Chapter 55

NOTARIES PUBLIC

EXECUTIVE REORGANIZATION ORDER

E.R.O. No. 1970-1

55.101 Revoked. 1980, E.R.O. No. 1980-2, Eff. Aug. 15, 1980.

Compiler's Notes: The revoked section pertained to notaries public.

EXECUTIVE REORGANIZATION ORDER

E.R.O. No. 1976-2

55.102 Revoked. 1980, E.R.O. No. 1980-2, Eff. Aug. 15, 1980.

Compiler's Notes: The revoked section pertained to notaries public.

EXECUTIVE REORGANIZATION ORDER

E.R.O. No. 1980-2

55.103 Repealed. 2003, Act Act 238, Eff. Apr. 1, 2004.

Revised Statutes of 1846

R.S. of 1846

Chapter 14
Chapter 14. Of County Officers.
NOTARIES PUBLIC.

55.107-55.117 Repealed. 2003, Act 238, Eff. Apr. 1, 2004.

Compiler's Notes: The repealed sections pertained to appointment, qualifications, and responsibilities of notaries public.

EXPIRATION DATE OF COMMISSIONS

Act 18 of 1903

55.221 Repealed. 2003, Act 238, Eff. Apr. 1, 2004.

NOTARY CONNECTED WITH BANK OR CORPORATION

Act 18 of 1909

55.251 Repealed. 2003, Act 238, Eff. Apr. 1, 2004.

MICHIGAN LAW ON NOTARIAL ACTS

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 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.

History: 2003, Act 238, Eff. Apr. 1, 2004 ;-- Am. 2018, Act 361, Eff. Mar. 12, 2019

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 law on notarial acts".

History: 2003, Act 238, Eff. Apr. 1, 2004 ;-- Am. 2018, Act 361, Eff. Mar. 12, 2019

55.263 Definitions; A to I.

Sec. 3.

As used in this act:

(a) "Acknowledgment" means a declaration by an individual in the presence of a notary public that he or she has signed a record for the purposes stated in the record and, if the record is signed in a representative capacity, that he or she signed the record with the proper authority and signed it as the act of the person 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) "Credential analysis" means a process or service by which a third party affirms the validity of an identity document described in section 25(6)(c) through a review of public and proprietary data sources conducted remotely.

(d) "Department" means the department of state.

(e) "Electronic" means relating to technology that has electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(f) "Electronic notarization system" means a set or system of applications, programs, hardware, software, or technologies designed to enable a notary public to perform electronic notarizations.

(g) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by an individual with the intent to sign the record.

(h) "Identity proofing" means a process or service by which a third party provides a notary public with a reasonable means to verify the identity of an individual through a review of personal information from public or proprietary data sources conducted remotely.

(i) "Information" includes data, text, images, sounds, codes, computer programs, software, and databases.

(j) "In a representative capacity" means any of the following:

(i) For and on behalf of a corporation, limited liability company, partnership, trust, association, or other legal entity as an authorized officer, manager, 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 record.

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

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

(k) "In the presence of" means either of the following:

(i) In the same physical location with and close enough to see, hear, communicate with, and exchange tangible identification credentials with another individual.

(ii) Interacting with another individual by means of audio and visual communication technology that is part of a remote electronic notarization platform approved under section 26b or 2-way real-time audiovisual technology that meets the requirements under section 26c.

History: 2003, Act 238, Eff. Apr. 1, 2004 ;-- Am. 2018, Act 360, Eff. Mar. 12, 2019 ;-- Am. 2020, Act 249, Imd. Eff. Nov. 5, 2020

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

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

(d) "Notarial act" means any of the following:

(i) An act, whether performed with respect to a tangible or electronic record, that a notary public commissioned in this state is authorized to perform including, but not limited to, taking an acknowledgment, administering an oath or affirmation, taking a verification upon oath or affirmation, or witnessing or attesting a signature performed in compliance with this act.

(ii) An act described in subparagraph (i) that is performed in another jurisdiction and meets the requirements of section 25a.

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

(f) "Official misconduct" means 1 or more of the following:

(i) 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 an individual or a corporation, business trust, statutory trust, estate, partnership, trust, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(h) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other

medium and is retrievable in perceivable form.

