

By: Representative Aguirre

To: Judiciary A

HOUSE BILL NO. 777

1 AN ACT TO BE KNOWN AS THE "REVISED MISSISSIPPI LAW ON
2 NOTARIAL ACTS"; TO DEFINE CERTAIN TERMS; TO PRESCRIBE THE NOTARIAL
3 ACTS THAT A NOTARIAL OFFICER MAY PERFORM; TO AUTHORIZES NOTARIAL
4 OFFICERS TO CHARGE A FEE NOT EXCEEDING \$5.00 FOR SERVICES
5 RENDERED; TO REQUIRE INDIVIDUALS REQUESTING CERTAIN NOTARIAL
6 SERVICES TO PHYSICALLY APPEAR BEFORE THE NOTARIAL OFFICER; TO
7 REQUIRE NOTARIAL OFFICERS TO DETERMINE THE IDENTITY OF THE PERSON
8 APPEARING BEFORE THE OFFICER AND TO PRESCRIBE ACCEPTABLE FORMS OF
9 IDENTIFICATION; TO AUTHORIZE NOTARIAL OFFICERS TO REFUSE TO
10 PERFORM CERTAIN ACTS; TO AUTHORIZE AN INDIVIDUAL WHO IS PHYSICALLY
11 UNABLE TO SIGN A RECORD BEFORE A NOTARIAL OFFICER TO DIRECT
12 ANOTHER PERSON TO SIGN ON THE INDIVIDUAL'S BEHALF; TO AUTHORIZE
13 NOTARIAL ACTS TO BE PERFORMED BY NOTARIES PUBLIC, ELECTED JUDGES
14 AND CLERKS OF COURT AND THE SECRETARY OF STATE; TO RECOGNIZE
15 CERTAIN QUALIFIED NOTARIAL ACTS PERFORMED UNDER THE AUTHORITY OF
16 ANOTHER STATE, FEDERALLY RECOGNIZED INDIAN TRIBE, THE FEDERAL
17 GOVERNMENT AND FOREIGN STATES; TO REQUIRE A NOTARIAL ACT TO BE
18 EVIDENCED BY A CERTIFICATE; TO REQUIRE NOTARIES PUBLIC TO HAVE AN
19 OFFICIAL SEAL, TO PROCURE A STAMPING DEVICE AND TO MAINTAIN A
20 JOURNAL OF NOTARIAL ACTS; TO AUTHORIZE NOTARIES PUBLIC TO PERFORM
21 NOTARIAL ACTS WITH RESPECT TO ELECTRONIC RECORDS; TO AUTHORIZE
22 INDIVIDUALS TO APPLY TO THE SECRETARY OF STATE FOR A COMMISSION AS
23 A NOTARY PUBLIC AND TO PRESCRIBE THE MINIMUM QUALIFICATIONS; TO
24 AUTHORIZE THE SECRETARY OF STATE TO DENY OR REVOKE A COMMISSION AS
25 A NOTARY PUBLIC FOR CERTAIN SPECIFIED ACTS; TO REQUIRE THE
26 SECRETARY OF STATE TO MAINTAIN AN ELECTRONIC DATABASE OF NOTARIES
27 PUBLIC; TO PROHIBIT NOTARIES PUBLIC FROM ACTING IN CERTAIN
28 CAPACITIES AND PERFORMING CERTAIN ACTS; TO SPECIFY THAT A NOTARIAL
29 ACT IS NOT INVALIDATED DUE TO A FAILURE OF A NOTARIAL OFFICER TO
30 PERFORM CERTAIN STATUTORY DUTIES; TO AUTHORIZE THE SECRETARY OF
31 STATE TO ADOPT RULES NECESSARY TO IMPLEMENT THE REVISED
32 MISSISSIPPI LAW ON NOTARIAL ACTS; TO CLARIFY THAT A COMMISSION AS
33 A NOTARY PUBLIC IN EFFECT ON JULY 1, 2019, CONTINUES UNTIL ITS
34 EXPIRATION, AT WHICH TIME A RENEWAL OF THE COMMISSION MUST COMPLY



35 WITH THIS ACT; TO CLARIFY THAT THIS ACT TO NOT AFFECT THE VALIDITY
36 OR EFFECT OF NOTARIAL ACTS PERFORMED BEFORE JULY 1, 2019; TO
37 SPECIFY THAT THIS ACT SUPERSEDES CERTAIN FEDERAL STATUTES
38 REGARDING ELECTRONIC SIGNATURES IN COMMERCE; TO REPEAL SECTIONS
39 25-33-1 THROUGH 25-33-33, MISSISSIPPI CODE OF 1972, WHICH
40 AUTHORIZE THE APPOINTMENT OF NOTARIES PUBLIC AND PRESCRIBE THEIR
41 POWERS AND DUTIES; TO REPEAL SECTION 25-7-29, MISSISSIPPI CODE OF
42 1972, WHICH AUTHORIZES NOTARIES PUBLIC TO CHARGE FEES FOR CERTAIN
43 SERVICES; TO AMEND SECTION 25-7-1, MISSISSIPPI CODE OF 1972, IN
44 CONFORMITY TO THE PRECEDING PROVISIONS; AND FOR RELATED PURPOSES.

