exist:

(a) Either a foreign service officer of the United States resident in the country in which the act is performed or a diplomatic or consular officer of the foreign country resident in the United States certifies that a person holding that office is authorized to perform the act.

(b) The official seal of the person performing the notarial act is affixed to the document.

(c) The title and indication of authority to perform notarial acts of the person appears either in a digest of foreign law or in a list customarily used as a source of such information.

(3) If the notarial act is performed by a person other than 1 described in subsections (1) and (2), there is sufficient proof of the authority of that person to act if the clerk of a court of record in the place in which the notarial act is performed certifies to the official character of that person and to his authority to perform the notarial act.

(4) The signature and title of the person performing the act are prima facie evidence that he is a person with the designated title and that the signature is genuine.

565.264. Certificate of person taking acknowledgment.

Sec. 4. The person taking an acknowledgment shall certify that the person acknowledging appeared before him and acknowledged he executed the instrument; and the person acknowledging was known to the person taking the acknowledgment or that the person taking the acknowledgment had satisfactory evidence that the person acknowledging was the person described in and who executed the instrument.

565.265. Form of certificate of acknowledgment.

Sec. 5. The form of a certificate of acknowledgment used by a person whose authority is recognized under section 2 shall be accepted in this state if 1 of the following is true:

- (a) The certificate is in a form prescribed by the laws or regulations of this state.
- (b) The certificate is in a form prescribed by the laws applicable in the place in which the acknowledgment is taken.
- (c) The certificate contains the words “acknowledged before me”, or their substantial equivalent.

565.266 Acknowledged before me, meaning.

Sec. 6. The words “acknowledged before me” means:

- (a) That the person acknowledging appeared before the person taking the acknowledgment.
- (b) That he acknowledged he executed the instrument.
- (c) That, in the case of:
 - (i) A natural person, he executed the instrument for the purposes therein stated.
 - (ii) A corporation, the officer or agent acknowledged he held the position or title set forth in the instrument and certificate, he signed the instrument on behalf of the corporation by proper authority and the instrument was the act of the corporation for the purpose therein stated.
 - (iii) A partnership, the partner or agent acknowledged he signed the instrument on behalf of the partnership by proper authority and he executed the instrument as the act of the partnership for the purposes therein stated.
 - (iv) A person acknowledging as principal by an attorney in fact, he executed the instrument by proper authority as the act of the principal for the purposes therein stated.
 - (v) A person acknowledging as a public officer, trustee, administrator, guardian or other representative, he signed the instrument by proper authority and he executed the instrument in the capacity and for the purposes therein stated.
- (d) That the person taking the acknowledgment either knew or had satisfactory evidence that the person acknowledging was the person named in the instrument or certificate.

565.267. Statutory short forms of acknowledgment.

Sec. 7. (1) The forms of acknowledgment set forth in this section may be used and are sufficient for their purposes under any law of this state. The forms shall be known as “statutory short forms of acknowledgment” and may be referred to by that name. The authorization of the forms in this section does not preclude the use of other forms.

- (2) For an individual acting in his own right:

State of _____

County of _____

The foregoing instrument was acknowledged before me this (date) by (name of person acknowledged).

(Signature of person taking acknowledgment)
(Title or rank)
(Serial number, if any)

(3) For a corporation:

State of _____
County of _____

The foregoing instrument was acknowledged before me this (date) by (name of officer or agent, title or officer or agent) of (name of corporation acknowledging) a (state or place of incorporation) corporation, on behalf of the corporation.

(Signature of person taking acknowledgment)
(Title or rank)
(Serial number, if any)

(4) For a partnership:

State of _____
County of _____

The foregoing instrument was acknowledged before me this (date) by (name of acknowledging partner or agent), partner (or agent) on behalf of (name of partnership), a partnership.

(Signature of person taking acknowledgment)
(Title or rank)
(Serial number, if any)

(5) For an individual acting as principal by an attorney in fact:

State of _____
County of _____

The foregoing instrument was acknowledged before me this (date) by (name of attorney in fact) as attorney in fact on behalf of (name of principal).

(Signature of person taking acknowledgment)
(Title or rank)
(Serial number, if any)

(6) By any public officer, trustee or personal representative:

State of _____
County of _____

The foregoing instrument was acknowledged before me this (date) by (name and title of position).

(Signature of person taking acknowledgment)

(Title or rank)

(Serial number, if any)

565.268. Prior notarial acts unaffected.

Sec. 8. A notarial act performed prior to the effective date of this act is not affected by this act. This act provides an additional method of proving notarial acts. Nothing in this act diminishes or invalidates the recognition accorded to notarial acts by other laws of this state.

565.269. Uniform interpretation.

Sec. 9. This act shall be so interpreted as to make uniform the laws of those states which enact it.

565.270. Repealer.

Sec. 10. Act No. 185 of the Public Acts of 1895, 565.256 of the Compiled Laws of 1948, is repealed.

565.8 Deeds; execution; witnesses; acknowledgment; endorsement; validity and legality of certain acknowledgments and recordations of deeds; recorded deed lacking 1 or more witnesses.

Sec. 8. Deeds executed within this state of lands, or any interest in lands, shall be acknowledged before any judge, clerk of a court of record, or notary public within this state. The officer taking the acknowledgment shall endorse on the deed a certificate of the acknowledgment, and the true date of taking the acknowledgment, under his or her hand. Any deed that was acknowledged before any county clerk or clerk of any circuit court, before September 18, 1903, and the acknowledgment of the deed, and, if recorded, the record of the deed, shall be as valid for all purposes so far as the acknowledgment and record are concerned, as if the deed had been acknowledged before any other officer named in this section, and the legality of the acknowledgment and record shall not be questioned in any court or place. If a deed has been recorded that lacks 1 or more witnesses and the deed has been of record for a period of 10 years or more, and is otherwise eligible to record, the record of the deed shall be effectual for all purposes of a legal record and the record of the deed or a transcript of the record may be given in evidence in all cases and the deed shall be as valid and effectual as if it had been duly executed in compliance with this section.

History: R.S. 1846, Ch. 65;—CL 1857, 2727;—CL 1871, 4210;—How. 5658;—CL 1897, 8962;—Am. 1903, Act 117, Eff. Sept. 15, 1903;—Am. 1905, Act 103, Imd. Eff. May 10, 1905;—CL 1915, 11694;—CL 1929, 13284;—Am. 1937, Act 162, Imd. Eff. July 9, 1937;—CL 1948, 565.8;—Am. 1980, Act 488, Imd. Eff. Jan. 21, 1981;—Am. 2002, Act 23, Imd. Eff. Mar. 4, 2002.