(i) "Remote electronic notarization platform" means any combination of technology that enables a notary public to perform a notarial act remotely; that allows the notary public to communicate by sight and sound with the individual for whom he or she is performing the notarial act, and witnesses, if applicable, by means of audio and visual communication; and that includes features to conduct credential analysis and identity proofing.

(j) "Revocation" means the termination of a notary public's commission to perform notarial acts.

History: 2003, Act 238, Eff. Apr. 1, 2004 ;-- Am. 2006, Act 426, Imd. Eff. Oct. 5, 2006 ;-- Am. 2018, Act 360, Eff. Mar. 12, 2019

55.267 Definitions; S to V.

Sec. 7.

As used in this act:

(a) "Secretary" means the secretary of state or his or her designee.

(b) "Signature" means an individual's written or printed name, electronic signature, or mark, attached to or logically associated with a contract or other record and executed, adopted, or made by the individual with the intent to sign the record.

(c) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

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

(e) "Verification upon oath or affirmation" means a declaration, made by an individual on oath or affirmation before a notary public, that a statement in a record is true.

History: 2003, Act 238, Eff. Apr. 1, 2004 ;-- Am. 2018, Act 360, Eff. Mar. 12, 2019

55.269 Notary public; appointment; extension of expiration date for 2020 through 2021.

Sec. 9.

(1) The secretary may appoint as a notary public a person who complies with the requirements of this act.

(2) Except as otherwise provided in subsection (4), 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.

(4) A notary public's commission under subsection (2) that expired after March 1, 2020 and before June 30, 2021 is valid through June 30, 2021.

History: 2003, Act 238, Eff. Apr. 1, 2004 ;-- Am. 2020, Act 249, Imd. Eff. Nov. 5, 2020 ;-- Am. 2020, Act 336, Imd. Eff. Dec. 29, 2020

55.271 Notary public; qualifications.

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.

History: 2003, Act 238, Eff. Apr. 1, 2004 ;-- Am. 2006, Act 426, Imd. Eff. Oct. 5, 2006 ;-- Am. 2006, Act 510, Eff. Apr. 1, 2007 ;-- Am. 2018, Act 361, Eff. Mar. 12, 2019

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, 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.

History: 2003, Act 238, Eff. Apr. 1, 2004 ;-- Am. 2006, Act 426, Imd. Eff. Oct. 5, 2006 ;-- Am. 2006, Act 510, Eff. Apr. 1, 2007

55.275 Application; format; fee; use of LEIN or ICHAT; certificate of appointment; electronic application and payment process.

Sec. 15.

(1) An individual shall apply to the secretary for appointment as a notary public in a format as prescribed by the secretary. Unless the application is submitted electronically under subsection (5), an application for appointment as a notary public must include the handwritten signature of the applicant. An application must include all of the following information:

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

numbers, and electronic mail address.

(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.

(h) Any other information required by the secretary.

(2) An application processing fee of $10.00 must accompany an application or be paid electronically under subsection (5). The secretary shall deposit $1.00 of each fee collected under this subsection into the notary education and training fund established in section 17 on a schedule determined by the secretary.

(3) When he or she receives an application and the prescribed processing fee, the secretary may inquire as to the qualifications of the applicant and shall determine whether the applicant meets the qualifications for appointment as a notary public under 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, or the internet criminal history access tool (ICHAT) maintained by the department of state police, to check the criminal background of the applicant.

(4) After approval of an application for appointment as a notary public, the secretary shall mail directly to the applicant the certificate of appointment as a notary public. Each certificate of appointment shall identify the individual as a notary public of this state and shall specify the term and county of his or her commission.

(5) The secretary may develop and implement an electronic application and payment process for individuals who are seeking appointment as a notary public. Except as provided in this section, all of the requirements of this section apply to an application or payment made using this electronic process.

History: 2003, Act 238, Eff. Apr. 1, 2004 ;-- Am. 2006, Act 426, Imd. Eff. Oct. 5, 2006 ;-- Am. 2006, Act 510, Eff. Apr. 1, 2007 ;-- Am. 2018, Act 330, Eff. Sept. 30, 2018 ;-- Am. 2018, Act 360, Eff. Mar. 12, 2019

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. 5, 2006

55.279 Reappointment; licensed attorney as notary public; 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 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.