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

46 **SECTION 1.** This act shall be known and may be cited as the
47 "Revised Mississippi Law on Notarial Acts."

48 **SECTION 2.** As used in this act, the following words and
49 phrases have the meanings ascribed in this section unless the
50 context clearly requires otherwise:

51 (a) "Acknowledgment" means a declaration by an
52 individual in person before a notarial officer that the individual
53 has signed a record for the purpose stated in the record and, if
54 the record is signed in a representative capacity, that the
55 individual signed the record with proper authority and signed it
56 as the act of the individual or entity identified in the record.

57 (b) "Electronic" means relating to technology having
58 electrical, digital, magnetic, wireless, optical, electromagnetic
59 or similar capabilities.

60 (c) "Electronic signature" means an electronic symbol,
61 sound or process attached to or logically associated with a record
62 and executed or adopted by an individual with the intent to sign
63 the record.

64 (d) "In a representative capacity" means acting as:



65 (i) An authorized officer, manager, member, agent,
66 partner, trustee or other representative for a person other than
67 an individual;

68 (ii) A public officer, personal representative,
69 guardian or other representative, in the capacity stated in a
70 record;

71 (iii) An agent or attorney-in-fact for a
72 principal; or

73 (iv) An authorized representative of another in
74 any other capacity.

75 (e) "Notarial act" means an act, whether performed with
76 respect to a tangible or electronic record, that a notarial
77 officer may perform under Section 4 of this act and any other law
78 of this state.

79 (f) "Notarial officer" means a notary public or other
80 individual authorized to perform a notarial act.

81 (g) "Notary public" means an individual commissioned to
82 perform a notarial act by the Secretary of State.

83 (h) "Official seal" means a physical image affixed to a
84 tangible record or an electronic image attached to or logically
85 associated with an electronic record.

86 (i) "Record" means information that is inscribed on a
87 tangible medium or that is stored in an electronic or other medium
88 and is retrievable in perceivable form.



89 (j) "Sign" means, with present intent to authenticate
90 or adopt a record:

91 (i) To execute or adopt a tangible symbol; or

92 (ii) To attach to or logically associate with the
93 record an electronic symbol, sound or process.

94 (k) "Signature" means a tangible symbol or an
95 electronic signature that evidences the signing of a record.

96 (l) "Stamping device" means:

97 (i) A physical device capable of affixing to a
98 tangible record an official seal; or

99 (ii) An electronic device or process capable of
100 attaching to or logically associating an official seal with an
101 electronic record.

102 (m) "State" means a state of the United States, the
103 District of Columbia, Puerto Rico, the United States Virgin
104 Islands or any territory or insular possession subject to the
105 jurisdiction of the United States.

106 (n) "Verification on oath or affirmation," formerly
107 known as a jurat, means a declaration, made by an individual on
108 oath or affirmation before a notarial officer, that a statement in
109 a record is true.

110 **SECTION 3.** This act applies to a notarial act performed on
111 or after July 1, 2019.

112 **SECTION 4.** (1) A notarial officer may perform the following
113 notarial acts:



- 114 (a) Take acknowledgements;
- 115 (b) Administer oaths and affirmations;
- 116 (c) Take verifications on oath or affirmation;
- 117 (d) Certify depositions of witnesses;
- 118 (e) Witness or attest signatures;
- 119 (f) Make or note a protest of a negotiable instrument;
- 120 (g) Make an affidavit regarding the truth of any
- 121 witnesses or attested signatures in question along with any
- 122 corrected language and, if such authenticity or correctness of
- 123 language affects real property, file the same in the land records
- 124 in the office of the chancery clerk where such land is located;
- 125 and
- 126 (h) Any other acts so authorized by the law of the
- 127 State of Mississippi.

128 (2) A notarial officer may not perform a notarial act when

129 such officer:

- 130 (a) Is a party to the record being notarized;
- 131 (b) Is a spouse, child, sibling, parent, grandparent,
- 132 grandchild, aunt or uncle, or niece or nephew, including a son or
- 133 daughter-in-law, a mother or father-in-law, a stepchild or
- 134 stepparent, or a half sibling, of the person whose signature is
- 135 being notarized or the person taking a verification on oath or
- 136 affirmation from the officer; or
- 137 (c) Will receive as a direct result any commission,
- 138 fee, advantage, right, title, beneficial interest, cash, property



139 or other consideration exceeding in value the fees required by
140 rules established by the Secretary of State.

141 (3) A notarial officer is not disqualified from performing a
142 notarial act by virtue of his or her profession when the officer:

143 (a) Is an employee performing a notarial act on behalf
144 of, or which benefits, the employer;

145 (b) Is an attorney who maintains an attorney-client
146 relationship with the person whose signature is the subject of the
147 notarial act; or

148 (c) Is a shareholder of a corporation or member of a
149 limited liability company who is a party to a record which is the
150 subject of the notarial act.

