

HOUSE BILL NO. 5899

July 30, 2024, Introduced by Rep. DeBoyer and referred to the Committee on Local Government and Municipal Finance.

A bill to license and regulate the operation of a notary school; to impose a license fee for the licensure of a notary school; to provide for the powers and duties of certain state and local governmental officers and entities; to prohibit certain actions and prescribe civil sanctions; and to require the promulgation of rules.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act may be cited as the "notary public education
2 licensure act".

3 Sec. 2. As used in this act:

1 (a) "Department" means the department of state.

2 (b) "License" means the document issued to a person under this
3 act that enables the person to operate a notary school in this
4 state.

5 (c) "Michigan law on notarial acts" means the Michigan law on
6 notarial acts, 2003 PA 238, MCL 55.261 to 55.315.

7 (d) "Notarial act" means that term as defined in section 5 of
8 the Michigan law on notarial acts, MCL 55.265.

9 (e) "Notary public" means an individual appointed by the
10 secretary of state to perform notarial acts under the Michigan law
11 on notarial acts.

12 (f) "Notary school" means a person that has been issued and
13 holds a license under section 3 and that provides a course of study
14 to train individuals on the requirements and responsibilities of a
15 notary public.

16 (g) "Person" means an individual or a partnership,
17 corporation, limited liability company, association, governmental
18 entity, or other legal entity.

19 Sec. 3. (1) A person shall not operate as or attempt to
20 operate as a notary school without a license issued under this act.

21 (2) The secretary of state shall issue a license to a person
22 to operate a notary school if the person meets all of the following
23 requirements:

24 (a) Submits an application on a form and in a manner as
25 provided by the department and pays the applicable license fee
26 prescribed in section 7.

27 (b) If the person is an individual, the person is a resident
28 of this state, or, if the person is not an individual, the person
29 is located in this state.

1 (c) Has professional liability errors and omissions insurance
2 or other equivalent insurance with a limit of not less than
3 \$100,000.00 per occurrence.

4 (3) A notary school must meet all of the following
5 requirements:

6 (a) Provide a course of instruction that meets both of the
7 following for an individual who is seeking the individual's first
8 notary commission under the Michigan law on notarial acts:

9 (i) The curriculum requirements under section 4.

10 (ii) Is not less than 4 hours, with 10 minute breaks every 90
11 minutes of instruction.

12 (b) Provide a course of instruction that meets both of the
13 following for an individual who is renewing a notary public
14 commission under the Michigan law on notarial acts:

15 (i) A review of the curriculum required under section 4.

16 (ii) Is not less than 3 hours, with 10 minute breaks every 60
17 minutes of instruction.

18 (c) Employ at least 1 instructor who holds a certificate of
19 appointment as a notary public under the Michigan law on notarial
20 acts.

21 Sec. 4. A notary school's curriculum must include, but not be
22 limited to, all of the following topics:

23 (a) What a notary public is, what a notary public does, and
24 where a notary public can perform notarial acts.

25 (b) How to properly perform a notarial act from start to
26 finish under the Michigan law on notarial acts, including, but not
27 limited to, preparation of documents, the elements of a notarial
28 act, verifying the identity of a signer, acceptable forms of
29 identification, the use of a notary stamp and embosser, the proper

1 placement of a notary stamp, being present at the time of
2 notarization, witnessing and notarizing the same documents, and the
3 types of witnesses to a notarial act.

4 (c) How to take an acknowledgment, administer an oath, and
5 witness or attest to a signature.

6 (d) How to perform a notarial act for a specific person,
7 including, but not limited to, the notary public's employer, a
8 minor, a relative of the notary public, or an individual who is
9 mentally incapacitated.

10 (e) Requirements for the performance of a notarial act on a
11 remote electronic notarization platform, including, but not limited
12 to, fees and journal entries under the Michigan law on notarial
13 acts. As used in this subdivision, "remote electronic notarization
14 platform" means that term as defined in section 5 of the Michigan
15 law on notarial acts, MCL 55.265.

16 (f) How to fill out notarial blocks on documents, including,
17 but not limited to, filling out different types of notarial blocks,
18 entering a signer's name into a notarial block, and what to do if
19 there is not a notarial block on the document.