History: 2003, Act 238, Eff. Apr. 1, 2004 ;-- Am. 2006, Act 426, Imd. Eff. Oct. 5, 2006 ;-- Am. 2006, Act 510, Eff. Apr. 1, 2007

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. 5, 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 individual in the presence of the notary public and making the acknowledgment is the individual 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 individual in the presence of the notary public and making the verification is the individual 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 individual in the presence of the notary public and is the individual 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 individual sign the record being verified, witnessed, or attested in the presence of the notary public.
(6) A notary public has satisfactory evidence that an individual is the individual whose signature is on a record if that individual 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 individual.
(c) Identified on the basis of a current license, identification card, or record issued by a federal or state government that contains the individual's photograph and signature.
(d) With regard to a notarial act performed under section 26b, identified and verified through an identity proofing process or service that is part of a remote electronic notarization platform approved under section 26b(1), and the person presents an identity document described in subdivision (c) that is verified through a credential analysis process or service that is part of a remote electronic notarization platform approved under section 26b(1).
(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 an individual 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. 5, 2006 ;-- Am. 2018, Act 330, Eff. Sept. 30, 2018

55.285a Notarial acts performed in another state; in federally recognized Indian tribe; under federal law; in foreign country; applicability; definition of "foreign country".

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.

History: Add. 2018, Act 361, Eff. Mar. 12, 2019

55.286 Electronic notarization systems; notification required.

Sec. 26.

(1) Except as otherwise provided in section 26c, a notary public may select 1 or more tamper-evident electronic notarization systems to perform notarial acts electronically. A person may not require a notary public to perform a notarial act electronically with an electronic notarization system that the notary public has not selected.

(2) Before a notary public performs the notary public's initial notarial act electronically, the notary public shall notify the secretary that the notary public will be performing notarial acts electronically and identify the electronic notarization system the notary public intends to use for electronic notarizations. If the secretary and the department of technology, management, and budget have approved the use of 1 or more electronic notarization systems under section 26a, the notary public must select the system he or she intends to use from the approved electronic notarization systems. The secretary may disallow the use of an electronic notarization system if the electronic notarization system does not satisfy the criteria described in section 26a.

History: Add. 2018, Act 360, Eff. Mar. 12, 2019 ;-- Am. 2020, Act 249, Imd. Eff. Nov. 5, 2020

55.286a Approval of electronic notarization systems; minimum requirements; certification by government-sponsored enterprise.

Sec. 26a.

(1) By March 30, 2019, the secretary and the department of technology, management, and budget shall review and approve at least 1 electronic notarization system for the performance of electronic notarizations in this state. The secretary and the department of technology, management, and budget may approve multiple electronic notarization systems, and may grant approval of additional electronic notarization systems on an ongoing basis. The secretary and the department of technology, management, and budget shall review the criteria for approval of electronic notarization systems, and whether currently approved electronic notarization systems remain sufficient for the electronic performance of notarial acts, at least every 4 years.

(2) Subject to subsection (3), in considering whether to approve an electronic notarization system for use in this state under subsection (1), the secretary and the department of technology, management, and budget shall consider, at a minimum, the following:

(a) The need to ensure that any change to or tampering with an electronic record containing the information required under this act is evident.

(b) The need to ensure integrity in the creation, transmittal, storage, or authentication of electronic notarizations, records, or signatures.

(c) The need to prevent fraud or mistake in the performance of electronic notarizations.

(d) The ability to adequately investigate and authenticate a notarial act performed electronically with that electronic notarization system.

(e) The most recent standards regarding electronic notarizations or records promulgated by national bodies, including, but not limited to, the National Association of Secretaries of State.

(f) The standards, practices, and customs of other jurisdictions that allow electronic notarial acts.

(3) If an electronic notarization system for the performance of electronic notarizations is approved or certified by a government-sponsored enterprise, as that term is defined in 2 USC 622(8), the secretary and the department of technology, management, and budget shall approve the system for use in this state if verifiable proof of that approval or certification is provided to the secretary and department, unless the use of the electronic notarization system is affirmatively disallowed by the secretary.

History: Add. 2018, Act 360, Eff. Mar. 12, 2019

55.286b Remote electronic notarization platforms; requirements; approval; review standards; recording limitations; journal; requirements; custodian.

Sec. 26b.

