

**1999 DRAFTING REQUEST**

**Bill**

Received: **11/09/1998**

Received By: **nelsorp1**

Wanted: **As time permits**

Identical to LRB:

For: **Michael Huebsch (608) 266-0631**

By/Representing:

This file may be shown to any legislator: **NO**

Drafter: **nelsorp1**

May Contact:

Alt. Drafters:

Subject: **Courts - miscellaneous**

Extra Copies:

**Pre Topic:**

No specific pre topic given

**Topic:**

Qualifications of a notary public

**Instructions:**

Same as 97-5274

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	nelsorp1 11/18/1998	jgeller 11/20/1998		_____			
/1			martykr 11/23/1998	_____	lrb_docadmin 11/23/1998		State
/2	nelsorp1 02/02/1999	jgeller 02/03/1999	lpaasch 02/04/1999	_____	herrisa 02/04/1999		State
/3	nelsorp1 02/08/1999	jgeller 02/08/1999	ismith 02/08/1999	_____	lrb_docadmin 02/08/1999		State

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/4	nelsorp1 02/22/1999	jgeller 02/22/1999	jfrantze 02/22/1999	_____	lrb_docadmin 02/22/1999		State
/5	nelsorp1 05/26/1999	jgeller 05/27/1999	martykr 06/01/1999	_____	lrb_docadmin 06/01/1999		State
/6	nelsorp1 08/16/1999	jgeller 08/16/1999	martykr 08/18/1999	_____	lrb_docadmin 08/18/1999	lrb_docadmin	State 08/24/1999

FE Sent For: 08/24/1999.  
"16"

<END>

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Extra Copies: Don Dyke, leg. co.

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Handwritten signatures and dates: 10/8/17 jlg, 11/8/17, me 11/2/99

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Subject: **Courts - miscellaneous**

Extra Copies: *Sen. Brian Kude  
Don Orto, Leg. Co.*

**Pre Topic:**

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**Topic:**

Qualifications of a notary public

**Instructions:**

*State ex rel. W. R. A. v. Dammann 228 Wis 189  
"have to be state elector to hold public office"*

Same as 97-5274

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*15 5/21/99 jg  
Mrs  
Jim 6/1*

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FE Sent For:

14 2/22 jg to 2/22 to 2/22  
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FE Sent For:

<END>

D-Note

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

Regen

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

insert  
and

*Analysis by the Legislative Reference Bureau*  
→ This is a preliminary draft. An analysis will be provided in a later version.

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

PROOF w/STATS.

4 SECTION 1. 137.01 (1) (a)<sup>x</sup> of the statutes, as affected by 1997 Wisconsin Act 27,  
5 is amended to read:

6 137.01 (1) (a) The governor shall appoint notaries public who shall be  
7 ~~Wisconsin residents and~~ at least 18 years of age and who shall be Wisconsin residents  
8 or employed in this state. ✓ Applicants who are not attorneys shall file an application  
9 with the secretary of state and pay a \$20 fee.

10 SECTION 2. 137.01 (1) (d)<sup>x</sup> of the statutes is amended to read:

1 137.01 (1) (d) Qualified applicants shall be notified by the secretary of state to  
2 take and file the official oath and execute and file an official bond in the sum of \$500,  
3 with surety to be approved by the clerk of the circuit court for the county in this state  
4 of his or her county residence or of where he or she is employed, or, if executed by a  
5 surety company, approved by the secretary of state.

6 SECTION 3. 137.01 (1) (e) of the statutes is amended to read:

7 137.01 (1) (e) The qualified applicant shall file his or her signature, the  
8 post-office address in this state of his or her residence or of where he or she is  
9 employed and an impression of his or her official seal, or imprint of his or her official  
10 rubber stamp with the secretary of state.

11 SECTION 4. 137.01 (2) (a) of the statutes <sup>✓</sup> *as affected by 1997 Wisconsin Act 27*,  
12 is amended to read:

13 137.01 (2) (a) Any ~~Wisconsin resident~~ person who is licensed to practice law in  
14 this state and who is a Wisconsin resident or employed in this state is entitled to a  
15 permanent commission as a notary public upon application to the secretary of state  
16 and payment of a \$50 fee. The application shall include a certificate of good standing  
17 from the supreme court, the signature and post-office address ~~of the applicant in this~~  
18 state of his or her residence or of where he or she is employed and an impression of  
19 the applicant's official seal, or imprint of the applicant's official rubber stamp.

20 SECTION 5. 137.01 (6) (b) of the statutes is renumbered 137.01 (6) (b) (intro.)<sup>✓</sup>  
21 and amended to read:

22 137.01 (6) (b) (intro.) ~~Whenever any notary public has filed in the office of the~~  
23 The clerk of the circuit court of the notary public's county in this state of the notary  
24 public's residence the or place of employment may certify to the official qualifications  
25 and genuineness of the notary public's signature and seal or rubber stamp when a

PROOF W/STATS.

PROOF w/STATS.

1 notary public has filed in the office of ~~the~~ that clerk of the circuit court all of the  
2 following:

3 1. The notary public's signature, ~~an~~.

4 2. An impression of the notary public's official seal or imprint of the notary  
5 public's official rubber stamp ~~and a~~.

6 3. A certificate of the secretary of state, ~~such clerk may certify to the official~~  
7 ~~qualifications of such notary public and the genuineness of the notary public's~~  
8 ~~signature and seal or rubber stamp.~~

9 SECTION 6. 137.01 (6m) of the statutes is amended to read:

10 137.01 (6m) ~~(6m)~~ <sup>CHANGE</sup> CHANGE OF RESIDENCE OR EMPLOYMENT. A notary public shall  
11 not vacate his or her office by reason of his or her change of residence or employment  
12 within the state. Written notice of any change of address of his or her residence or  
13 employment shall be given to the secretary of state within 5 days of such the change.

14 SECTION 7. 137.01 (7) of the statutes is amended to read:

15 137.01 (7) OFFICIAL RECORDS TO BE FILED. When any notary public ceases to hold  
16 office the notary public, or in case of the notary public's death the notary public's  
17 executor or administrator, shall deposit the notary public's official records and  
18 papers in the office of the clerk of the circuit court of the county in this state of the  
19 notary public's residence or place of employment. If any such notary or any executor  
20 or administrator, after such records and papers come to his or her hands, neglects for  
21 3 months to deposit them, he or she shall forfeit not less than \$50 nor more than \$500.  
22 If any person knowingly destroys, defaces or conceals any records or papers of any  
23 notary public, the person shall forfeit not less than \$50 nor more than \$500, and shall  
24 be liable to the party injured for all damages thereby sustained. The clerks of the  
25 circuit courts shall receive and safely keep all such papers and records in their office.





