

By: Representative Simpson

To: Judiciary A

HOUSE BILL NO. 936

1 AN ACT TO ENACT THE MISSISSIPPI NOTARY ACT; CREATE NEW
2 SECTION 25-33-101, MISSISSIPPI CODE OF 1972, TO ENACT A SHORT
3 TITLE; TO CREATE NEW SECTION 25-33-103, MISSISSIPPI CODE OF 1972,
4 TO SPECIFY THE PURPOSES OF THE ACT; TO CREATE NEW SECTION
5 25-33-105, MISSISSIPPI CODE OF 1972, TO GRANDFATHER NOTARIES
6 ALREADY COMMISSIONED AS OF THE EFFECTIVE DATE OF THE ACT; TO
7 CREATE NEW SECTION 25-33-107, MISSISSIPPI CODE OF 1972, TO SPECIFY
8 THE RESPONSIBILITY OF THE SECRETARY OF STATE IN THE COMMISSIONING
9 OF NOTARIES; TO CREATE NEW SECTION 25-33-109, MISSISSIPPI CODE OF
10 1972, TO ENACT DEFINITIONS; TO CREATE NEW SECTION 25-33-111,
11 MISSISSIPPI CODE OF 1972, TO SPECIFY THE QUALIFICATIONS FOR
12 NOTARIES; TO CREATE NEW SECTION 25-33-113, MISSISSIPPI CODE OF
13 1972, TO PROVIDE FOR THE JURISDICTION AND TERM OF A NOTARY; TO
14 CREATE NEW SECTION 25-33-115, MISSISSIPPI CODE OF 1972, TO REQUIRE
15 A BOND; TO CREATE NEW SECTION 25-33-117, MISSISSIPPI CODE OF 1972,
16 TO PROVIDE FOR COMMISSIONING DOCUMENTS; TO CREATE NEW SECTION
17 25-33-119, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR
18 RECOMMISSIONING; TO CREATE NEW SECTION 25-33-121, MISSISSIPPI CODE
19 OF 1972, TO PROVIDE FOR THE APPLICATION PROCESS AND MATERIALS; TO
20 CREATE NEW SECTION 25-33-123, MISSISSIPPI CODE OF 1972, TO SPECIFY
21 INFORMATION TO BE REQUIRED ON THE APPLICATION; TO CREATE NEW
22 SECTION 25-33-125, MISSISSIPPI CODE OF 1972, TO REQUIRE TRAINING
23 AND EXAMINATION OF NOTARIES; TO CREATE NEW SECTION 25-33-127,
24 MISSISSIPPI CODE OF 1972, TO REQUIRE THAT NOTARIES SUBSCRIBE TO AN
25 OATH; TO CREATE NEW SECTION 25-33-129, MISSISSIPPI CODE OF 1972,
26 TO REQUIRE PAYMENT OF AN APPLICATION FEE; TO CREATE NEW SECTION
27 25-33-131, MISSISSIPPI CODE OF 1972, TO SPECIFY THE POWERS OF
28 NOTARIES AND TO SPECIFY ACTS OF NOTARIES THAT ARE PROHIBITED; TO
29 CREATE NEW SECTION 25-33-133, MISSISSIPPI CODE OF 1972, TO SPECIFY
30 INSTANCES IN WHICH AN INDIVIDUAL NOTARY IS DISQUALIFIED; TO CREATE
31 NEW SECTION 25-33-135, MISSISSIPPI CODE OF 1972, TO LIMIT THE
32 CIRCUMSTANCES UNDER WHICH A NOTARY MAY REFUSE TO ACT; TO CREATE
33 NEW SECTION 25-33-137, MISSISSIPPI CODE OF 1972, TO REQUIRE A
34 NOTARY TO ABSTAIN FROM INFLUENCE, AND TO ENACT EXCEPTIONS TO THE
35 REQUIREMENT TO ABSTAIN; TO CREATE NEW SECTION 25-33-139,
36 MISSISSIPPI CODE OF 1972, TO PROHIBIT KNOWING EXECUTION OF A FALSE
37 CERTIFICATE; TO CREATE NEW SECTION 25-33-141, MISSISSIPPI CODE OF
38 1972, TO PROHIBIT IMPROPER EXECUTION; TO CREATE NEW SECTION
39 25-33-143, MISSISSIPPI CODE OF 1972, TO PROHIBIT A NOTARIAL ACT
40 DONE WITH INTENT TO DECEIVE; TO CREATE NEW SECTION 25-33-145,
41 MISSISSIPPI CODE OF 1972, TO PROHIBIT TESTIMONIAL USE OF A
42 NOTARIAL COMMISSION; TO CREATE NEW SECTION 25-33-147, MISSISSIPPI
43 CODE OF 1972, TO PROHIBIT UNAUTHORIZED PRACTICE OF LAW; TO CREATE
44 NEW SECTION 25-33-149, MISSISSIPPI CODE OF 1972, TO AUTHORIZE
45 REDUCTION AND WAIVER OF FEES; TO CREATE NEW SECTION 25-33-151,
46 MISSISSIPPI CODE OF 1972, TO SET MAXIMUM FEES; TO CREATE NEW
47 SECTION 25-33-153, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THAT FEE
48 PAYMENT MAY BE REQUIRED IN ADVANCE; TO CREATE NEW SECTION
49 25-33-155, MISSISSIPPI CODE OF 1972, TO MAKE PROVISION FOR FEES
50 CHARGED BY EMPLOYEE NOTARIES; TO CREATE NEW SECTION 25-33-157,
51 MISSISSIPPI CODE OF 1972, TO REQUIRE POSTING OF FEES; TO CREATE
52 NEW SECTION 25-33-159, MISSISSIPPI CODE OF 1972, TO REQUIRE