(1) By March 30, 2019, the secretary and the department of technology, management, and budget shall review and may approve remote electronic notarization platforms for the performance of notarial acts in this state. Except as otherwise provided in section 26c, a notary public shall not use a remote electronic notarization platform that is not approved under this section.

(2) Subject to subsection (3), in developing criteria for the approval of any remote electronic notarization platform for use in this state, the secretary of state and the department of technology, management, and budget shall consider, at a minimum, all of the following:

(a) The need to ensure that any change to or tampering with an electronic record containing the information required under this act is evident.

(b) The need to ensure integrity in the creation, transmittal, storage, or authentication of remote electronic notarizations, records, or signatures.

(c) The need to prevent fraud or mistake in the performance of remote electronic notarizations.

(d) The ability to adequately investigate and authenticate a notarial act performed remotely with that remote electronic notarization platform.

(e) The most recent standards regarding remote electronic notarization promulgated by national bodies, including, but not limited to, the National Association of Secretaries of State.

(f) The standards, practices, and customs of other jurisdictions that allow remote electronic notarial acts.

(3) If a remote electronic notarization platform for the performance of remote electronic notarizations is approved or certified by a government-sponsored enterprise, as that term is defined in 2 USC 622(8), the secretary of state and the department of technology, management, and budget shall approve the platform for use in this state if verifiable proof of that approval or certification is provided to the secretary and department, unless use of the remote electronic notarization platform is affirmatively disallowed by the secretary.

(4) The secretary and the department of technology, management, and budget shall review their standards for approving remote electronic notarization platforms for use in this state, and whether the number of approved remote electronic notarization platforms are sufficient, at least every 4 years.

(5) A notary public may perform a notarial act using a remote electronic notarization platform if either of the following is met:

(a) The notary public makes all applicable determinations under section 25 according to personal knowledge or satisfactory evidence, performance of the notarial act complies with section 27, and the notary public does not violate section 31 in the performance of the notarial act.

(b) The notary public, through use of the remote electronic notarization platform, personal knowledge, or satisfactory evidence, is able to identify the record before the notary public as the same record presented by the individual for notarization.

(6) The notary public shall not record by audio or visual means a notarial act performed using a remote electronic notarization platform, unless the notary public discloses to the person that requested the notarial act that an audio or visual recording is being made and how the recording will be preserved, and the person consents or has previously consented to the recording. A notary public may refuse to conduct a notarial act using a remote electronic notarization platform if the person that requested the notarial act objects to an audio or visual recording of the notarial act.

(7) If a notary public performs notarial acts using a remote electronic notarization platform, the notary public shall maintain a journal that records, at a minimum, each of those notarial acts. A notary public shall maintain only 1 journal for the recording of notarial acts and must keep the journal either as a tangible, permanent bound register or in a tamper-evident, permanent electronic format. A notary public shall retain the journal for at least 10 years after the performance of the last notarial act recorded in it. If a notary public is not reappointed, or his or her commission is revoked, the former notary public shall inform the secretary of state where the journal is kept or, if directed by the secretary, shall forward the journal to the secretary or a repository designated by the secretary.

(8) A notary public shall make an entry in a journal maintained under subsection (7) contemporaneously with performance of the notarial act, and the entry must include, at a minimum, all of the following:

(a) The date, time, and nature of the notarial act.

(b) A description of the record, if any.

(c) The full name and address of each individual for whom the notarial act is performed.

(d) If the identity of the individual for whom the notarial act is performed is based on personal knowledge, a statement to that effect. If the identity of the individual for whom the notarial act is performed is based on satisfactory evidence, a brief description of the method of identification and the identification credential presented, if any, including the date of issuance and expiration for the credential.

(e) The fee charged, if any, by the notary public.

(9) An entry made in a journal maintained by a notary public under subsection (7) must also reference, but shall not itself contain, any audio or visual recording of a notarial act performed using a remote electronic notarization platform. Subject to subsection (1), a notary public must retain an audio or visual recording of a notarial act for at least 10 years after the performance of the notarial act.

(10) A notary public may designate a custodian to do any of the following:

(a) Maintain the journal required under subsection (7) on his or her behalf.