1999-2000 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-0790/ins  
RPN.....

insert anl:

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~~<sup>eight</sup> grade education and not have an arrest or conviction record. 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 those who reside in another state but who are employed in this state.

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

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-07907dn

RPN.....

Jlg

As drafted, this bill does not define "employed in this state". Perhaps that term should be defined to limit persons eligible to be a notary public, such as to those employed full-time in this state or to those who earn not less than a certain \$ amount from employment in this state?

Robert P. Nelson  
Senior Legislative Attorney  
267-7511

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-0790/1dn  
RPN:jlg:km

November 23, 1998

As drafted, this bill does not define "employed in this state". Perhaps that term should be defined to limit persons eligible to be a notary public, such as to those employed full-time in this state or to those who earn not less than a certain \$ amount from employment in this state?

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**LEGISLATIVE REFERENCE BUREAU****BILL REQUEST FORM**

Legal Section, 5<sup>th</sup> Floor, 100 N. Hamilton St.  
 (608) 266-3561

Use of this form is optional. It is often helpful to talk directly with the LRB attorney who will draft the bill.  
 Use this form only for **BILL** drafts. Attach more pages if necessary.

Date of request: <i>1-29-99</i>	Legislator or agency requesting this draft: <i>HUEBSCH</i>
Name/phone number of person submitting request:	
Persons to contact for questions about this draft (names and phone numbers please): <i>Bob Deleporte 6-0631</i> <i>Redraft 0790/1</i> <i>1/29</i>	
Describe the problem, including any helpful examples. How do you want to solve the problem? <i>After talking with our constituents, Mike believes WI law should follow MINNESOTA law. I've included a copy of MN's Notary law. Mike would like to expand it to cover WI's border states and also require a notary to be in good standing in their home state</i>	
If you know of any statute sections that might be affected, please list them or provide a marked (not re-typed) copy.	

Please attach a copy of any correspondence or material that may help us. You may also attach a marked (not re-typed) copy of any LRB draft, or provide its number (e.g., 1997 LRB-2345/1 or 1995 AB-67):

**Requests are confidential unless stated otherwise.**

May we tell others that we are working on this for you?  YES  NO

If yes, anyone who asks?  YES  NO

Any legislator?  YES  NO  ONLY the following persons:

Do you consider this urgent?  YES  NO If yes, please indicate why:

Is this request of higher priority than other pending request(s) you have made?

YES  NO If yes, please sign your name here:

## Minnesota Statutes 1998, Chapter 359.

Copyright 1998 by the Office of Revisor of Statutes, State of Minnesota.

==359.01

## 359.01 Commission.

Subdivision 1. Resident notaries. The governor may appoint and commission as notaries public, by and with the advice and consent of the senate, as many citizens of this state or resident aliens, over the age of 18 years, as the governor considers necessary. The commissioner of commerce shall perform all duties necessary to appoint and commission notaries public under this section on the governor's behalf.

Subd. 2. Nonresident notaries. The governor or the commissioner of commerce, acting on the governor's behalf, by and with the advice and consent of the senate, may appoint as notary public a person who is not a resident of this state if:

(1) the person is a resident of Wisconsin, Iowa, North Dakota, or South Dakota, and of a county that shares a boundary with this state;

(2) the person designates the commissioner as agent for the service of process for all purposes relating to notarial acts and for receipt of all correspondence relating to notarial acts.

Subd. 3. Fees. (a) When making application for a commission the applicant must submit, along with the information required by the commissioner, a nonrefundable fee of \$40.

(b) All fees shall be retained by the commissioner and are nonreturnable, except that an overpayment of a fee is the subject of a refund upon proper application.

HIST: (6937) RL s 2656; 1955 c 820 s 44; 1969 c 1148 s 59; 1973 c 725 s 67; 1984 c 504 s 1; 1984 c 609 s 23; 1984 c 654 art 2 s 129; 15p1986 c 3 art 1 s 82; 1992 c 513 art 3 s 72; 1993 c 354 s 2; 1993 c 369 s 127; 1996 c 439 art 1 s 22,23

==359.02

## 359.02 Term.

A notary commissioned under section 359.01 holds office for five years, unless sooner removed by the governor or the district court, or by action of the commissioner. Within 30 days before the expiration of the commission a notary may be reappointed for a new term to commence and to be designated in the new commission as beginning upon the day immediately following the date of the expiration. The reappointment takes effect and is valid although the appointing governor may not be in the office of governor on the effective day.

(a) All notary commissions issued before January 31, 1995, will expire on January 31, 1995.

(b) All notary commissions issued after January 31, 1995, will expire at the end of the licensing period, which will end every fifth year following January 31, 1995.

(c) All notary commissions issued during a licensing period expire at the end of that period as set forth in this section.

HIST: (6938) RL s 2657; 1953 c 63 s 1; 1984 c 504 s 2; 1986 c 444; 1989 c 6 s 1; 1989 c 189 s 1; 1993 c 354 s 3; 1993 c 369 s 128; 1994 c 465 art 3 s 72; 1996 c 439 art 1 s 24

==359.03

359.03 Seal; register.

Subdivision 1. Every notary shall get an official seal, with which to authenticate official acts, and upon which shall be engraved the arms of this state, the words "notarial seal." The seal, with the notary's official register, is exempt from execution, and, on death or removal from office, the register must be deposited with the court administrator of the district court of the notary's county.

Subd. 2. All instruments heretofore duly made and executed which have been acknowledged before a notary public as provided by law, but the seal used thereon has engraved on it "notary public," are hereby validated and legalized, and in case such instruments are recorded, the recording is hereby validated and legalized, and all such instruments are validated to the same extent as though properly sealed at the time of their acknowledgment. This subdivision shall not affect any action now pending in any of the courts of this state.

Subd. 3. The seal of every notary public may be affixed by a stamp that will print a seal which legibly reproduces under photographic methods the seal of the state of Minnesota, the name of the notary, the words "Notary Public," and the words "My commission expires ....., " with the expiration date shown thereon. The seal shall be a rectangular form of not more than three-fourths of an inch vertically by 2-1/2 inches horizontally, with a serrated or milled edge border, and shall contain the information required by this subdivision.