53 KEEPING OF A NOTARIAL JOURNAL AND TO PRESCRIBE ITS FORMAT; TO
54 CREATE NEW SECTION 25-33-161, MISSISSIPPI CODE OF 1972, TO REQUIRE
55 CERTAIN JOURNAL ENTRIES; TO CREATE NEW SECTION 25-33-163,
56 MISSISSIPPI CODE OF 1972, TO REQUIRE ENTRY OF CERTAIN SIGNATURES
57 IN THE JOURNAL; TO CREATE NEW SECTION 25-33-165, MISSISSIPPI CODE
58 OF 1972, TO PROVIDE FOR INSPECTION, COPYING AND ULTIMATE DISPOSAL
59 OF A NOTARY'S JOURNAL; TO CREATE NEW SECTION 25-33-167,
60 MISSISSIPPI CODE OF 1972, TO REQUIRE ACCESS TO AN ELECTRONIC
61 JOURNAL BY THE SECRETARY OF STATE; TO CREATE NEW SECTION
62 25-33-169, MISSISSIPPI CODE OF 1972, TO SPECIFY REQUIREMENTS AS TO
63 A NOTARY'S OFFICIAL SIGNATURE; TO CREATE NEW SECTION 25-33-171,
64 MISSISSIPPI CODE OF 1972, TO SPECIFY THE OFFICIAL SEAL; TO CREATE
65 NEW SECTION 25-33-173, MISSISSIPPI CODE OF 1972, TO SPECIFY THE
66 SEAL IMAGE; TO CREATE NEW SECTION 25-33-175, MISSISSIPPI CODE OF
67 1972, TO PROVIDE FOR OBTAINING AND PROVIDING A SEAL, AND TO ENACT
68 RESTRICTIONS THEREON; TO CREATE NEW SECTION 25-33-177, MISSISSIPPI
69 CODE OF 1972, TO PROVIDE THE GENERAL FORM OF ACKNOWLEDGEMENT; TO
70 CREATE NEW SECTION 25-33-179, MISSISSIPPI CODE OF 1972, TO PROVIDE
71 THE GENERAL FORM OF JURAT; TO CREATE NEW SECTION 25-33-181,
72 MISSISSIPPI CODE OF 1972, TO PROVIDE THE GENERAL FORM OF
73 WITNESSING; TO CREATE NEW SECTION 25-33-183, MISSISSIPPI CODE OF
74 1972, TO PROVIDE THE GENERAL FORM OF SIGNING BY MARK OR BY A
75 PERSON UNABLE TO SIGN; TO CREATE NEW SECTION 25-33-185,
76 MISSISSIPPI CODE OF 1972, TO PROVIDE THE GENERAL FORM OF
77 CERTIFICATION; TO CREATE NEW SECTION 25-33-187, MISSISSIPPI CODE
78 OF 1972, TO PROVIDE THE GENERAL FORM OF VERIFICATION; TO CREATE
79 NEW SECTION 25-33-189, MISSISSIPPI CODE OF 1972, TO SPECIFY
80 ACCEPTABLE FORMS OF EVIDENCE; TO CREATE NEW SECTION 25-33-191,
81 MISSISSIPPI CODE OF 1972, TO PROVIDE THE GENERAL FORM OF
82 CERTIFICATE OF AUTHORITY; TO CREATE NEW SECTION 25-33-193,
83 MISSISSIPPI CODE OF 1972, TO PROVIDE THE GENERAL FORM OF
84 APOSTILLE; TO CREATE NEW SECTION 25-33-195, MISSISSIPPI CODE OF
85 1972, TO AUTHORIZE COLLECTION OF FEES BY THE SECRETARY OF STATE;
86 TO CREATE NEW SECTION 25-33-197, MISSISSIPPI CODE OF 1972, TO
87 REQUIRE NOTARIES TO TIMELY SUBMIT ANY CHANGE OF ADDRESS; TO CREATE
88 NEW SECTION 25-33-199, MISSISSIPPI CODE OF 1972, TO REQUIRE
89 NOTARIES TO TIMELY SUBMIT ANY CHANGE OF NAME; TO CREATE NEW
90 SECTION 25-33-201, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR
91 RESIGNATION OF COMMISSION; TO CREATE NEW SECTION 25-33-203,
92 MISSISSIPPI CODE OF 1972, TO PROVIDE FOR DISPOSITION OF SEAL LAND
93 JOURNAL UPON RESIGNATION OR REVOCATION; TO CREATE NEW SECTION
94 25-33-205, MISSISSIPPI CODE OF 1972, TO PROVIDE A PROCEDURE IN THE
95 EVENT OF A NOTARY'S DEATH; TO CREATE NEW SECTION 25-33-207,
96 MISSISSIPPI CODE OF 1972, TO SPECIFY CIRCUMSTANCES LEADING TO
97 REVOCATION OF COMMISSION; TO CREATE NEW SECTION 25-33-209,
98 MISSISSIPPI CODE OF 1972, TO PROVIDE OTHER REMEDIES IN THE EVENT
99 OF NOTARIAL MISCONDUCT; TO CREATE NEW SECTION 25-33-211,
100 MISSISSIPPI CODE OF 1972, TO REQUIRE PUBLICATION OF SANCTIONS; TO
101 CREATE NEW SECTION 25-33-213, MISSISSIPPI CODE OF 1972, TO
102 AUTHORIZE CRIMINAL SANCTIONS; TO CREATE NEW SECTION 25-33-215,
103 MISSISSIPPI CODE OF 1972, TO PROVIDE FOR NON-PREEMPTION OF
104 REMEDIES; TO CREATE NEW SECTION 25-33-217, MISSISSIPPI CODE OF
105 1972, TO PROHIBIT IMPERSONATION OF A NOTARY; TO CREATE NEW SECTION
106 25-33-219, MISSISSIPPI CODE OF 1972, TO PROHIBIT WRONGFUL
107 POSSESSION OR DESTRUCTION OF NOTARIAL ACCOUTERMENTS; TO REPEAL
108 SECTION 25-33-1, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR
109 APPOINTMENT, BOND AND OATH OF NOTARIES, SECTION 25-33-3,
110 MISSISSIPPI CODE OF 1972, WHICH REQUIRES A NOTARY TO SECURE A
111 SEAL, SECTION 25-33-5, MISSISSIPPI CODE OF 1972, WHICH REQUIRES A
112 NOTARY TO MAINTAIN A REGISTER, SECTION 25-33-7, MISSISSIPPI CODE
113 OF 1972, WHICH PROVIDES FOR DISPOSAL OF A NOTARY'S REGISTER AND
114 PAPERS, SECTION 25-33-9, MISSISSIPPI CODE OF 1972, WHICH PROVIDES
115 FOR A NOTARY'S POWER TO ADMINISTER OATHS AND AFFIRMATION, SECTION
116 25-33-11, MISSISSIPPI CODE OF 1972, WHICH CREATES ADDITIONAL
117 POWERS AND DUTIES FOR NOTARIES; SECTION 25-33-13, MISSISSIPPI CODE
118 OF 1972, WHICH REQUIRES A NOTARY TO AFFIX THE EXPIRATION DATE OF

119 HIS COMMISSION TO HIS NOTARIAL ACTS, SECTION 25-33-15, MISSISSIPPI
120 CODE OF 1972, WHICH REQUIRES A NOTARY TO KEEP A RECORD OF PROTEST
121 OF A BILL OR NOTE, SECTION 25-33-25, MISSISSIPPI CODE OF 1972,
122 WHICH REQUIRES NON-ATTORNEY NOTARIES TO NOTIFY THE PUBLIC OF THAT
123 STATUS, SECTION 25-33-27, MISSISSIPPI CODE OF 1972, WHICH
124 PROHIBITS CERTAIN ADVERTISING PRACTICES WITH REGARD TO IMMIGRATION
125 MATTERS BY NOTARIES, SECTION 25-33-29, MISSISSIPPI CODE OF 1972,
126 WHICH ENACTS EXCEPTIONS FOR NOTARIES EMPLOYED BY BANKS AND IN
127 TITLE TRANSACTIONS, AND SECTION 25-33-31, MISSISSIPPI CODE OF
128 1972, WHICH SPECIFIES PENALTIES FOR VIOLATIONS OF SECTIONS
129 25-33-25 THROUGH 25-33-29; TO AMEND SECTION 89-3-7, MISSISSIPPI
130 CODE OF 1972, TO CONFORM; AND FOR RELATED PURPOSES.

131 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

132 **THE MISSISSIPPI NOTARY ACT**

133 **SECTION 1.** The following shall be codified as Section
134 25-33-101, Mississippi Code of 1972:

135 25-33-101. **Short title.** This act may be cited as the
136 Mississippi Notary Act.

137 **SECTION 2.** The following shall be codified as Section
138 25-33-103, Mississippi Code of 1972:

139 25-33-103. **Purposes.** This act shall be construed and
140 applied to advance its underlying purposes, which are:

- 141 (a) To promote, serve, and protect the public interest;
142 (b) To simplify, clarify, and modernize the law
143 governing notaries;
144 (c) To foster ethical conduct among notaries; and
145 (d) To enhance cross-border recognition of notarial
146 acts.

147 **SECTION 3.** The following shall be codified as Section
148 25-33-105, Mississippi Code of 1972:

149 25-33-105. **Prospective effect.** The bond, seal, length of
150 commission term, and liability of notaries commissioned before the
151 act's effective date may not be invalidated, modified or
152 terminated by this act, but those notaries shall comply with this
153 act in performing notarial acts and in applying for new
154 commissions.

155 **SECTION 4.** The following shall be codified as Section
156 25-33-107, Mississippi Code of 1972:

157 25-33-107. **Powers of the Secretary of State.** The Secretary
158 of State is hereby authorized and empowered to prescribe forms,
159 establish fees and to make rules and regulations necessary and
160 proper for the implementation, administration and enforcement of
161 the provisions of this act in accordance with the provisions of
162 the Mississippi Administrative Procedures Law.

163 **SECTION 5.** The following shall be codified as Section
164 25-33-109, Mississippi Code of 1972:

165 25-33-109. **Definitions.** When used in this act, the
166 following words shall have the meanings ascribed herein unless the
167 context clearly requires otherwise:

168 (a) "Acknowledgment" means a notarial act in which an
169 individual at a single time and place:

170 (i) Appears in person before the notary and
171 presents a document;

172 (ii) Is personally known to the notary or
173 identified by the notary through satisfactory evidence; and

174 (iii) Indicates to the notary that the signature
175 on the document was voluntarily affixed by the individual for the
176 purposes stated within the document and, if applicable, that the
177 individual had due authority to sign in a particular
178 representative capacity.

179 (b) "Affirmation" means a notarial act, or part
180 thereof, which is legally equivalent to an oath and in which an
181 individual at a single time and place:

182 (i) Appears in person before the notary;

183 (ii) Is personally known to the notary or
184 identified by the notary through satisfactory evidence; and

185 (iii) Makes a vow of truthfulness or fidelity on
186 penalty of perjury, based on personal honor and without invoking
187 God or using any form of the word "swear."

188 (c) "Commission" means both to empower to perform
189 notarial acts and the written evidence of authority to perform
190 those acts.

191 (d) "Copy certification" means a notarial act in which
192 a notary:

193 (i) Is presented with a document that is neither a
194 vital record, a public record, nor publicly recordable;

195 (ii) Copies or supervises the copying of the
196 document using a photographic or electronic copying process;

197 (iii) Compares the document to the copy; and

198 (iv) Determines that the copy is accurate and
199 complete.