(b) Retain an audio or visual recording of a notarial act under subsection (9) on his or her behalf. If an audio or visual recording of a notarial act is transferred to a custodian to hold on behalf of the notary public, the journal entry must identify the custodian with sufficient information to locate and contact that custodian.

(11) A notarial act performed using a remote electronic notarization platform under this section that otherwise satisfies the requirements of this act is presumed to satisfy any requirement under this act that a notarial act be performed in the presence of a notary public.

History: Add. 2018, Act 330, Eff. Sept. 30, 2018 ;-- Am. 2018, Act 360, Eff. Mar. 12, 2019 ;-- Am. 2020, Act 249, Imd. Eff. Nov. 5, 2020

55.286c Use of 2-way real-time audiovisual technology; requirements; signing in counterparts; applicability of section; presumed compliance.

Sec. 26c.

(1) Notwithstanding any other provision of this act, a notary public may utilize a 2-way real-time audiovisual technology to perform notarial acts electronically if all of the following requirements are met:

(a) The 2-way real-time audiovisual technology allows direct interaction between the individual seeking the notary's services, any witnesses, and the notary, so that each can communicate simultaneously by sight and sound through an electronic device or process at the time of the notarization.

(b) The 2-way real-time audiovisual technology is capable of creating an audio and visual recording of the complete notarial act and the recording is made and retained as a notarial record in accordance with section 26b(7) to (9).

(c) The individual seeking the notary's services and any required witnesses, if not personally known to the notary, presents satisfactory evidence of identity to the notary during the video conference, and does not merely transmit it before or after the transaction, to satisfy the requirements of this act and any other applicable law.

(d) Subject to subdivision (e), the individual seeking the notary's services affirmatively represents that the individual is physically situated in this state or is physically located outside the geographic boundaries of this state and that 1 of the following applies:

(i) The record is intended for filing with or relates to a matter before a court, governmental entity, public official, or other entity subject to the jurisdiction of this state.

(ii) The record involves property located in the territorial jurisdiction of this state or a transaction substantially connected to this state.

(e) If an individual is physically located outside of the geographic boundaries of this state, the notary has no actual knowledge that the individual's act of making the statement or signing the record is prohibited by the laws of the jurisdiction in which the individual is physically located.

(f) The individual seeking the notary's services, any required witnesses, and the notary are able to affix their signatures to the record in a manner that renders any subsequent change or modification of the remote online notarial act to be tamper evident.

(g) The individual seeking the notary's services or the individual's designee transmits by facsimile, mail, or electronic means a legible copy of the entire signed record directly to the notary on the same date it was signed. This requirement applies regardless of the manner in which the record is signed.

(h) Once the notary has received a legible copy of the record with all necessary signatures, the notary notarizes the record in accordance with section 27 and transmits the notarized record back to the individual seeking the notary's services.

(2) The official date and time of the notarization performed under this section is the date and time when the notary witnesses the signature via 2-way real-time audiovisual technology as required under this section.

(3) Notwithstanding any other law or regulation of this state, beginning April 30, 2020, and before July 1, 2021, absent an express prohibition in a record against signing the record in counterparts, a record signed under this act may be signed in counterparts.

(4) This section applies to a notarial act described in subsection (1) performed on or after April 30, 2020 and before July 1, 2021.

(5) If a record is notarized electronically under this section, all of the following apply:

(a) The record does not need to be notarized under any other provision of this act.

(b) The rights or interests of a person that relies in good faith and without actual notice that the record was executed on or after April 30, 2020 and before July 1, 2021 but was not executed or notarized in accordance with this section are not impaired, challenged, or terminated on that basis alone.

(c) Compliance with this section is presumed. A person challenging a record notarized under this section may overcome the presumption by establishing, by clear and convincing evidence, that the notary or the individual seeking the notary public's services intentionally failed to comply with a requirement described in this section.

History: Add. 2020, Act 249, Imd. Eff. Nov. 5, 2020 ;-- Am. 2020, Act 336, Imd. Eff. Dec. 29, 2020

55.286d Use of electronic records and signatures; use of 2-way real-time audiovisual technology; applicability of section.

Sec. 26d.

(1) Beginning April 30, 2020, it is the intent of the legislature that, governmental agencies and officials of this state are encouraged to use or permit the use of electronic records and electronic signatures to transact business, process applications, and recognize the validity of legal instruments, and, when a notarized signature is required by a law of this state, to use a notary public who performs notarial acts electronically under this act.