HIST: (6939) RL s 2658; 1947 c 42 s 1; 1947 c 372 s 1; 1971 c 251 s 1; 1986 c 444; 1986 c 3 art 1 s 82; 1993 c 354 s 4,5

==359.04

359.04 Powers.

Every notary public so appointed, commissioned, and qualified shall have power throughout this state to administer all oaths required or authorized to be administered in this state; to take and certify all depositions to be used in any of the courts of this state; to take and certify all acknowledgments of deeds, mortgages, liens, powers of attorney, and other instruments in writing; and to receive, make out, and record notarial protests.

HIST: (6940) RL s 2659; 1947 c 372 s 2; 1993 c 354 s 6

==359.05

359.05 Date of expiration of commission and name to be endorsed.

Every notary public, except in cases provided in section 359.03, subdivision 3, taking an acknowledgment of an instrument, taking a deposition, administering an oath, or making a notarial protest, shall, immediately following the

notary's signature to the jurat or certificate of acknowledgment, endorse the date of the expiration of the commission; such endorsement may be legibly written, stamped, or printed upon the instrument, but must be disconnected from the seal, and shall be substantially in the following form: "My commission expires ....., ....." Except in cases provided in section 359.03, subdivision 3, every notary public, in addition to signing the jurat or certificate of acknowledgment, shall, immediately following the signature and immediately preceding the official description, endorse thereon the notary's name with a typewriter or print the same legibly with a stamp or with pen and ink; provided that the failure so to endorse or print the name shall not invalidate any jurat or certificate of acknowledgment.

HIST: (6941) GS 1866 c 26 s 4; GS 1894 s 2271; 1905 c 48 s 1; 1921 c 430 s 1; 1947 c 372 s 3; 1971 c 251 s 2; 1986 c 444; 1993 c 354 s 7; 1998 c 254 art 1 s 107

==359.06

359.06 Repealed, 1976 c 2 s 128

==359.061

359.061 Record of commission; certificate.

The commission of every notary shall be recorded in the office of the court administrator of the district court of the notary's county of residence, in a record kept for that purpose. The commission of a nonresident notary must be recorded in the office of the court administrator of the district court of the Minnesota county that borders the county in which the nonresident notary resides. The court administrator, when requested, shall certify to official acts in the manner and for the fees prescribed by statute or court rule.

HIST: 1976 c 239 s 109; 1983 c 359 s 46; 1986 c 444; 1Sp1986 c 3 art 1 s 82; 1996 c 439 art 1 s 25; 1997 c 222 s 55

==359.062

359.062 Notice; languages other than English.

(a) A notary public who is not an attorney who advertises the services of a notary public in a language other than English, whether by radio, television, signs, pamphlets, newspapers, or other written communication, with the exception of a single desk plaque, shall post or otherwise include with the advertisement a notice in English and the language in which the advertisement appears. This notice must be of a conspicuous size, if in writing, and must state: "I AM NOT AN ATTORNEY LICENSED TO PRACTICE LAW IN MINNESOTA AND MAY NOT GIVE LEGAL ADVICE OR ACCEPT FEES FOR LEGAL ADVICE." If the advertisement is by radio or television, the statement may be modified but must include substantially the same message.

(b) A notary public who violates this section is guilty of a misdemeanor.

HIST: 1996 c 401 s 2

==359.07

359.07 Notary in detached county.

Subdivision 1. Powers. In any county which has



heretofore been detached from another county of this state, and which has been newly created and organized, any notary public residing in such newly created and organized county, who was a resident of the county from which the new county was detached and created, shall have the same powers during the unexpired term of appointment as such notary public was authorized by law to exercise under the commission issued to the notary as a resident of the county from which the new county was detached and created and within which the original appointment as notary public was made; and all acts heretofore done by any such notary public, while residing in the newly created and organized county, otherwise in conformity of law, are hereby declared to be legal and valid and to the same effect as if the notary public had been originally commissioned as a resident of the newly created and organized county.

Subd. 2. Record of commission. Such notary public so residing in the newly created and organized county shall have the commission as such notary public recorded by the court administrator of the district court of the newly created and organized county of residence, or of the county to which the newly created county is attached for judicial purposes, as provided in section 359.061, and when so recorded shall be entitled to the same certificate of and from the court administrator of the district court as provided in section 359.061.

Subd. 3. Seal. Such notary shall, immediately upon the adoption of this section, get an official seal, as provided in and in conformity with section 359.03.

HIST: (6943, 6944, 6945) 1907 c 323 s 1-3; 1980 c 509 s 142; 1986 c 444; 1Sp1986 c 3 art 1 s 82

==359.071

359.071 Change of name or address.

A notary shall notify the commissioner of any name or address change within 30 days of the change.

HIST: 1984 c 504 s 3; 1986 c 444; 1989 c 189 s 2; 1993 c 354 s 8; 1997 c 222 s 56

==359.08

359.08 Misconduct.

Any notary who shall exercise the duties of office after the expiration of a term, or when otherwise disqualified, shall be guilty of a misdemeanor.

HIST: (6946) RL s 2661; 1963 c 753 art 2 s 5; 1986 c 444

==359.09

359.09 Repealed, 1965 c 811 art 10 s 336.10-102

==359.10

359.10 Repealed, 1965 c 811 art 10 s 336.10-102

==359.11

359.11 Taking depositions.

In taking depositions, the notary shall have the power to compel the attendance of and to punish witnesses for refusing to

testify as provided by statute or court rule. All sheriffs and constables shall serve and return all process issued by any notary in taking depositions.

HIST: (6949) RL s 2664; 1983 c 359 s 47

==359.12

359.12 Administrative actions and penalties.

Every notary who shall charge or receive a fee or reward for any act or service done or rendered as a notary greater than the amount allowed by law, or who dishonestly or unfaithfully discharges duties as notary, or who has pleaded guilty, with or without explicitly admitting guilt, plead nolo contendere, or been convicted of a felony, gross misdemeanor, or misdemeanor involving moral turpitude, is subject to the penalties imposed pursuant to section 45.027, except that a notary may be removed from office only by the governor or the district court. The commissioner has all the powers provided by section 45.027 and shall proceed in the manner provided by that section in actions against notaries.