200 (e) "Credible witness" means an honest, reliable, and
201 impartial person who personally knows an individual appearing
202 before a notary and takes an oath or affirmation from the notary
203 to vouch for that individual's identity.

204 (f) "Journal of notarial acts" and "journal" mean a
205 device for creating and preserving a chronological record of
206 notarizations performed by a notary.

207 (g) "Jurat" means a notarial act in which an individual
208 at a single time and place:

209 (i) Appears in person before the notary and
210 presents a document;

211 (ii) Is personally known to the notary or
212 identified by the notary through satisfactory evidence;

213 (iii) Signs the document in the presence of the
214 notary; and

215 (iv) Takes an oath or affirmation from the notary
216 vouching for the truthfulness or accuracy of the signed document.

217 (h) "Notarial act" and "notarization" mean any act that
218 a notary is empowered to perform under this act.

219 (i) "Notarial certificate" and "certificate" mean the
220 part of, or attachment to, a notarized document that is completed

by the notary, bears the notary's signature and seal, and states the facts attested by the notary in a particular notarization.

(j) "Notary public" and "notary" mean any person commissioned to perform official acts under this act.

(k) "Oath" means a notarial act, or part thereof, which is legally equivalent to an affirmation and in which an individual at a single time and place:

(i) Appears in person before the notary;

(ii) Is personally known to the notary or identified by the notary through satisfactory evidence; and

(iii) Makes a vow of truthfulness or fidelity on penalty of perjury while invoking God or using any form of the word "swear."

(l) "Official misconduct" means:

(i) A notary's performance of any act prohibited, or failure to perform any act mandated, by this act or by any other law in connection with a notarial act by the notary; or

(ii) A notary's performance of an official act in a manner found by the Secretary of State to be negligent or against the public interest.

(m) "Appears in person before the notary" means that the principal and the notary are physically close enough to see, hear, communicate with, and give identification documents to each other.

(n) "Personal knowledge of identity" and "personally knows" mean familiarity with an individual resulting from interactions with that individual over a period of time sufficient to dispel any reasonable uncertainty that the individual has the identity claimed.

(o) "Principal" means:

(i) A person whose signature is notarized; or

(ii) A person, other than a credible witness, taking an oath or affirmation from the notary.

254 (p) "Regular place of work or business" means a
255 stationary office or workspace where one spends all or some of
256 one's working or business hours.

257 (q) "Satisfactory evidence of identity" means
258 identification of an individual based on:

259 (i) At least one (1) current document issued by a
260 federal, state, or tribal government agency bearing the
261 photographic image of the individual's face and signature and a
262 physical description of the individual, though a properly stamped
263 passport without a physical description is acceptable; or

264 (ii) The oath or affirmation of one (1) credible
265 witness unaffected by the document or transaction who is
266 personally known to the notary and who personally knows the
267 individual, or of two (2) credible witnesses unaffected by the
268 document or transaction who each personally know the individual
269 and show to the notary documentary identification as described in
270 this paragraph.

271 (r) "Seal" means a device for affixing on a paper
272 document an image containing a notary's name, jurisdiction,
273 commission expiration date, and other information related to the
274 notary's commission.

275 (s) "Signature witnessing" means a notarial act in
276 which an individual at a single time and place:

277 (i) Appears in person before the notary and
278 presents a document;

279 (ii) Is personally known to the notary or
280 identified by the notary through satisfactory evidence; and

281 (iii) Signs the document in the presence of the
282 notary.

283 (t) "Verification of fact" means a notarial act in
284 which a notary reviews public or vital records to ascertain or
285 confirm any of the following facts regarding a person:

286 (i) Date of birth or death;

287 (ii) Name of parent, offspring, or sibling;
288 (iii) Date of marriage or divorce; or
289 (iv) Name of spouse.

290 (u) "Electronic" means relating to technology having
291 electrical, digital, magnetic, wireless, optical, electromagnetic
292 or similar capabilities.

293 **SECTION 6.** The following shall be codified as Section
294 25-33-111, Mississippi Code of 1972:

295 25-33-111. **Qualifications.** (1) Except as provided in
296 subsection (3), the Secretary of State shall issue on behalf of
297 the Governor a notary commission to any qualified person who
298 submits an application to the Secretary of State in accordance
299 with this act.

300 (2) A person qualified for a notary commission shall:

301 (a) Be at least eighteen (18) years of age;

302 (b) Reside in the State of Mississippi and have resided
303 in the county of residence for least thirty (30) days prior to the
304 submission of the application;

305 (c) Reside legally in the United States;

306 (d) Read and write English;

307 (e) Complete a course of instruction under Section
308 25-33-125.

309 (3) The Secretary of State may deny an application based on:

310 (a) Submission of an official application containing
311 material misstatement or omission of fact;

312 (b) The applicant's conviction or plea of admission or
313 nolo contendere for a felony or any crime involving dishonesty or
314 moral turpitude, but in no case may a commission be issued to the
315 applicant within five (5) years after such conviction or plea or
316 who is incarcerated, on probation or parole;

317 (c) A finding or admission of liability against the
318 applicant in a civil lawsuit based on the applicant's deceit;

(d) Revocation, suspension, restriction, or denial of a notarial commission or professional license by this or any other state or nation, but in no case may a commission be issued to the applicant within five (5) years after such disciplinary action; or

(e) An official finding that the applicant had engaged in official misconduct, whether or not disciplinary action resulted.

(4) Denial of an application may be appealed by filing in proper form with the Secretary of State within forty-five (45) days after denial, except that an applicant may not appeal if the Secretary of State within five (5) years prior to the application has:

(a) Denied or revoked for disciplinary reasons any previous application, commission, or license of the applicant; or

(b) Made a finding under Section 25-33-207 that grounds for revocation of the applicant's commission existed.

SECTION 7. The following shall be codified as Section 25-33-113, Mississippi Code of 1972:

25-33-113. **Jurisdiction and term.** A person commissioned as a notary may perform notarial acts in any part of this state for a term of four (4) years, unless the commission is earlier revoked under Section 25-33-207 or resigned under Section 25-33-201.

SECTION 8. The following shall be codified as Section 25-33-115, Mississippi Code of 1972:

25-33-115. **Bond.** (1) A notary commission shall not become effective until an oath of office and a Ten Thousand Dollar (\$10,000.00) bond have been filed with the Secretary of State. The bond shall be executed by a licensed surety, for a term of four (4) years commencing on the commission's effective date and terminating on its expiration date, with payment of bond funds to any person conditioned upon the notary's official misconduct.

(2) The surety for a notary bond shall report all claims against the bond and the balance available to pay claims to the Secretary of State.

(3) If a notary bond has been exhausted by claims paid out by the surety, the Secretary of State shall suspend the notary's commission until:

(a) A new bond is obtained by the notary; and

(b) The notary's fitness to serve the remainder of the commission term is determined by the Secretary of State.

SECTION 9. The following shall be codified as Section 25-33-117, Mississippi Code of 1972:

25-33-117. **Commissioning documents.** Upon issuing a notary commission, the Secretary of State shall provide to the notary:

(a) A commission document stating the commission serial number and starting and ending dates; and

(b) A Certificate of Authorization to Purchase a Notary Seal stating the commission serial number.

SECTION 10. The following shall be codified as Section 25-33-119, Mississippi Code of 1972:

25-33-119. **Recommissioning.** A current or former notary applying for a new or renewal notary commission shall submit a new completed application and comply anew with all applicable commissioning, recommissioning and application provisions of this act; provided, however, notaries holding a commission on the effective date of this act are exempt from the requirements of Section 25-33-121 and Section 25-33-125 until January 1, 2008.

SECTION 11. The following shall be codified as Section 25-33-121, Mississippi Code of 1972:

25-33-121. **Application materials.** Every application for a notary commission shall be made on forms determined by the Secretary of State and shall include:

(a) A statement of the applicant's personal qualifications, as described in Section 25-33-123;

383 (b) Evidence of the successful completion of a course
384 of instruction, as described in Section 25-33-125;

385 (c) A notarized declaration of the applicant, as
386 described in Section 25-33-127;

387 (d) Such other information as the Secretary of State
388 may deem appropriate; and

389 (e) An application fee, as specified in Section
390 25-33-129.

