

MICHIGAN LAW ON NOTARIAL ACTS (EXCERPT)
Act 238 of 2003

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