HIST: (6950) RL s 2665; 1986 c 444; 1Sp1986 c 3 art 1 s 82; 1993 c 354 s 9

==359.misc1998 Minn. Stats. repealed, etc. secs in chap 359

359.06 Repealed, 1976 c 2 s 128

359.09 Repealed, 1965 c 811 art 10 s 336.10-102

359.10 Repealed, 1965 c 811 art 10 s 336.10-102

# 1999 BILL

✓  
insert anl.  
✓

regen.

1 AN ACT ~~to renumber and amend 137.01 (6) (b), and to amend 137.01 (1) (a),~~  
2 ~~137.01 (1) (d), 137.01 (1) (e), 137.01 (2) (a), 137.01 (6m) and 137.01 (7)~~ of the  
3 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. 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 those who reside ~~in another state but who are employed in this 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:***

**BILL**

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 residents and at least 18 years of age and who shall be Wisconsin residents~~  
4 ~~or employed in this state.~~ Applicants who are not attorneys shall file an application  
5 with the secretary of state and pay a \$20 fee.

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

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

12       **SECTION 3.** 137.01 (1) (e) of the statutes is amended to read:

13       137.01 (1) (e) The qualified applicant shall file his or her signature, the  
14 ~~post-office address in this state of his or her residence or of where he or she is~~  
15 ~~employed~~ and an impression of his or her official seal, or imprint of his or her official  
16 rubber stamp with the secretary of state.

17       **SECTION 4.** 137.01 (2) (a) of the statutes is amended to read:

18       137.01 (2) (a) Any ~~Wisconsin resident person~~ who is licensed to practice law in  
19 this state ~~and who is a Wisconsin resident or employed in this state~~ is entitled to a  
20 permanent commission as a notary public upon application to the secretary of state  
21 and payment of a \$50 fee. The application shall include a certificate of good standing  
22 from the supreme court, the signature and post-office address of the applicant in this  
23 ~~state of his or her residence or of where he or she is employed~~ and an impression of  
24 the applicant's official seal, or imprint of the applicant's official rubber stamp.

## BILL

1 **SECTION 5.** 137.01 (6) (b) of the statutes is renumbered 137.01 (6) (b) (intro.)  
2 and amended to read:

3 137.01 (6) (b) (intro.) ~~Whenever any notary public has filed in the office of the~~  
4 The clerk of the circuit court of the notary public's county in this state of the notary  
5 public's residence the or place of employment may certify to the official qualifications  
6 and genuineness of the notary public's signature and seal or rubber stamp when a  
7 notary public has filed in the office of the that clerk of the circuit court all of the  
8 following:

9 1. The notary public's signature, ~~an.~~

10 2. An impression of the notary public's official seal or imprint of the notary  
11 public's official rubber stamp ~~and a.~~

12 3. A certificate of the secretary of state, ~~such clerk may certify to the official~~  
13 ~~qualifications of such notary public and the genuineness of the notary public's~~  
14 ~~signature and seal or rubber stamp.~~

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

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

20 **SECTION 7.** 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 in this state of the  
25 notary public's residence or place of employment. If any such notary or any executor

**BILL**

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

7 **SECTION 8. Initial applicability.**

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

10

(END)

Insert  
4-7

1999-2000 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-0790/2ins  
RPN:jlg:km

1

insert anl:

~~no~~  
in the states that border Wisconsin: Illinois, Iowa, Michigan and Minnesota. Under the bill, to become a nonresident notary public the person must live in a county that shares a boundary with Wisconsin, be at least 18<sup>✓</sup> years of age, be a notary in good standing in his or her state of residence and designate the Wisconsin secretary of state as his or her agent for service of process for all purposes relating to notarial acts within this state. 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 application fee of \$20<sup>✓</sup>.

2

insert 4-7:

3

SECTION 1. 137.01 (1m)<sup>✓</sup> of the statutes is created to read:

4

137.01 (1m)<sup>✓</sup> NOTARIES PUBLIC WHO ARE NOT RESIDENTS. (a) The governor may

5

appoint a person as a notary public who is not Wisconsin resident if the person meets

6

all the following requirements:

7

1. The person is at least 18<sup>✓</sup> years of age.

8

2. The person is a resident of Illinois, Iowa, Michigan, Minnesota and of a

9

county that shares a boundary with this state.

10

3. The person is a notary public in good standing in his or her state of residence.

11

4. The person designates the secretary of state as his or her agent for service

12

of process for all purposes relating to notarial acts within this state and for receipt

13

of correspondence relating to notarial acts within this state.

14

(b) Applicants under this subsection<sup>✓</sup> shall file an application with the secretary

15

of state and pay a \$20<sup>✓</sup> fee.

16

(c) The secretary of state shall satisfy himself or herself that the applicant has

17

the equivalent of an 8<sup>✓</sup>th grade education, is familiar with the duties and

1 responsibilities of a notary public and, subject to ss. 111.321<sup>✓</sup>, 111.322<sup>✓</sup> and 111.335<sup>✓</sup>,  
2 does not have an arrest or conviction record.

3 (d) If an application is rejected the fee shall be returned.

4 (e) Qualified applicants shall be notified by the secretary of state to take and  
5 file the official oath and execute and file an official bond in the sum of \$500<sup>✓</sup>, with  
6 surety to be approved by the clerk of the circuit court of the county in this state that  
7 borders the county of the applicant's residence, or, if executed by a surety company,  
8 approved by the secretary of state.

9 (f) The qualified applicant shall file his or her signature, post-office address  
10 and an impression of his or her official seal, or imprint of his or her official rubber  
11 stamp with the secretary of state.

12 <sup>(g)</sup>~~(f)~~ A certificate of appointment as a notary public for a term of 4<sup>✓</sup> years stating  
13 the expiration date of the commission shall be issued to applicants who have fulfilled  
14 the requirements of this subsection.<sup>✓</sup>

15 <sup>(h)</sup>~~(g)~~ At least 30 days before the expiration of a commission the secretary of state  
16 shall mail notice of the expiration date to the holder of a<sup>✓</sup> commission.

17 <sup>(i)</sup>~~(h)~~ A notary under this subsection<sup>✓</sup> shall be entitled to reappointment.

18 SECTION 2. 137.01 (6) (b) of the statutes is amended to read:

19 137.01 (6) (b) Whenever any notary public has filed in the office of the clerk of  
20 the circuit court of the notary public's county of residence or, if a nonresident notary  
21 public, of the county in this state that borders the county of the notary public's  
22 residence, the notary public's signature, an impression of the notary public's official  
23 seal or imprint of the notary public's official rubber stamp and a certificate of the



1 secretary of state, such clerk may certify to the official qualifications of such notary  
2 public and the genuineness of the notary public's signature and seal or rubber stamp.