391 **SECTION 12.** The following shall be codified as Section
392 25-33-123, Mississippi Code of 1972:

393 25-33-123. **Statement of personal qualifications.** The
394 application for a notary commission shall state or include, at
395 least:

396 (a) The applicant's date of birth;

397 (b) The applicant's residence address and telephone
398 number;

399 (c) the applicant's business address and telephone
400 number, the business mailing address, if different, and the name
401 of the applicant's employer, if any;

402 (d) a declaration that the applicant is a citizen of
403 the United States or proof of the applicant's legal residency in
404 the country;

405 (e) a declaration that the applicant can read and write
406 English;

407 (f) all issuances, denials, revocations, suspensions,
408 restrictions, and resignations of a notarial commission,
409 professional license, or public office involving the applicant in
410 this or any other state or nation;

411 (g) all criminal convictions other than minor traffic
412 violations of the applicant, including any pleas of admission or
413 nolo contendere, in this or any other state or nation;

414 (h) all claims pending or disposed against a notary
415 bond held by the applicant, and all civil findings or admissions

of fault or liability regarding the applicant's activities as a notary, in this or any other state or nation; and

(i) if the notary elects to keep an electronic journal, the password or access instructions required by Section 25-33-167.

SECTION 13. The following shall be codified as Section 25-33-125, Mississippi Code of 1972:

25-33-125. **Course and examination.** (1) Every applicant for a notary commission shall take, within the twenty-four (24) month period preceding application, a course of instruction of at least three (3) hours approved by the Secretary of State.

(2) The content of the course shall be notarial laws of the State of Mississippi, procedures, and ethics.

(3) The Secretary of State may offer a course of instruction for a fee to be determined by the Secretary of State.

(4) The approval of the Secretary of State is required for any course of instruction offered by third parties. Courses of instruction covering the notarial laws, procedures and ethics offered by accredited universities, colleges and community colleges located within the State of Mississippi need no further approval.

SECTION 14. The following shall be codified as Section 25-33-127, Mississippi Code of 1972:

25-33-127. **Notarized declaration.** Every applicant for a notary commission shall sign the following declaration in the presence of a notary of the State of Mississippi:

Declaration of Applicant

I, _____ (name of applicant), solemnly swear or affirm under penalty of perjury that the personal information in this application is true, complete, and correct; that I understand the official duties and responsibilities of a Notary Public under the laws of the State of Mississippi; and that I will perform, to the best of my ability, all notarial acts in accordance with the law.

(signature of applicant)

(Notarial certificate as specified in Section 25-33-177.)

SECTION 15. The following shall be codified as Section
25-33-129, Mississippi Code of 1972:

25-33-129. **Application fee.** Every applicant for a notary
commission shall pay to this state a nonrefundable application fee
of Thirty-five Dollars (\$35.00).

SECTION 16. The following shall be codified as Section
25-33-131, Mississippi Code of 1972:

25-33-131. **Powers and prohibitions.** (1) A notary is
empowered to perform the following notarial acts:

(a) Acknowledgments;
(b) Oaths and affirmations;
(c) Jurats;
(d) Signature witnessings;
(e) Copy certifications;
(f) Verifications of fact; and
(g) Any other acts so authorized by the law of this
state.

(2) A notary shall not perform a notarial act if the
principal:

(a) Is not in the notary's presence at the time of
notarization;
(b) Is not personally known to the notary or identified
by the notary through satisfactory evidence;
(c) Shows a demeanor which causes the notary to have a
compelling doubt about whether the principal knows the
consequences of the transaction requiring a notarial act; or
(d) In the notary's judgment, is not acting of his or
her own free will.

(3) A notary may certify the affixation of a signature by
mark on a document presented for notarization if:

482 (a) The mark is affixed in the presence of the notary
483 and of two (2) witnesses unaffected by the document;

484 (b) Both witnesses sign their own names beside the
485 mark;

486 (c) The notary writes below the mark: "Mark affixed by
487 (name of signer by mark) in presence of (names and addresses of
488 witnesses) and undersigned notary under the Mississippi Notary
489 Act"; and

490 (d) The notary notarizes the signature by mark through
491 an acknowledgment, jurat, or signature witnessing.

492 (4) A notary may sign the name of a person physically unable
493 to sign or make a mark on a document presented for notarization
494 if:

495 (a) The person directs the notary to do so in the
496 presence of two (2) witnesses unaffected by the document;

497 (b) The notary signs the person's name in the presence
498 of the person and the witnesses;

499 (c) Both witnesses sign their own names beside the
500 signature;

501 (d) The notary writes below the signature: "Signature
502 affixed by notary in the presence of (names and addresses of
503 person and 2 witnesses) under the Mississippi Notary Act"; and

504 (e) The notary notarizes the signature through an
505 acknowledgment, jurat, or signature witnessing.

506 **SECTION 17.** The following shall be codified as Section
507 25-33-133, Mississippi Code of 1972:

508 25-33-133. **Disqualifications.** A notary is disqualified from
509 performing a notarial act if the notary:

510 (a) Is a party to or named in the document that is to
511 be notarized;

512 (b) Will receive as a direct or indirect result any
513 commission, fee, advantage, right, title, interest, cash,

property, or other consideration exceeding in value the fees specified in Section 25-33-151;

(c) Is a spouse, ancestor, descendant, or sibling of the principal, including in-law, step, or half relatives and other persons residing in the same household.

SECTION 18. The following shall be codified as Section 25-33-135, Mississippi Code of 1972:

25-33-135. **Refusal to notarize.** (1) A notary shall not refuse to perform a notarial act based on the principal's race, advanced age, gender, religion, national origin, health or disability.

(2) A notary shall perform any notarial act described in Section 25-33-131 for any person requesting such an act who tenders the appropriate fee specified in Section 25-33-151, unless:

(a) The notary knows or has good reason to believe that the notarial act or the associated transaction is unlawful;

(b) The act is prohibited under Section 25-33-131; or

(c) The number of notarial acts requested practicably precludes completion of all acts at once, in which case the notary shall arrange for later completion of the remaining acts.

(3) A notary may but is not required to perform a notarial act outside the notary's regular workplace or business hours.

SECTION 19. The following shall be codified as Section 25-33-137, Mississippi Code of 1972:

25-33-137. **Avoidance of influence.** (1) A notary shall not influence a person either to enter into or avoid a transaction involving a notarial act by the notary, except that the notary may advise against a transaction if Section 25-33-135 applies.

(2) A notary has neither the duty nor the authority to investigate, ascertain, or attest the lawfulness, propriety, accuracy, or truthfulness of a document or transaction involving a notarial act.

SECTION 20. The following shall be codified as Section 25-33-139, Mississippi Code of 1972:

25-33-139. **False Certificate.** (1) A notary shall not execute a certificate containing information known or believed by the notary to be false.

(2) A notary shall not affix an official signature or seal on a notarial certificate that is incomplete.

(3) A notary shall not provide or send a signed or sealed notarial certificate to another person with the understanding that it will be completed or attached to a document outside of the notary's presence.

SECTION 21. The following shall be codified as Section 25-33-141, Mississippi Code of 1972:

25-33-141. **Improper documents.** (1) A notary shall not notarize a signature:

(a) On a blank or incomplete document; or

(b) On a document without notarial certificate wording.

(2) A notary shall neither certify nor authenticate a photograph.

SECTION 22. The following shall be codified as Section 25-33-143, Mississippi Code of 1972:

25-33-143. **Intent to deceive.** A notary shall not perform any official action with the intent to deceive or defraud.

SECTION 23. The following shall be codified as Section 25-33-145, Mississippi Code of 1972:

25-33-145. **Testimonials.** A notary shall not use the official notary title or seal to endorse, promote, denounce or oppose any product, service, contest, candidate or other offering.

SECTION 24. The following shall be codified as Section 25-33-147, Mississippi Code of 1972:

25-33-147. **Unauthorized practice of law.** (1) If notarial certificate wording is not provided or indicated for a document, a

579 non-attorney notary shall not determine the type of notarial act
580 or certificate to be used.

581 (2) A nonattorney notary shall not assist another person in
582 drafting, completing, selecting, or understanding a document or
583 transaction requiring a notarial act.

584 (3) This section does not preclude a notary who is duly
585 qualified, trained, or experienced in a particular industry or
586 professional field from selecting, drafting, completing, or
587 advising on a document or certificate related to a matter within
588 that industry or field.

589 (4) A notary shall not claim to have powers, qualifications,
590 rights, or privileges that the office of notary does not provide,
591 including the power to counsel on immigration matters.

592 (5) (a) A notary public who is not an attorney licensed to
593 practice law in this state and, who advertises in any language the
594 person's services as a notary public by radio, television, signs,
595 pamphlets, newspapers, telephone directory or other written or
596 oral communication, or in any other advertisement, shall include
597 with such advertisement the notice set forth in this section in
598 English and in any other languages used in the advertisement. The
599 notice shall be of conspicuous size and shall state: "I AM NOT AN
600 ATTORNEY LICENSED TO PRACTICE LAW IN THE STATE OF MISSISSIPPI, AND
601 I MAY NOT GIVE ADVICE ON IMMIGRATION OR OTHER LEGAL MATTERS OR
602 ACCEPT FEES FOR ADVICE ON IMMIGRATION OR OTHER LEGAL MATTERS."

