

Act No. 510  
Public Acts of 2006  
Approved by the Governor  
December 28, 2006  
Filed with the Secretary of State  
December 29, 2006  
EFFECTIVE DATE: April 1, 2007

**STATE OF MICHIGAN  
93RD LEGISLATURE  
REGULAR SESSION OF 2006**

Introduced by Senators Bishop, Patterson, Cropsey and Sanborn

# **ENROLLED SENATE BILL No. 1266**

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 sections 11, 13, 15, and 19 (MCL 55.271, 55.273, 55.275, and 55.279), as amended by 2006 PA 426.

*The People of the State of Michigan enact:*

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) If applicable, 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. 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.

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, if applicable, a 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 an oath certificate of filing and a bond, if applicable, 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.

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, if applicable, 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.

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 submitted not more than 60 days before the expiration of his or her current notary public commission.

(3) In the case of a licensed attorney granted an appointment as a notary public under this act and after the initial application under section 15, the secretary shall send a reappointment application form to the licensed attorney at least 90 days before the expiration of the current notary appointment. The application for reappointment shall contain a certification to be completed by the applicant certifying that he or she is still a member in good standing in the state bar of Michigan. The applicant shall otherwise comply with the requirements for appointment as a notary public as described in section 15.

(4) 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.

Enacting section 1. This amendatory act takes effect April 1, 2007.

This act is ordered to take immediate effect.

*Carol Morey Viventi*

Secretary of the Senate

*Jay E. Randall*

Clerk of the House of Representatives

Approved .....

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Governor