3 History: 1971 c. 213 s. 5; 1977 c. 29, 449; 1979 c. 221; 1981 c. 380; 1981 c. 391 s. 211; 1993 a. 482; 1997 a. 27, 306.

**SECTION 3. 137.01 (6m) of the statutes is amended to read:**

4 137.01 (6m) CHANGE OF RESIDENCE. A notary public shall not vacate his or her  
5 office by reason of his or her change of residence within the state or, if a nonresident  
6 notary public, by reason of his or her change of residence within a county that shares  
7 a boundary with this state. Written notice of any change of address shall be given  
8 to the secretary of state within 5 days of such change.

9 History: 1971 c. 213 s. 5; 1977 c. 29, 449; 1979 c. 221; 1981 c. 380; 1981 c. 391 s. 211; 1993 a. 482; 1997 a. 27, 306.

**SECTION 4. 137.01 (7) of the statutes is amended to read:**

10 137.01 (7) OFFICIAL RECORDS TO BE FILED. When any notary public ceases to hold  
11 office the notary public, or in case of the notary public's death the notary public's  
12 executor or administrator, shall deposit the notary public's official records and  
13 papers in the office of the clerk of the circuit court of the county of the notary public's  
14 residence or, if a nonresident notary public, of the county in this state that borders  
15 the county of the notary public's residence. If any such notary or any executor or  
16 administrator, after such records and papers come to his or her hands, neglects for  
17 3 months to deposit them, he or she shall forfeit not less than \$50 nor more than \$500.  
18 If any person knowingly destroys, defaces or conceals any records or papers of any  
19 notary public, the person shall forfeit not less than \$50 nor more than \$500, and shall  
20 be liable to the party injured for all damages thereby sustained. The clerks of the  
21 circuit courts shall receive and safely keep all such papers and records in their office.

History: 1971 c. 213 s. 5; 1977 c. 29, 449; 1979 c. 221; 1981 c. 380; 1981 c. 391 s. 211; 1993 a. 482; 1997 a. 27, 306.

**SUBMITTAL  
FORM**

**LEGISLATIVE REFERENCE BUREAU  
Legal Section Telephone: 266-3561  
5th Floor, 100 N. Hamilton Street**

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and sign on the appropriate line(s) below.

Date: 2/4/99

To: Representative Huebsch

Relating to LRB drafting number: LRB-0790

**Topic**

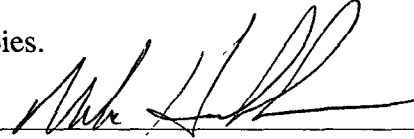
Qualifications of a notary public

**Subject(s)**

Courts - miscellaneous

1. **JACKET** the draft for introduction \_\_\_\_\_

in the **Senate** \_\_\_\_ or the **Assembly** \_\_\_\_ (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT**. See the changes indicated or attached  \_\_\_\_\_.

A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction \_\_\_\_\_.

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Robert P. Nelson, Senior Legislative Attorney  
Telephone: (608) 267-7511



## 1999 BILL

1 **AN ACT to renumber and amend** 137.01 (6) (b); and **to amend** 137.01 (1) (a),  
2 137.01 (1) (d), 137.01 (1) (e), 137.01 (2) (a), 137.01 (6m) and 137.01 (7) of the  
3 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. 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 those who reside in the states that border Wisconsin: Illinois, Iowa, Michigan and Minnesota. Under the bill, to become a nonresident notary public the person must ~~live in a county that shares a boundary with Wisconsin~~, be at least 18 years of age, be a notary in good standing in his or her state of residence and designate the Wisconsin secretary of state as his or her agent for service of process for all purposes relating to notarial acts within this state. The bill requires a nonresident applicant to file the application in

**BILL**

the same manner and subjects the applicant to the same procedures and responsibilities as resident applicants, including the payment of the same application fee of \$20.

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

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

1           **SECTION 1.** 137.01 (1m) of the statutes is created to read:

2           **137.01 (1m) NOTARIES PUBLIC WHO ARE NOT RESIDENTS.** (a) The governor may  
3 appoint a person as a notary public who is not Wisconsin resident if the person meets  
4 all the following requirements:

5           1. The person is at least 18 years of age.

6           2. The person is a resident of Illinois, Iowa, Michigan, Minnesota ~~and of a~~  
7 ~~county that shares a boundary with this state.~~

8           3. The person is a notary public in good standing in his or her state of residence.

9           4. The person designates the secretary of state as his or her agent for service  
10 of process for all purposes relating to notarial acts within this state and for receipt  
11 of correspondence relating to notarial acts within this state.

12           (b) Applicants under this subsection shall file an application with the secretary  
13 of state and pay a \$20 fee.

14           (c) The secretary of state shall satisfy himself or herself that the applicant has  
15 the equivalent of an 8th grade education, is familiar with the duties and  
16 responsibilities of a notary public and, subject to ss. 111.321, 111.322 and 111.335,  
17 does not have an arrest or conviction record.

18           (d) If an application is rejected the fee shall be returned.

**BILL**

1 (e) Qualified applicants shall be notified by the secretary of state to take and  
2 file the official oath and execute and file an official bond in the sum of \$500, with  
3 surety to be approved by the clerk of the circuit court of the county in this state that  
4 borders the county of the applicant's residence, or, if executed by a surety company,  
5 approved by the secretary of state.

6 (f) The qualified applicant shall file his or her signature, post-office address  
7 and an impression of his or her official seal, or imprint of his or her official rubber  
8 stamp with the secretary of state.

9 (g) A certificate of appointment as a notary public for a term of 4 years stating  
10 the expiration date of the commission shall be issued to applicants who have fulfilled  
11 the requirements of this subsection.

12 (h) At least 30 days before the expiration of a commission the secretary of state  
13 shall mail notice of the expiration date to the holder of a commission.

14 (i) A notary under this subsection shall be entitled to reappointment.