603 (b) The notice shall also list the fees for notarial
604 acts specified in Section 25-33-151.

605 (c) A notary may not use the term "notario publico" or
606 any equivalent non-English term in any business card,
607 advertisement, notice, or sign.

608 (d) A notary public who is not an attorney licensed to
609 practice law is prohibited from representing or advertising that
610 the notary public is an immigration consultant, immigration
611 paralegal or expert on immigration matters unless the notary

612 public is an accredited representative of an organization
613 recognized by the board of immigration appeals pursuant to 8 CFR
614 Section 292.2(a-e) or any subsequent federal law.

615 (e) The provisions of this subsection shall not apply
616 to:

617 (i) Notary services offered by a state or national
618 bank, trust company, savings and loan association, savings bank or
619 by any affiliate or subsidiary of such state or national bank,
620 trust company, savings and loan association or savings bank or any
621 agent or employee thereof; or

622 (ii) Any offering of notary services or listing of
623 fees for notary services as a part of the closing of any loan
624 transaction, extension of credit, security instrument or transfer
625 of title.

626 (f) (i) Failure to comply with the provisions of this
627 subsection constitutes an unfair or deceptive act as provided in
628 Section 75-24-5.

629 (ii) Any person who knowingly and willfully
630 violates any provision of this subsection shall be guilty of a
631 misdemeanor, and upon conviction shall be fined in an amount not
632 to exceed One Thousand Dollars (\$1,000.00).

633 (iii) Upon a second conviction of any person under
634 this subsection, the offenses being committed within a period of
635 five (5) years, the person shall be guilty of a misdemeanor, and
636 upon conviction shall be punished by imprisonment in the county
637 jail for a period not to exceed one (1) year or a fine not to
638 exceed One Thousand Dollars (\$1,000.00), or both.

639 (iv) Upon a third or subsequent conviction of any
640 person for a violation of this subsection, the offenses being
641 committed within a period of five (5) years, the person shall be
642 guilty of a felony, and upon conviction shall be punished by
643 confinement in the custody of the Department of Corrections for a

644 period not to exceed five (5) years, or fined in an amount not to
645 exceed Five Thousand Dollars (\$5,000.00), or both.

646 (v) Criminal convictions in other jurisdictions
647 for violations of substantially similar provisions to those
648 contained in this subsection shall be counted in computing whether
649 a violation under this subsection is a first, second, third or
650 subsequent offense.

651 **SECTION 25.** The following shall be codified as Section
652 25-33-149, Mississippi Code of 1972:

653 25-33-149. **Imposition and waiver of fees.** (1) For
654 performing a notarial act, a notary may charge the maximum fee
655 specified in Section 25-33-151, charge less than the maximum fee,
656 or waive the fee.

657 (2) A notary shall not discriminatorily condition the fee
658 for a notarial act on the attributes of the principal as
659 delineated in Section 25-33-135, though a notary may waive or
660 reduce fees for humanitarian or charitable reasons.

661 **SECTION 26.** The following shall be codified as Section
662 25-33-151, Mississippi Code of 1972:

663 25-33-151. **Fees for notarial acts.** (1) The maximum fees
664 that may be charged by a notary for notarial acts are:

665 (a) For acknowledgments, Five Dollars (\$5.00) per
666 signature;

667 (b) For oaths or affirmations without a signature, Five
668 Dollars (\$5.00) per person;

669 (c) For jurats, Five Dollars (\$5.00) per signature;

670 (d) For signature witnessings, Five Dollars (\$5.00) per
671 signature;

672 (e) For certified copies, Two Dollars (\$2.00) per page
673 certified with a minimum total charge of Ten Dollars (\$10.00); and

674 (f) For verifications of fact, Ten Dollars (\$10.00) per
675 certificate.

676 (2) A notary may charge a travel fee when traveling to
677 perform a notarial act if:

678 (a) The notary and the person requesting the notarial
679 act agree upon the travel fee in advance of the travel; and

680 (b) The notary explains to the person requesting the
681 notarial act that the travel fee is both separate from the
682 notarial fee in subsection (1) and neither specified nor mandated
683 by law.

684 **SECTION 27.** The following shall be codified as Section
685 25-33-153, Mississippi Code of 1972:

686 25-33-153. **Payment prior to act.** (1) A notary may require
687 payment of any fees specified in Section 25-33-151 prior to
688 performance of a notarial act.

689 (2) Any fees paid to a notary prior to performance of a
690 notarial act are nonrefundable if:

691 (a) The act was completed; or

692 (b) In the case of travel fees paid in compliance with
693 Section 25-33-151, the act was not completed for reasons stated in
694 Section 25-33-131 after the notary had traveled to meet the
695 principal.

696 **SECTION 28.** The following shall be codified as Section
697 25-33-155, Mississippi Code of 1972:

698 25-33-155. **Fees of employee notary.** (1) An employer may
699 prohibit an employee who is a notary from charging for notarial
700 acts performed on the employer's time, but shall not condition
701 imposition of a fee on attributes of the principal as described in
702 Section 25-33-135.

703 (2) A private employer shall not require an employee who is
704 a notary to surrender or share fees charged for any notarial acts.

705 (3) A governmental employer who has absorbed an employee's
706 costs in becoming or operating as a notary shall require any fees
707 collected for notarial acts performed on the employer's time

either to be waived or surrendered to the employer to support public programs.

SECTION 29. The following shall be codified as Section 25-33-157, Mississippi Code of 1972:

25-33-157. **Notice of fees.** Notaries who charge for their notarial services shall conspicuously display in their places of business, or present to each principal outside their places of business, an English-language schedule of the fees for notarial acts specified in Section 25-33-151.

SECTION 30. The following shall be codified as Section 25-33-159, Mississippi Code of 1972:

25-33-159. **Journal required; format.** (1) A notary shall keep, maintain, protect, and provide for lawful inspection a chronological official journal of notarial acts that is either:

- (a) A permanently bound book with numbered pages; or
- (b) An electronic journal of notarial acts.

(2) "Electronic journal of notarial acts" and "electronic journal" mean an electronic device for creating and preserving a chronological record of notarizations performed by a notary that:

(a) Allows a journal entry to be made by the notary only after a biometric scan of a particular physical feature or activity of the notary produces data that match with biometric data of the notary stored in the device;

(b) Does not allow a journal entry to be altered in content or sequence by the notary or any other person after a record of the notarization is entered and stored;

(c) Allows entries to be viewed, printed out, and copied electronically by any person using a password or another nonbiometric access method designated by the notary;

(d) Has a back-up system in place to provide a duplicate record in the event of loss of the original record;

(e) Has the capability of capturing and storing the images of a handwritten signature; and

(f) Has the capability of printing out on paper and of providing electronic copies of any entry, any combination of entries, or all entries, including the images of related handwritten signatures.

(3) A notary shall keep no more than one (1) active journal at the same time, except that a back-up record of an electronic journal may be kept to offset potential loss of the original journal.

SECTION 31. The following shall be codified as Section 25-33-161, Mississippi Code of 1972:

25-33-161. **Entries.** (1) For every notarial act, the notary shall record in the journal at the time of notarization at least the following:

(a) The date and time of day of the notarial act;

(b) The type of notarial act;

(c) The type, title, or a description of the document or proceeding;

(d) The signature, printed name, and address of each principal;

(e) The evidence of identity of each principal, in the form of either: a statement that the person is "personally known" to the notary; a notation of the type of identification document, its issuing agency, its serial or identification number, and its date of issuance or expiration; or the signature, printed name and address of each credible witness swearing or affirming to the person's identity, and, for credible witnesses who are not personally known to the notary, a description of identification documents relied on by the notary;

(f) The fee, if any, charged for the notarial act;

(g) The address where the notarization was performed if not the notary's business address.

(2) A notary shall not record a social security or credit card number in the journal.

(3) A notary shall record in the journal the circumstances for not completing a notarial act.

(4) As required in Section 25-33-165, a notary shall record in the journal the circumstances of any request to inspect or copy an entry in the journal, including the requester's name, address, signature, and evidence of identity. The reasons for refusal to allow inspection or copying of a journal entry shall also be recorded.

SECTION 32. The following shall be codified as Section 25-33-163, Mississippi Code of 1972:

25-33-163. **Signatures.** At the time of notarization, the notary's journal must be signed by each:

- (a) Principal;
- (b) Credible witness swearing or affirming to the identity of a principal; and
- (c) Witness to a signature by mark or to a signing by the notary on behalf of a person physically unable to sign.