(2) Beginning April 30, 2020, it is the intent of the legislature that, any requirement under the law of this state that an in-person witness attests to or acknowledges an instrument, record, or deed is satisfied by the use of 2-way real-time audiovisual technology in accordance with section 26c.

(3) Beginning April 30, 2020, it is the intent of the legislature that, any requirement that an individual appears personally before or be in the presence of either a notary public at the time of a notarization or a witness at the time of an attestation or acknowledgment is satisfied if the individual, the witnesses, or the notary public are not in the physical presence of each other but can communicate simultaneously by 2-way real-time audiovisual technology in accordance with section 26c at the time of the notarization, attestation, or acknowledgment.

(4) This section does not apply after June 30, 2021.

History: Add. 2020, Act 249, Imd. Eff. Nov. 5, 2020 ;-- Am. 2020, Act 336, Imd. Eff. Dec. 29, 2020

55.287 Signature of notary public; statements; 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.

(f) If applicable, whether the notarial act was performed using an electronic notarization system under section 26a or performed using a remote electronic notarization platform under section 26b.

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

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

History: 2003, Act 238, Eff. Apr. 1, 2004 ;-- Am. 2006, Act 155, Imd. Eff. May 26, 2006 ;-- Am. 2018, Act 330, Eff. Sept. 30, 2018 ;-- Am. 2018, Act 360, Eff. Mar. 12, 2019

55.289 Repealed. 2006, Act 155, Imd. Eff. May 26, 2006.

Compiler's Notes: The repealed section pertained to use of notary form.

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. 5, 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. 5, 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; notification of conviction.

Sec. 41.

(1) If an individual commissioned as a notary public in 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 individual on the date that the individual's felony conviction is entered.

(2) If an individual commissioned as a notary public in this state is convicted of 2 or more specified misdemeanors within a 12-month period while commissioned, or of 3 or more specified misdemeanors within a 5-year period regardless of being commissioned, the secretary shall automatically revoke the notary public commission of that individual on the date that the secretary determines the misdemeanor of which the individual was convicted is a specified misdemeanor. As used in this subsection, "specified misdemeanor" means a misdemeanor that the secretary determines involves any of the following:

(a) A violation of this act.

(b) A violation of the public trust.

(c) An act of official misconduct, dishonesty, fraud, or deceit.

(d) An act substantially related to the duties or responsibilities of a notary public.

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

(4) An individual found guilty of performing a notarial act after his or her commission as a notary public 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) An individual, regardless of whether he or she has ever been commissioned as a notary public, who is convicted of a felony is disqualified from being commissioned as a notary public for not less than 10 years after he or she 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, if convicted, may be punished by death or imprisonment for more than 1 year or an offense expressly designated by law as a felony.

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

(7) If an individual commissioned as a notary public in this state is convicted of any felony or misdemeanor in any court, he or she shall notify the secretary in writing of the conviction within 10 days after the date of that conviction.

History: 2003, Act 238, Eff. Apr. 1, 2004 ;-- Am. 2012, Act 425, Imd. Eff. Dec. 21, 2012

55.303 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 ;-- Am. 2006, Act 155, Imd. Eff. May 26, 2006

55.309 Violation as misdemeanor or felony; jurisdiction; 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 1 of the following:

(a) Except as provided in subdivision (b), a misdemeanor punishable by a fine of not more than $5,000.00 or by imprisonment for not more than 1 year, or both.

(b) If the person knowingly violates this act when notarizing any document relating to an interest in real property or a mortgage transaction, a felony punishable by a fine of not more than $5,000.00 or by imprisonment for not more than 4 years, 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 ;-- Am. 2011, Act 204, Eff. Jan. 1, 2012

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 processing fee, 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 or filing 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. 5, 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. 5, 2006

55.314 Application of act.

Sec. 54.

This act modifies, limits, and supersedes the electronic signatures in global and national commerce act, 15 USC 7001 to 7031, but does not modify, limit, or supersede section 101(c) of that act, 15 USC 7001(c), or authorize electronic delivery of any of the notices described in section 103(b) of that act, 15 USC 7003(b).

History: Add. 2018, Act 330, Eff. Sept. 30, 2018

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