

1999 ASSEMBLY BILL 487

September 28, 1999 – Introduced by Representatives HUEBSCH, MEYER, MUSSER, GOETSCH, SYKORA, PETTIS and MILLER, cosponsored by Senators RUDE, SCHULTZ and HUELSMAN. Referred to Committee on Judiciary and Personal Privacy.

1 **AN ACT** *to repeal* 137.01 (6) (b); *to amend* 137.01 (1) (a), 137.01 (1) (d), 137.01
2 (2) (a), 137.01 (2) (b), 137.01 (6m) and 137.01 (7); and *to create* 137.01 (2) (am)
3 of the statutes; **relating to:** qualifications of a notary public.

Analysis by the Legislative Reference Bureau

Under current law, only residents of the state of Wisconsin are eligible to be notaries public. Generally, a notary public must be at least 18 years of age, have at least an 8th grade education and not have an arrest or conviction record. Currently, a person who is licensed to practice law in this state is entitled to a permanent commission as a notary public. If his or her license to practice law is suspended or revoked, the notary public commission is revoked. Upon reinstatement, he or she is entitled to a permanent commission. A notary public is authorized by law to attest by his or her signature that a written document, such as a deed, was signed and sworn to before that notary public. Currently, the official certificate of an notary public is presumed evidence of the facts stated in the certificate in every court of the state. Notaries public have the power to act throughout the state under current law, and may administer oaths, take depositions and acknowledgements of deeds, demand acceptance of foreign bills of exchange, accept payment of promissory notes and perform other duties as allowed by commercial usage.

This bill expands the persons who may be notaries public to include anyone who resides in the United States. The bill requires a nonresident applicant to file the application in the same manner and subjects the applicant to the same procedures and responsibilities as resident applicants, including the payment of the same

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application fee of \$20, or \$50 if the applicant is an attorney licensed to practice law in this state. Under the bill, if a person who is licensed to practice law in this state has his or her license to practice law in this state suspended or revoked, the person, upon reinstatement of his or her license to practice law, is entitled to receive a certificate of appointment as a notary public for a term of four years. The person may be reappointed every four years. The bill removes clerk of court responsibilities regarding surety approval, certification of qualifications and custody of records, and places those responsibilities with the secretary of state.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 137.01 (1) (a) of the statutes is amended to read:

2 137.01 (1) (a) The governor shall appoint notaries public who shall be
3 Wisconsin United States residents and at least 18 years of age. Applicants who are
4 not attorneys shall file an application with the secretary of state and pay a \$20 fee.

5 **SECTION 2.** 137.01 (1) (d) of the statutes is amended to read:

6 137.01 (1) (d) Qualified applicants shall be notified by the secretary of state to
7 take and file the official oath and execute and file an official bond in the sum of \$500,
8 with a surety to be approved by the clerk of the circuit court for his or her county, or,
9 if executed by a surety company, and approved by the secretary of state.

10 **SECTION 3.** 137.01 (2) (a) of the statutes is amended to read:

11 137.01 (2) (a) ~~Any Wisconsin~~ Except as provided in par. (am), any United States
12 resident who is licensed to practice law in this state is entitled to a permanent
13 commission as a notary public upon application to the secretary of state and payment
14 of a \$50 fee. The application shall include a certificate of good standing from the
15 supreme court, the signature and post-office address of the applicant and an
16 impression of the applicant's official seal, or imprint of the applicant's official rubber
17 stamp.

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1 **SECTION 4.** 137.01 (2) (am) of the statutes is created to read:

2 137.01 **(2)** (am) If a United States resident has his or her license to practice law
3 in this state suspended or revoked, upon reinstatement of his or her license to
4 practice law in this state, the person may be entitled to receive a certificate of
5 appointment as a notary public for a term of 4 years. An eligible notary appointed
6 under this paragraph is entitled to reappointment for 4-year increments. At least
7 30 days before the expiration of a commission under this paragraph the secretary of
8 state shall mail notice of the expiration date to the holder of the commission.

9 **SECTION 5.** 137.01 (2) (b) of the statutes is amended to read:

10 137.01 **(2)** (b) The secretary of state shall issue a certificate of appointment as
11 a notary public to persons who qualify under the requirements of this subsection.
12 ~~Such~~ The certificate shall state that the notary commission is permanent or is for 4
13 years.

14 **SECTION 6.** 137.01 (6) (b) of the statutes is repealed.

15 **SECTION 7.** 137.01 (6m) of the statutes is amended to read:

16 137.01 **(6m)** CHANGE OF RESIDENCE. A notary public ~~shall~~ does not vacate his
17 or her office by reason of his or her change of residence within the state United States.
18 Written notice of any change of address shall be given to the secretary of state within
19 ~~5~~ 10 days of ~~such~~ the change.

20 **SECTION 8.** 137.01 (7) of the statutes is amended to read:

21 137.01 **(7)** OFFICIAL RECORDS TO BE FILED. When any notary public ceases to hold
22 office the notary public, or in case of the notary public's death the notary public's
23 executor or administrator, shall deposit the notary public's official records and
24 papers in the office of the clerk of the circuit court of the county of the notary public's
25 residence secretary of state. If any such notary or any executor or administrator,

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1 after such records and papers come to his or her hands, neglects for 3 months to
2 deposit them, he or she shall forfeit not less than \$50 nor more than \$500. If any
3 person knowingly destroys, defaces or conceals any records or papers of any notary
4 public, the person shall forfeit not less than \$50 nor more than \$500, and shall be
5 liable to the party injured for all damages thereby sustained. The ~~clerks of the circuit~~
6 ~~courts~~ secretary of state shall receive and safely keep all such papers and records in
7 their office.

8 **SECTION 9. Initial applicability.**

9 (1) This act first applies to applications for notary public received by the
10 secretary of state on the effective date of this subsection.

11 (END)