SECTION 33. The following shall be codified as Section 25-33-165, Mississippi Code of 1972:

25-33-165. **Inspection, copying, and disposal.** (1) In the notary's presence, any person may inspect an entry in the official journal of notarial acts during regular business hours, but only if:

- (a) The person's identity is personally known to the notary or proven through satisfactory evidence;
- (b) The person affixes a signature in the journal in a separate, dated entry;
- (c) The person specifies the month, year, type of document, and name of the principal for the notarial act or acts sought; and
- (d) The person is shown only the entry or entries specified.

806 (2) If the notary has a reasonable and explainable belief
807 that a person bears a criminal or harmful intent in requesting
808 information from the notary's journal, the notary may deny access
809 to any entry or entries.

810 (3) The journal may be examined without restriction by a law
811 enforcement officer in the course of an official investigation,
812 subpoenaed by court order, or surrendered at the direction of the
813 Secretary of State.

814 (4) Upon complying with a request under subsection (1), the
815 notary shall provide a copy of a specified entry or entries in the
816 journal at a cost of not more than Five Dollars (\$5.00) per copy;
817 other entries on the same page shall be masked. If a certified
818 copy of an entry in a bound book is requested, the additional cost
819 is as specified in Section 25-33-151.

820 (5) A notary shall safeguard the journal and all other
821 notarial records and surrender or destroy them only by rule of
822 law, by court order, or at the direction of the Secretary of
823 State.

824 (6) When not in use, the journal shall be kept in a secure
825 area under the exclusive control of the notary, and shall not be
826 used by any other notary nor surrendered to an employer upon
827 termination of employment.

828 (7) Within ten (10) days after the journal is stolen, lost,
829 destroyed, damaged, or otherwise rendered unusable or unreadable
830 as a record of notarial acts, the notary, after informing the
831 appropriate law enforcement agency in the case of theft or
832 vandalism, shall notify the Secretary of State by any means
833 providing a tangible receipt or acknowledgment, including
834 certified mail and electronic transmission, and also provide a
835 copy or identifying number of any pertinent police report.

836 (8) Upon resignation, revocation, or expiration of a notary
837 commission, or death of the notary, the journal and notarial
838 records shall be delivered to the clerk of the circuit court of

839 the county of residence of the notary in accordance with Section
840 25-33-203.

841 **SECTION 34.** The following shall be codified as Section
842 25-33-167, Mississippi Code of 1972:

843 25-33-167. **Electronic journal.** If the notary elects to keep
844 an electronic journal pursuant to Section 25-33-159, the notary
845 shall:

846 (a) Provide to the Secretary of State the password or
847 access instructions described in Section 25-33-159 that allow the
848 journal to be viewed, printed out, and copied, but not altered;
849 and

850 (b) Notify the Secretary of State when the password or
851 access instructions are changed.

852 **SECTION 35.** The following shall be codified as Section
853 25-33-169, Mississippi Code of 1972:

854 25-33-169. **Official signature.** In notarizing a paper
855 document, a notary shall:

856 (a) Sign by hand on the notarial certificate exactly
857 and only the name indicated on the notary's commission;

858 (b) Not sign using a facsimile stamp or an electronic
859 or other printing method; and

860 (c) Affix the official signature only at the time the
861 notarial act is performed.

862 **SECTION 36.** The following shall be codified as Section
863 25-33-171, Mississippi Code of 1972:

864 25-33-171. **Official seal.** (1) A notary shall keep an
865 official seal that is the exclusive property of the notary. The
866 seal shall not be possessed or used by any other person, nor
867 surrendered to an employer upon termination of employment.

868 (2) An image of the official seal shall be affixed by the
869 notary on every paper document notarized.

870 (3) An image of the seal shall be affixed only at the time
871 the notarial act is performed.

(4) When not in use, the seal shall be kept secure and accessible only to the notary.

(5) Within ten (10) days after the seal of a notary is stolen, lost, damaged, or otherwise rendered incapable of affixing a legible image, the notary, after informing the appropriate law enforcement agency in the case of theft or vandalism, shall notify the Secretary of State by any means providing a tangible receipt or acknowledgment, including certified mail and electronic transmission, and also provide a copy or number of any pertinent police report. Upon receipt of such notice the Secretary of State shall issue to the notary a new Certificate of Authorization to Purchase a Notary Seal, which shall be presented to a seal vendor in accordance with Section 25-33-175.

(6) As soon as reasonably practicable after resignation, revocation, or expiration of a notary commission, or death of the notary, the seal shall be destroyed or defaced so that it may not be misused.

SECTION 37. The following shall be codified as Section 25-33-173, Mississippi Code of 1972:

25-33-173. **Seal image.** (1) Near the notary's official signature on the notarial certificate of a paper document, the notary shall affix a sharp, legible, permanent, and photographically reproducible image of the official seal that shall include the following elements:

(a) The notary's name exactly as indicated on the commission;

(b) The serial number of the notary's commission;

(c) The words "Notary Public" and "State of Mississippi [insert county of residence]" and "My commission expires (commission expiration date)";

(d) The notary's business address; and

(e) A border in a circular shape no larger than two and one-half (2 1/2) inches, surrounding the required words.

905 (2) Illegible information within a seal impression may be
906 typed or printed legibly by the notary adjacent to but not within
907 the impression.

908 (3) An embossed seal impression that is not photographically
909 reproducible may be used in addition to but not in lieu of the
910 seal described in subsection (1).

911 **SECTION 38.** The following shall be codified as Section
912 25-33-175, Mississippi Code of 1972:

913 25-33-175. **Obtaining and providing a seal.** (1) The
914 Secretary of State shall maintain an Internet site to allow
915 vendors and manufacturers to confirm the business mailing address
916 of any notary in the state.

917 (2) A vendor or manufacturer shall not provide a notary seal
918 to a purchaser claiming to be a notary, unless the purchaser
919 presents a photocopy of his notary commission and a Certificate of
920 Authorization to Purchase a Notary Seal issued by the Secretary of
921 State, and unless:

922 (a) In the case of a purchaser appearing in person, the
923 vendor or manufacturer identifies this individual as the person
924 named in the commission and the Certificate of Authorization,
925 through either personal knowledge or satisfactory evidence of
926 identity; or

927 (b) In the case of a purchaser ordering a seal by mail
928 or delivery service, the vendor or manufacturer confirms the
929 business mailing address through the Internet site.

930 (3) A vendor or manufacturer shall mail or ship a notary
931 seal only to a mailing address confirmed through the Internet
932 site.

933 (4) For each Certificate of Authorization to Purchase a
934 Notary Seal, a vendor or manufacturer shall make or sell one (1)
935 and only one (1) seal, plus, if requested by the person presenting
936 the Certificate, one (1) and only one (1) embossing seal.

937 (5) A notary obtaining a seal or seals as a result of a name
938 or business address change shall present a copy of the
939 Confirmation of Notary's Name or Address Change from the Secretary
940 of State in accordance with Sections 25-33-197 and 25-33-199.

941 (6) A vendor or manufacturer who fails to comply with this
942 section is guilty of a misdemeanor, punishable upon conviction by
943 a fine not to exceed One Thousand Dollars (\$1,000.00).

944 **SECTION 39.** The following shall be codified as Section
945 25-33-177, Mississippi Code of 1972:

946 25-33-177. **General acknowledgment.** A notary shall use a
947 certificate in substantially the following form in notarizing the
948 signature or mark of persons acknowledging for themselves or as
949 partners, corporate officers, attorneys in fact, or in other
950 representative capacities:

951 State of _____
952 County of _____

953 On this _____ day of _____, 20____, before me, the
954 undersigned notary, personally appeared _____
955 (name of document signer), (personally known to me) (proved to me
956 through identification documents allowed by law, which were
957 _____,) (proved to me on the oath or affirmation of
958 _____, who is personally known to me and stated to me that
959 (he)(she) personally knows the document signer and is unaffected
960 by the document,) (proved to me on the oath or affirmation of
961 _____ and _____, whose identities have been proven to
962 me through documents allowed by law and who have stated to me that
963 they personally know the document signer and are unaffected by the
964 document,) to be the person whose name is signed on the preceding
965 or attached document, and acknowledged to me that (he)(she) signed
966 it voluntarily for its stated purpose.

967 (as partner for _____, a partnership.)
968 (as _____ for _____, a corporation.)
969 (as attorney in fact for _____, the principal.)

970 (as _____ for _____, (a)(the) _____.)