15 **SECTION 2.** 137.01 (6) (b) of the statutes is amended to read:

16 137.01 (6) (b) Whenever any notary public has filed in the office of the clerk of  
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18 public, of the county in this state that borders the county of the notary public's  
19 residence, the notary public's signature, an impression of the notary public's official  
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25 office by reason of his or her change of residence within the state or, if a nonresident

RE MOVE. ↗

Change to border state  
instead of just border counties

**BILL**

1 ~~notary public, by reason of his or her change of residence within a county that shares~~  
 2 ~~a boundary with this state.~~ *the that he or she resided in at the time of his or her appointment under*  
 3 to the secretary of state within 5 days of such change. *Sub.(m)*

4 **SECTION 4.** 137.01 (7) of the statutes is amended to read:

5 137.01 (7) OFFICIAL RECORDS TO BE FILED. When any notary public ceases to hold  
 6 office the notary public, or in case of the notary public's death the notary public's  
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 16 circuit courts shall receive and safely keep all such papers and records in their office.

17 **SECTION 5. Initial applicability.**

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

20 (END)



# 1999 BILL

Regan

1 AN ACT *to renumber and amend* 137.01 (6) (b); and *to amend* 137.01 (1) (a),  
 2 137.01 (1) (d), 137.01 (1) (e), 137.01 (2) (a), 137.01 (6m) and 137.01 (7) of the  
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X This bill expands the persons who may be notaries public to include those who reside in the states that border Wisconsin: Illinois, Iowa, Michigan and Minnesota. Under the bill, to become a nonresident notary public the person must ~~live in a county that shares a boundary with Wisconsin~~, be at least 18 years of age, be a notary in good standing in his or her state of residence and designate the Wisconsin secretary of state as his or her agent for service of process for all purposes relating to notarial acts within this state. The bill requires a nonresident applicant to file the application in

**BILL**

*generally*  
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6           2. The person is a resident of Illinois, Iowa, Michigan, Minnesota ~~and a~~  
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18           (d) If an application is rejected the fee shall be returned.



**BILL**

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8 stamp with the secretary of state.

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10 the expiration date of the commission shall be issued to applicants who have fulfilled  
11 the requirements of this subsection.

12 (h) At least 30 days before the expiration of a commission the secretary of state  
13 shall mail notice of the expiration date to the holder of a commission.

14 (i) A notary under this subsection shall be entitled to reappointment.

15 **SECTION 2.** 137.01 (6) (b) of the statutes is amended to read:

16 137.01 (6) (b) Whenever any notary public has filed in the office of the clerk of  
17 the circuit court of the notary public's county of residence ~~or, if a nonresident notary~~  
18 ~~public of the county in this state that borders the county of the notary public's~~  
19 ~~residence,~~ the notary public's signature, an impression of the notary public's official  
20 seal or imprint of the notary public's official rubber stamp and a certificate of the  
21 secretary of state, such clerk may certify to the official qualifications of such notary  
22 public and the genuineness of the notary public's signature and seal or rubber stamp.

23 **SECTION 3.** 137.01 (6m) of the statutes is amended to read:

24 137.01 (6m) CHANGE OF RESIDENCE. A notary public shall not vacate his or her  
25 office by reason of his or her change of residence within the state or, if a nonresident

**BILL**

*he or she resided in at the  
time of his or her appointment  
under sub. (1m) the state*

1 ~~notary public, by reason of his or her change of residence within a county that shares~~  
2 ~~a boundary with this state.~~ Written notice of any change of address shall be given  
3 to the secretary of state within 5 days of such change.

4 **SECTION 4.** 137.01 (7) of the statutes is amended to read:

5 137.01 (7) OFFICIAL RECORDS TO BE FILED. When any notary public ceases to hold  
6 office the notary public, or in case of the notary public's death the notary public's  
7 executor or administrator, shall deposit the notary public's official records and  
8 papers in the office of the clerk of the circuit court of the county of the notary public's  
9 residence or, if a nonresident notary public, of the county in this state that borders  
10 the county of the notary public's residence. *is nearest to* If any such notary or any executor or  
11 administrator, after such records and papers come to his or her hands, neglects for  
12 3 months to deposit them, he or she shall forfeit not less than \$50 nor more than \$500.  
13 If any person knowingly destroys, defaces or conceals any records or papers of any  
14 notary public, the person shall forfeit not less than \$50 nor more than \$500, and shall  
15 be liable to the party injured for all damages thereby sustained. The clerks of the  
16 circuit courts shall receive and safely keep all such papers and records in their office.

17 **SECTION 5. Initial applicability.**

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

20 (END)



4

# 1999 BILL

Regen

1 AN ACT *to amend* 137.01 (6) (b), 137.01 (6m) and 137.01 (7); and *to create* 137.01  
2 (1m) 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. 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 those who reside in the states that border Wisconsin: Illinois, Iowa, Michigan and Minnesota. Under the bill, to become a nonresident notary public the person must be at least 18 years of age, ~~be~~ a notary in ~~good standing in his or her~~ <sup>another</sup> state of residence and designate the Wisconsin secretary of state as his or her agent for service of process for all purposes relating to notarial acts within this state. The bill requires a nonresident applicant to file the application in the same manner and generally subjects the applicant to the same procedures and responsibilities as resident applicants, including the payment of the same application fee of \$20. <sup>never been revoked as</sup> <sup>must</sup>

**BILL**

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:*

*has never had his or her appointment as* ✓

1           **SECTION 1.** 137.01 (1m) of the statutes is created to read:

2           137.01 (1m) NOTARIES PUBLIC WHO ARE NOT RESIDENTS. (a) The governor may  
3           appoint a person as a notary public who is not Wisconsin resident if the person meets  
4           all the following requirements:

5           1. The person is at least 18 years of age.

6           2. The person is a resident of Illinois, Iowa, Michigan, Minnesota.

7           3. The person ~~is~~ a notary public in ~~and standing in his or her~~ <sup>another</sup> state of residence. *revoked*

8           4. The person designates the secretary of state as his or her agent for service  
9           of process for all purposes relating to notarial acts within this state and for receipt  
10          of correspondence relating to notarial acts within this state.

11          (b) Applicants under this subsection shall file an application with the secretary  
12          of state and pay a \$20 fee.

13          (c) The secretary of state shall satisfy himself or herself that the applicant has  
14          the equivalent of an 8th grade education, is familiar with the duties and  
15          responsibilities of a notary public and, subject to ss. 111.321, 111.322 and 111.335,  
16          does not have an arrest or conviction record.

17          (d) If an application is rejected the fee shall be returned.

18          (e) Qualified applicants shall be notified by the secretary of state to take and  
19          file the official oath and execute and file an official bond in the sum of \$500, with  
20          surety to be approved by the clerk of the circuit court of the county in this state that

**BILL**

1 borders the county of the applicant's residence, or, if executed by a surety company,  
2 approved by the secretary of state.