20 (g) How to correct incorrect information and misstamps on a
21 document.

22 (h) Signature requirements under the Michigan law on notarial
23 acts, including, but not limited to, how to notarize a signature, a
24 signature performed under section 33 of the Michigan law on
25 notarial acts, MCL 55.293, documents that are signed before a
26 notary reviews the documents, and signature matching requirements.

27 (i) How to perform notarial acts for certain documents,
28 including, but not limited to, foreign language documents or true
29 copy statements.

1 (j) Notary fees and travel charges.

2 (k) What a jurat is and how and when to issue an oath.

3 (l) Various issues, including, but not limited to, performance
4 of a notarial act under the influence or if the signer is under the
5 influence, if a signer refuses to sign or is being coerced to sign,
6 refusal to notarize a document, and the unauthorized practice of
7 law.

8 (m) Surety bond and error and omission insurance requirements.

9 (n) How to read and use the Michigan law on notarial acts.

10 (o) The fact that a notary public should not be concerned with
11 the contents of the document that the notary public is performing a
12 notarial act on.

13 Sec. 5. (1) The department shall develop 100 questions related
14 to the topics listed under section 4 that must be used as part of
15 an examination under subsection (2).

16 (2) A third-party vendor approved by the department shall
17 proctor a notary public examination to test an individual's
18 knowledge on the requirements and responsibilities of a notary
19 public. For each individual that takes an examination under this
20 subsection, the examination must consist of 75 questions that the
21 third-party vendor selects at random from the 100 questions
22 developed under subsection (1).

23 (3) An individual must take an examination under subsection
24 (2) not more than 90 days after the individual completes the
25 curriculum under section 4.

26 (4) A third-party vendor that proctors an examination under
27 subsection (2) shall submit the examination to the department for
28 scoring. An individual must receive a score of not less than 80% to
29 receive a passing grade.

1 (5) The department shall provide a list of approved third-
2 party vendors on the department's website that is accessible by the
3 public.

4 Sec. 6. (1) A license issued under section 3 expires 2 years
5 after the date the license is issued.

6 (2) The department shall renew the license of a person
7 operating a notary school if the person does all of the following:

8 (a) Meets the requirements of section 3(2).

9 (b) Provides the department with proof satisfactory to the
10 department that 90% of the notary school's students annually pass
11 the notary school's course of instruction and the examination under
12 section 5.

13 (c) Provides the department with proof satisfactory to the
14 department that the notary school's curriculum complies with the
15 laws on notarial acts.

16 Sec. 7. (1) The license fee for a person seeking initial
17 licensure under section 3 is \$2,000.00.

18 (2) The license fee for a licensee to renew a license is
19 \$500.00.

20 (3) The license fees collected under this section must be
21 deposited into the general fund.

22 Sec. 8. (1) The department may investigate a person that
23 violated, allegedly violated, or is about to violate this act or a
24 rule promulgated under this act.

25 (2) A person may file a complaint against a notary school with
26 the department. A complaint must be made in a form and manner
27 prescribed by the department and contain all of the following:

28 (a) A written description of the alleged violation of this
29 act, including all parties involved.

1 (b) A description of any harm caused to the complainant.

2 (c) Any documentation that supports the complaint.

3 Sec. 9. A person that violates a provision of this act or a
4 rule promulgated under this act, after notice and an opportunity
5 for an evidentiary hearing under the administrative procedures act
6 of 1969, 1969 PA 306, MCL 24.201 to 24.328, is subject to both of
7 the following:

8 (a) A civil fine of not more than \$1,000.00 for each
9 violation. A fine collected must be deposited into the general
10 fund.

11 (b) An amount for restitution to the person injured by the
12 violation. Restitution for an individual injured by a notary
13 school's violation must be not less than the individual's course
14 fees plus an additional 20% of the course fee total.

15 Sec. 10. The department shall promulgate rules to implement
16 this act under the administrative procedures act of 1969, 1969 PA
17 306, MCL 24.201 to 24.328.

18 Enacting section 1. This act does not take effect unless
19 Senate Bill No. ____ or House Bill No. 5898 (request no. 05936'24)
20 of the 102nd Legislature is enacted into law.