971 _____

972 (official signature and seal of notary)

973 **SECTION 40.** The following shall be codified as Section
974 25-33-179, Mississippi Code of 1972:

975 25-33-179. **Jurat.** A notary shall use a jurat certificate in
976 substantially the following form in notarizing a signature or mark
977 on an affidavit or other sworn or affirmed written declaration:

978 State of _____

979 County of _____

980 On this _____ day of _____, 20____, before me, the
981 undersigned notary, personally appeared _____

982 (name of document signer), (personally known to me) (proved to me
983 through identification documents allowed by law, which were

984 _____) (proved to me on the oath or affirmation of

985 _____ who is personally known to me and stated to me that

986 (he)(she) personally knows the document signer and is unaffected

987 by the document,)(proved to me on the oath or affirmation of

988 _____ and _____ whose identities have been proven to

989 me through documents allowed by law and who have stated to me that

990 they personally know the document signer and are unaffected by the

991 document,) to be the person who signed the preceding or attached

992 document in my presence and who swore or affirmed to me that the

993 contents of the document are truthful and accurate to the best of

994 (his)(her) knowledge and belief.

995 _____

996 (official signature and seal of notary)

997 **SECTION 41.** The following shall be codified as Section
998 25-33-181, Mississippi Code of 1972:

999 25-33-181. **Signature witnessing.** A notary shall use a

1000 certificate in substantially the following form in notarizing a

1001 signature or mark to confirm that it was affixed in the notary's

1002 presence without administration of an oath or affirmation.

1003 State of _____

1004 County of _____

1005 On this _____ day of _____, 20____, before me, the
1006 undersigned notary, personally appeared _____ (name of
1007 document signer), (personally known to me)(proved to me through
1008 identification documents allowed by law, which were _____)
1009 (proved to me on the oath or affirmation of _____ who is
1010 personally known to me and stated to me that (he)(she) personally
1011 knows the document signer and is unaffected by the document,)
1012 (proved to me on the oath or affirmation of _____ and
1013 _____ whose identities have been proven to me through
1014 documents allowed by law and who have stated to me that they
1015 personally know the document signer and are unaffected by the
1016 document,) to be the person who signed the preceding or attached
1017 document in my presence.

1018 _____
1019 (official signature and seal of notary)

1020 **SECTION 42.** The following shall be codified as Section
1021 25-33-183, Mississippi Code of 1972:

1022 25-33-183. **Signer by mark and person unable to sign.** On
1023 paper documents, certificates in Sections 25-33-177, 25-33-179,
1024 and 25-33-181 may be used for signers by mark or persons
1025 physically unable to sign or make a mark if:

1026 (a) For a signer by mark, the notary and two (2)
1027 witnesses unaffected by the document observe the affixation of the
1028 mark, both witnesses sign their own names beside the mark, and the
1029 notary writes below the mark: "Mark affixed by (name of signer by
1030 mark) in presence of (names and addresses of two (2) witnesses)
1031 and undersigned notary under the Mississippi Notary Act"; or

1032 (b) For a person physically unable to sign or make a
1033 mark, the person directs the notary to sign on his or her behalf
1034 in the presence of the person and two (2) witnesses unaffected by
1035 the document, both witnesses sign their own names beside the

signature, and the notary writes below the signature: "Signature
affixed by notary in presence of (names and addresses of person
and two (2) witnesses) under the Mississippi Notary Act.

SECTION 43. The following shall be codified as Section
25-33-185, Mississippi Code of 1972:

25-33-185. **Certified copy.** A notary shall use a certificate
in substantially the following form in notarizing a certified
copy:

State of _____

County of _____

On this _____ day of _____, 20____, I certify that the
(preceding)(following)(attached) document is a true, exact,
complete, and unaltered copy made by me of _____
(description of document), (presented to me by the document's
custodian, _____) (held in my custody as a notarial record,) and that, to the best of my knowledge, the copied document is
neither a vital record, a public record nor a publicly recordable
document, certified copies of which may be available from an
official source other than a notary.

(official signature and seal of notary)

SECTION 44. The following shall be codified as Section
25-33-187, Mississippi Code of 1972:

25-33-187. **Verification of fact.** A notary shall use a
certificate in substantially the following form in verifying a
fact:

State of _____

County of _____

On this _____ day of _____, 20____, I certify that I
have reviewed the following record(s):

(a) _____,

(b) _____,

(c) _____,

1069 (d) _____,

1070 at the following offices, respectively:

1071 (a) _____,

1072 (b) _____,

1073 (c) _____,

1074 (d) _____,

1075 or upon the records' presentation to me by _____ and

1076 hereby verify the following facts as stated in these records:

1077 (a) _____,

1078 (b) _____,

1079 (c) _____,

1080 (d) _____.

1081 _____
1082 (official signature and seal of notary)

1083 **SECTION 45.** The following shall be codified as Section
1084 25-33-189, Mississippi Code of 1972:

1085 25-33-189. **Forms of evidence.** On a notarized document sent
1086 to another state or nation, evidence of the authenticity of the
1087 official seal and signature of a notary of this state, if
1088 required, shall be in the form of:

1089 (a) A certificate of authority from the Secretary of
1090 State and authenticated as necessary by additional certificates
1091 from United States and foreign government agencies; or

1092 (b) In the case of a notarized document to be used in a
1093 nation that has signed and ratified the Hague Convention
1094 Abolishing the Requirement of Legalization for Foreign Public
1095 Documents of October 5, 1961, an Apostille from the Secretary of
1096 State in the form prescribed by the Convention, with no additional
1097 authenticating certificates required.

1098 **SECTION 46.** The following shall be codified as Section
1099 25-33-191, Mississippi Code of 1972:

1100 25-33-191. **Certificate of authority.** (1) A certificate of
1101 authority evidencing the authenticity of the official seal and

1102 signature of a notary of this state shall be substantially in the
1103 following form:

1104 Certificate of Authority for a Notarial Act

1105 I, _____ (name, title, jurisdiction of authenticating
1106 official), certify that _____ (name of notary), the person
1107 named in the seal and signature on the attached document, was a
1108 Notary Public for the [State] of _____ (name of
1109 jurisdiction) and authorized to act as such at the time of the
1110 document's notarization.

1111 To verify this Certificate of Authority for a Notarial Act, I
1112 have affixed below my signature and seal of office this _____ day
1113 of _____, 20____.

1114 _____
1115 (Signature and seal of commissioning official)

1116 **SECTION 47.** The following shall be codified as Section
1117 25-33-193, Mississippi Code of 1972:

1118 25-33-193. **Apostille.** An Apostille prescribed by the Hague
1119 Convention, as cited in 28 USCA in the annotations to Rule 44 of
1120 the Federal Rules of Civil Procedure, shall be in the form of a
1121 square with sides at least nine (9) centimeters long and contain
1122 exactly the following wording:

1123 APOSTILLE

1124 (Convention de La Haye du 5 octobre 1961)

1125 1. Country: _____

1126 This public document

1127 2. has been signed by _____

1128 3. Acting in the capacity of _____

1129 4. Bears the seal/stamp of _____

1130 CERTIFIED

1131 5. At _____

1132 6. The _____

1133 7. By _____

1134 8. No. _____

1135 9. Seal/Stamp 10. Signature: _____.

1136 **SECTION 48.** The following shall be codified as Section
1137 25-33-195, Mississippi Code of 1972:

1138 25-33-195. **Fees.** The Secretary of State may charge:

1139 (a) For issuing a certificate of authority, Ten Dollars
1140 (\$10.00); and

1141 (b) For issuing an Apostille, Ten Dollars (\$10.00).

1142 **SECTION 49.** The following shall be codified as Section
1143 25-33-197, Mississippi Code of 1972:

1144 25-33-197. **Change of address.** (1) Within ten (10) days
1145 after the change of a notary's residence, business, or mailing
1146 address, the notary shall send to the Secretary of State by any
1147 means providing a tangible receipt or acknowledgment, including
1148 certified mail and electronic transmission, a signed notice of the
1149 change, giving both old and new addresses.

1150 **SECTION 50.** The following shall be codified as Section
1151 25-33-199, Mississippi Code of 1972:

1152 25-33-199. **Change of name.** (1) Within ten (10) days after
1153 the change of a notary's name by court order or marriage, the
1154 notary shall send to the Secretary of State by any means providing
1155 a tangible receipt or acknowledgment, including certified mail and
1156 electronic transmission, a signed notice of the change, giving
1157 both former and new names, with a copy of any official
1158 authorization for such change.