3 (f) The qualified applicant shall file his or her signature, post-office address  
4 and an impression of his or her official seal, or imprint of his or her official rubber  
5 stamp with the secretary of state.

6 (g) A certificate of appointment as a notary public for a term of 4 years stating  
7 the expiration date of the commission shall be issued to applicants who have fulfilled  
8 the requirements of this subsection.

9 (h) At least 30 days before the expiration of a commission the secretary of state  
10 shall mail notice of the expiration date to the holder of a commission.

11 (i) A notary under this subsection shall be entitled to reappointment.

12 **SECTION 2.** 137.01 (6) (b) of the statutes is amended to read:

13 137.01 **(6)** (b) Whenever any notary public has filed in the office of the clerk of  
14 the circuit court of the notary public's county of residence in this state, the notary  
15 public's signature, an impression of the notary public's official seal or imprint of the  
16 notary public's official rubber stamp and a certificate of the secretary of state, such  
17 clerk may certify to the official qualifications of such notary public and the  
18 genuineness of the notary public's signature and seal or rubber stamp.

19 **SECTION 3.** 137.01 (6m) of the statutes is amended to read:

20 137.01 **(6m)** CHANGE OF RESIDENCE. A notary public shall not vacate his or her  
21 office by reason of his or her change of residence within the state or, if a nonresident  
22 notary public, by reason of his or her change of residence within the state that he or  
23 she resided in at the time of his or her appointment under sub. (1m). Written notice  
24 of any change of address shall be given to the secretary of state within 5 days of such  
25 change.







1999 BILL

1 **AN ACT** <sup>regen.</sup> to amend 137.01 (6) (b), 137.01 (6m) and 137.01 (7); and to create 137.01  
2 (1m) 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. 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 <sup>anyone</sup> those who reside <sup>in</sup> the ~~states that border Wisconsin: Illinois, Iowa, Michigan and Minnesota.~~ United States  
Under the bill, to become a nonresident notary public the person must be at least 18 years of age, never been revoked as a notary in another state and must designate the Wisconsin secretary of state as his or her agent for service of process for all purposes relating to notarial acts within this state. The bill requires a nonresident applicant to file the application in the same manner and ~~generally~~ subjects the applicant to the same procedures and responsibilities as resident applicants, including the payment of the same application fee of \$20, or \$50 if the applicant is an

attorney licensed to practice law in this state. 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.



**BILL**

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 (1m) of the statutes is created to read:

2       **137.01 (1m) NOTARIES PUBLIC WHO ARE NOT RESIDENTS.** (a) The governor may  
3       appoint a person as a notary public who is not Wisconsin resident if the person meets  
4       all the following requirements:

5           1. The person is at least 18 years of age.

6           2. The person is a resident of Illinois, Iowa, Michigan, Minnesota.

7           3. The person has never had his or her appointment as a notary public in  
8       another state revoked.

9           4. The person designates the secretary of state as his or her agent for service  
10       of process for all purposes relating to notarial acts within this state and for receipt  
11       of correspondence relating to notarial acts within this state.

12       (b) Applicants under this subsection shall file an application with the secretary  
13       of state and pay a \$20 fee.

14       (c) The secretary of state shall satisfy himself or herself that the applicant has  
15       the equivalent of an 8th grade education, is familiar with the duties and  
16       responsibilities of a notary public and, subject to ss. 111.321, 111.322 and 111.335,  
17       does not have an arrest or conviction record.

18       (d) If an application is rejected the fee shall be returned.

19       (e) Qualified applicants shall be notified by the secretary of state to take and  
20       file the official oath and execute and file an official bond in the sum of \$500, with  
21       surety to be approved by the clerk of the circuit court of the county in this state that

**BILL**

1 borders the county of the applicant's residence, or, if executed by a surety company,  
2 approved by the secretary of state.

3 (f) The qualified applicant shall file his or her signature, post-office address  
4 and an impression of his or her official seal, or imprint of his or her official rubber  
5 stamp with the secretary of state.

6 (g) A certificate of appointment as a notary public for a term of 4 years stating  
7 the expiration date of the commission shall be issued to applicants who have fulfilled  
8 the requirements of this subsection.

9 (h) At least 30 days before the expiration of a commission the secretary of state  
10 shall mail notice of the expiration date to the holder of a commission.

11 (i) A notary under this subsection shall be entitled to reappointment.

12 **SECTION 2.** 137.01 (6) (b) of the statutes is amended to read:

13 137.01 (6) (b) Whenever any notary public has filed in the office of the clerk of  
14 the circuit court of the notary public's county of residence in this state, the notary  
15 public's signature, an impression of the notary public's official seal or imprint of the  
16 notary public's official rubber stamp and a certificate of the secretary of state, such  
17 clerk may certify to the official qualifications of such notary public and the  
18 genuineness of the notary public's signature and seal or rubber stamp.

19 **SECTION 3.** 137.01 (6m) of the statutes is amended to read:

20 137.01 (6m) CHANGE OF RESIDENCE. A notary public shall not vacate his or her  
21 office by reason of his or her change of residence within the state or, if a nonresident  
22 notary public, by reason of his or her change of residence within the state that he or  
23 she resided in at the time of his or her appointment under sub. (1m). Written notice  
24 of any change of address shall be given to the secretary of state within 5 days of such  
25 change.

**BILL**

1       ~~SECTION 4. 137.01 (7) of the statutes is amended to read:~~

2           ~~137.01 (7) OFFICIAL RECORDS TO BE FILED. When any notary public ceases to hold~~  
3       ~~office the notary public, or in case of the notary public's death the notary public's~~  
4       ~~executor or administrator, shall deposit the notary public's official records and~~  
5       ~~papers in the office of the clerk of the circuit court of the county of the notary public's~~  
6       ~~residence or, if a nonresident notary public, of the county in this state that is nearest~~  
7       ~~to the notary public's residence. If any such notary or any executor or administrator,~~  
8       ~~after such records and papers come to his or her hands, neglects for 3 months to~~  
9       ~~deposit them, he or she shall forfeit not less than \$50 nor more than \$500. If any~~  
10       ~~person knowingly destroys, defaces or conceals any records or papers of any notary~~  
11       ~~public, the person shall forfeit not less than \$50 nor more than \$500, and shall be~~  
12       ~~liable to the party injured for all damages thereby sustained. The clerks of the circuit~~  
13       ~~courts shall receive and safely keep all such papers and records in their office.~~

13 *insert 4-13* →

14       **SECTION 5. Initial applicability.**

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

17                           **(END)**

1999-2000 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-0790/5ins  
RPN;jlg:jf

1 insert 4-13:

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

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

6 History: 1971 c. 213 s. 5; 1977 c. 29, 449; 1979 c. 221; 1981 c. 380; ~~X~~ 1981 c. 391 s. 211; 1993 a. 482; 1997 a. 27, 306.

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

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

11 History: 1971 c. 213 s. 5; 1977 c. 29, 449; 1979 c. 221; 1981 c. 380; ~~X~~ 1981 c. 391 s. 211; 1993 a. 482; 1997 a. 27, 306.

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

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

18 History: 1971 c. 213 s. 5; 1977 c. 29, 449; 1979 c. 221; 1981 c. 380; ~~X~~ 1981 c. 391 s. 211; 1993 a. 482; 1997 a. 27, 306.

18 **SECTION 4.** 137.01 (6) (b) of the statutes is repealed.

19 **SECTION 5.** 137.01 (6m) of the statutes is amended to read:

20 137.01 (6m) CHANGE OF RESIDENCE. A notary public shall does not vacate his  
21 or her office by reason of his or her change of residence within the state ~~state~~ <sup>✓</sup> United States.

1 Written notice of any change of address shall be given to the secretary of state within  
2 5 <sup>✓</sup>10 days of ~~such~~ the change.

3 History: 1971 c. 213 s. 5; 1977 c. 29, 449; 1979 c. 221; 1981 <sup>✓</sup>c. 380; 1981 c. 391 s. 211; 1993 a. 482; 1997 a. 27, 306.

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

4 137.01 (7) OFFICIAL RECORDS TO BE FILED. When any notary public ceases to hold  
5 office the notary public, or in case of the notary public's death the notary public's  
6 executor or administrator, shall deposit the notary public's official records and  
7 papers in the office of the ~~clerk of the circuit court of the county of the notary public's~~  
8 ~~residence~~ secretary of state. If any such notary or any executor or administrator,  
9 after such records and papers come to his or her hands, neglects for 3 months to  
10 deposit them, he or she shall forfeit not less than \$50 nor more than \$500. If any  
11 person knowingly destroys, defaces or conceals any records or papers of any notary  
12 public, the person shall forfeit not less than \$50 nor more than \$500, and shall be  
13 liable to the party injured for all damages thereby sustained. The ~~clerks of the circuit~~  
14 ~~courts~~ <sup>✓</sup>secretary of state shall receive and safely keep all such papers and records in  
15 their office.

History: 1971 c. 213 s. 5; 1977 c. 29, 449; 1979 c. 221; 1981 c. 380; 1981 c. 391 s. 211; 1993 a. 482; 1997 a. 27, 306.

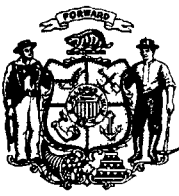
8/16 Don Pyke

Checked with him re:

- 0190/5. Need to  
make changes suggested  
earlier:

- J.F. atty says license  
suspended or revoked  
only if year salary

- Have surety execute it  
bond.



1999 BILL

Regen

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

Insert  
an 6-1

**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.~~ 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.

Insert  
an 6-2

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 application fee of \$20, or \$50 if the applicant is an attorney licensed to practice law in this state. 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.

**BILL**

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 approved by the secretary of state.~~  
*plain* *and* *plain* *MM*

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

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

17           **SECTION 4.** 137.01 (6) (b) of the statutes is repealed.

18           **SECTION 5.** 137.01 (6m) of the statutes is amended to read:

19           137.01 (6m) CHANGE OF RESIDENCE. A notary public shall does not vacate his  
20 or her office by reason of his or her change of residence within the state United States.

✓  
Insert  
2-17



**BILL**

1 Written notice of any change of address shall be given to the secretary of state within  
2 5 10 days of such the change.

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

4 137.01 (7) OFFICIAL RECORDS TO BE FILED. When any notary public ceases to hold  
5 office the notary public, or in case of the notary public's death the notary public's  
6 executor or administrator, shall deposit the notary public's official records and  
7 papers in the office of the ~~clerk of the circuit court of the county of the notary public's~~  
8 ~~residence~~ secretary of state. If any such notary or any executor or administrator,  
9 after such records and papers come to his or her hands, neglects for 3 months to  
10 deposit them, he or she shall forfeit not less than \$50 nor more than \$500. If any  
11 person knowingly destroys, defaces or conceals any records or papers of any notary  
12 public, the person shall forfeit not less than \$50 nor more than \$500, and shall be  
13 liable to the party injured for all damages thereby sustained. The ~~clerks of the circuit~~  
14 ~~courts~~ secretary of state shall receive and safely keep all such papers and records in  
15 their office.

16 **SECTION 7. Initial applicability.**

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

19

(END)

1999-2000 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-0790/6ins  
RPN:jlg:km

insert anl-1:

~~NO~~  
~~IP~~ 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.

insert anl-2

~~NO~~  
~~IP~~ 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~~ 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.

1 insert 2-17:

2 SECTION 1. 137.01 (2) (am) <sup>X</sup> of the statutes is created to read:

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

10 SECTION 2. 137.01 (2) (b) of the statutes is amended to read:

11 137.01 (2) (b) The secretary of state shall issue a certificate of appointment as  
12 a notary public to persons who qualify under the requirements of this subsection.

13 ~~Such~~ The certificate shall state that the notary commission is permanent or is for

14 ~~four~~<sup>4</sup> years.

**SUBMITTAL  
FORM**

**LEGISLATIVE REFERENCE BUREAU  
Legal Section Telephone: 266-3561  
5th Floor, 100 N. Hamilton Street**

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and sign on the appropriate line(s) below.

**Date:** 08/18/1999

**To:** Representative Huebsch

**Relating to LRB drafting number:** LRB-0790

**Topic**

Qualifications of a notary public

**Subject(s)**

Courts - miscellaneous

1. **JACKET** the draft for introduction \_\_\_\_\_

in the **Senate** \_\_\_\_\_ or the **Assembly**  (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT.** See the changes indicated or attached \_\_\_\_\_

A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction \_\_\_\_\_

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Robert P. Nelson, Senior Legislative Attorney  
Telephone: (608) 267-7511