1159 (2) A notary with a new name shall continue to use the
1160 former name in performing notarial acts until the following steps
1161 have been completed, at which point the notary shall use the new
1162 name:

1163 (a) The notice described in subsection (1) has been
1164 delivered or transmitted;

1165 (b) A Confirmation of Notary's Name has been received
1166 from the Secretary of State;

1167 (c) A new seal bearing the new name exactly as in the
1168 Confirmation has been obtained; and

1169 (d) The surety for the notary's bond has been informed
1170 in writing.

1171 **SECTION 51.** The following shall be codified as Section
1172 25-33-201, Mississippi Code of 1972:

1173 25-33-201. **Resignation.** (1) A notary who resigns his or
1174 her commission shall send to the Secretary of State by any means
1175 providing a tangible receipt or acknowledgment, including
1176 certified mail and electronic transmission, a signed notice
1177 indicating the effective date of resignation.

1178 (2) Notaries who cease to reside in or to maintain a regular
1179 place of work or business in this state, or who become permanently
1180 unable to perform their notarial duties, shall resign their
1181 commissions.

1182 **SECTION 52.** The following shall be codified as Section
1183 25-33-203, Mississippi Code of 1972:

1184 25-33-203. **Disposition of seal and journal.** (1) Except as
1185 provided in subsection (2), when a notary commission expires or is
1186 resigned or revoked, the notary shall:

1187 (a) As soon as reasonably practicable, destroy or
1188 deface all notary seals so that they may not be misused; and

1189 (b) Within thirty (30) days after the effective date of
1190 resignation, revocation, or expiration, send to the circuit clerk
1191 of the county where the notary resides by any means providing a
1192 tangible receipt or acknowledgment, including certified mail and
1193 electronic transmission, the notarial journal and records,
1194 allowing that an electronic journal may be delivered on disk,
1195 printed on paper, or transmitted electronically, in accordance
1196 with requirements of the same office.

1197 (2) A former notary who intends to apply for a new
1198 commission and whose previous commission or application was not
1199 revoked or denied by this state, need not deliver the journal and

1200 records within thirty (30) days after commission expiration, but
1201 must do so within three (3) months after expiration unless
1202 recommissioned within that period.

1203 **SECTION 53.** The following shall be codified as Section
1204 25-33-205, Mississippi Code of 1972:

1205 25-33-205. **Death of notary.** If a notary dies during the
1206 term of commission or before fulfilling the obligations stipulated
1207 in Section 25-33-203, the notary's personal representative shall:

1208 (a) Notify the Secretary of State of the death in
1209 writing;

1210 (b) As soon as reasonably practicable, destroy or
1211 deface all notary seals so that they may not be misused; and

1212 (c) Within thirty (30) days after death, send to the
1213 circuit clerk of the county of residence of the notary listed in
1214 the records of the Secretary of State's office by any means
1215 providing a tangible receipt or acknowledgment, including
1216 certified mail and electronic transmission, the notary's journal
1217 of notarial acts and any other notarial records, allowing that an
1218 electronic journal may be delivered on disk, printed on paper, or
1219 transmitted electronically, in accordance with requirements of the
1220 same office.

1221 **SECTION 54.** The following shall be codified as Section
1222 25-33-207, Mississippi Code of 1972:

1223 25-33-207. **Revocation.** (1) The Secretary of State may
1224 revoke a notary commission for any ground on which an application
1225 for a commission may be denied under Section 25-33-111.

1226 (2) The Secretary of State shall revoke the commission of
1227 any notary who fails:

1228 (a) To maintain a residence in this state; and

1229 (b) To maintain status as a legal resident of the
1230 United States.

1231 (3) Prior to revocation of a notary commission, the
1232 Secretary of State shall inform the notary of the basis for the

revocation and that the revocation takes effect on a particular date unless a proper appeal is filed with the Secretary of State before that date.

(4) Resignation or expiration of a notary commission does not terminate or preclude an investigation into the notary's conduct by the Secretary of State, who may pursue the investigation to a conclusion, whereupon it shall be made a matter of public record whether the finding would have been grounds for revocation.

SECTION 55. The following shall be codified as Section 25-33-209, Mississippi Code of 1972:

25-33-209. **Other remedial actions for misconduct.** (1) The Secretary of State may deliver a written Official Warning to Cease Misconduct to any notary whose actions are judged to be official misconduct.

(2) The Secretary of State may seek a court injunction to prevent a person from violating any provision of this act.

SECTION 56. The following shall be codified as Section 25-33-211, Mississippi Code of 1972:

25-33-211. **Publication of sanctions and remedial actions.** The Secretary of State shall regularly publish a list of persons whose notary commissions have been revoked by the Secretary of State or whose actions as a notary were the subject of a court injunction or Official Warning to Cease Misconduct.

SECTION 57. The following shall be codified as Section 25-33-213, Mississippi Code of 1972:

25-33-213. **Criminal sanctions.** (1) In performing a notarial act, a notary is guilty of a felony, punishable upon conviction by a fine not exceeding Five Thousand Dollars (\$5,000.00) or imprisonment for not more than five (5) years, or both, for knowingly:

(a) Failing to require the presence of a principal at the time of the notarial act;

1266 (b) Failing to identify a principal through personal
1267 knowledge or satisfactory evidence; or
1268 (c) Executing a false notarial certificate as described
1269 in Section 25-33-139.

1270 (2) A notary who knowingly performs or fails to perform any
1271 other act prohibited or mandated respectively by this act may be
1272 guilty of a misdemeanor, punishable upon conviction by a fine not
1273 exceeding One Thousand Dollars (\$1,000.00) or imprisonment for not
1274 more than one (1) year, or both.

1275 **SECTION 58.** The following shall be codified as Section
1276 25-33-215, Mississippi Code of 1972:

1277 25-33-215. **Additional remedies and sanctions not precluded.**
1278 The remedies and sanctions of this act do not preclude other
1279 remedies and sanctions provided by law.

1280 **SECTION 59.** The following shall be codified as Section
1281 25-33-217, Mississippi Code of 1972:

1282 25-33-217. **Impersonation.** Any person not a notary who
1283 knowingly acts as or otherwise impersonates a notary is guilty of
1284 a felony, punishable upon conviction by a fine not exceeding Five
1285 Thousand Dollars (\$5,000.00) or imprisonment for not more than
1286 five (5) years, or both.

1287 **SECTION 60.** The following shall be codified as Section
1288 25-33-219, Mississippi Code of 1972:

1289 25-33-219. **Wrongful possession.** Any person who knowingly
1290 obtains, conceals, defaces, or destroys the seal, journal, or
1291 official records of a notary is guilty of a felony, punishable
1292 upon conviction by a fine not exceeding Five Thousand Dollars
1293 (\$5,000.00) or imprisonment for not more than five (5) years, or
1294 both.

1295 **SECTION 61.** Section 25-33-1, Mississippi Code of 1972, which
1296 provides for appointment, bond and oath of notaries, Section
1297 25-33-3, Mississippi Code of 1972, which requires a notary to
1298 secure a seal, Section 25-33-5, Mississippi Code of 1972, which

1299 requires a notary to maintain a register, Section 25-33-7,
1300 Mississippi Code of 1972, which provides for disposal of a
1301 notary's register and papers, Section 25-33-9, Mississippi Code of
1302 1972, which provides for a notary's power to administer oaths and
1303 affirmation, Section 25-33-11, Mississippi Code of 1972, which
1304 creates additional powers and duties for notaries; Section
1305 25-33-13, Mississippi Code of 1972, which requires a notary to
1306 affix the expiration date of his commission to his notarial acts,
1307 Section 25-33-15, Mississippi Code of 1972, which requires a
1308 notary to keep a record of protest of a bill or note, Section
1309 25-33-25, Mississippi Code of 1972, which requires non-attorney
1310 notaries to notify the public of that status, Section 25-33-27,
1311 Mississippi Code of 1972, which prohibits certain advertising
1312 practices with regard to immigration matters by notaries, Section
1313 25-33-29, Mississippi Code of 1972, which enacts exceptions for
1314 notaries employed by banks and in title transactions, and Section
1315 25-33-31, Mississippi Code of 1972, which specifies penalties for
1316 violations of Sections 25-33-25 through 25-33-29, are hereby
1317 repealed.

1318 **SECTION 62.** Section 89-3-7, Mississippi Code of 1972, is
1319 amended as follows:

1320 89-3-7. The * * * forms of acknowledgment specified in the
1321 Mississippi Notary Act may be used in the case of conveyances or
1322 other written instruments affecting real estate or personal
1323 property, and any acknowledgment so taken and certified shall be
1324 sufficient to satisfy all requirements of law.

1325 * * *

1326 **SECTION 63.** This act shall take effect and be in force from
1327 and after January 1, 2007.