151 (4) A notarial act performed in violation of subsection (2)
152 is voidable.

153 **SECTION 5.** A notarial officer may charge a fee in an amount
154 not to exceed Five Dollars (\$5.00) for services rendered unless
155 otherwise prohibited by law or by rules promulgated by the
156 Secretary of State.

157 **SECTION 6.** (1) A notarial officer who takes an
158 acknowledgment of a record, takes a verification of a statement on
159 oath or affirmation (jurat), or witnesses or attests to a
160 signature, shall determine, from personal knowledge or
161 satisfactory evidence of the identity of the individual, that the
162 individual appearing in person before the officer has the identity



163 claimed and that the signature on the record is the signature of
164 the individual.

165 (2) A notarial officer who makes or notes a protest of a
166 negotiable instrument shall determine the matters set forth in
167 Section 75-3-505(b).

168 **SECTION 7.** If a notarial act relates to a statement made in
169 or a signature executed on a record, the individual making the
170 statement or executing the signature must appear physically in
171 person before the notarial officer at the time of the notarial
172 act.

173 **SECTION 8.** (1) A notarial officer has personal knowledge of
174 the identity of an individual appearing before the officer if the
175 individual is known personally to the officer through dealings
176 sufficient to provide reasonable certainty that the individual has
177 the identity claimed.

178 (2) A notarial officer has satisfactory evidence of the
179 identity of an individual appearing before the officer if the
180 officer can identify the individual:

181 (a) By means of inspecting:

182 (i) An unexpired passport, an unexpired driver's
183 license or a driver's license that has not been expired for more
184 than five (5) years, a government issued nondriver identification
185 card or a Mississippi voter ID card; or

186 (ii) Another form of government identification
187 issued to an individual which is not expired, contains the



188 signature and a photograph of the individual, and is satisfactory
189 to the officer.

190 (3) A notarial officer may require an individual to provide
191 additional information or identification credentials necessary to
192 assure the officer of the identity of the individual.

193 **SECTION 9.** (1) A notarial officer may refuse to perform a
194 notarial act if the officer knows or suspects the transaction is
195 illegal, false or deceptive, or if the officer is not satisfied
196 that:

197 (a) The individual executing the record is competent;

198 (b) The individual executing the record has the
199 capacity to execute the record;

200 (c) The individual's signature is knowingly and
201 voluntarily made; or

202 (d) The notarial act is in compliance with this act or
203 with rules issued by the Secretary of State to implement this act.

204 (2) A notarial officer may refuse to perform a notarial act
205 unless refusal is prohibited by any law other than this act.

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

208 **SECTION 10.** If an individual is physically unable to sign a
209 record, the individual may direct an individual other than the
210 notarial officer to sign the individual's name on the record. The
211 notarial officer shall insert "Signature affixed by (name of other



212 individual) at the direction of (name of individual)" or words of
213 similar import.

214 **SECTION 11.** (1) A notarial act may be performed in this
215 state by:

216 (a) A notary public of this state;

217 (b) An elected judge, a clerk or deputy clerk of a
218 court of this state; or

219 (c) The Mississippi Secretary of State or an assistant
220 secretary of state of this state.

221 (2) The signature and title of an individual performing a
222 notarial act in this state are prima facie evidence that the
223 signature is genuine and that the individual holds the designated
224 title.

225 (3) The signature and title of a notarial officer described
226 in subsection (1) conclusively establish the authority of the
227 officer to perform the notarial act.

228 **SECTION 12.** (1) A notarial act performed in another state
229 has the same effect under the law of this state as if performed by
230 a notarial officer of this state, if the act performed in that
231 state is performed by:

232 (a) A notary public of that state;

233 (b) A judge, a clerk or a deputy clerk of a court of
234 that state; or

235 (c) Any other individual authorized by the law of that
236 state to perform the notarial act.



237 (2) The signature and title of an individual performing a
238 notarial act in another state shall be prima facie evidence that
239 the signature is genuine and that the individual holds the
240 designated title.

241 (3) The signature and title of a notarial officer described
242 in subsection (1)(a) or (b) conclusively establish the authority
243 of the officer to perform the notarial act.

244 **SECTION 13.** (1) A notarial act performed under the
245 authority and in the jurisdiction of a federally recognized Indian
246 tribe has the same effect under the laws of this state as if
247 performed by a notarial officer of this state, if the act
248 performed in the jurisdiction of the tribe is performed by:

249 (a) A notary public authorized by the tribe;

250 (b) A judge, a clerk or a deputy clerk of a court of
251 that tribe; or

252 (c) Any other individual authorized by the law of the
253 tribe to perform the notarial act.

254 (2) The signature and title of an individual performing a
255 notarial act under the authority of and in the jurisdiction of a
256 federally recognized Indian tribe is prima facie evidence that the
257 signature is genuine and that the individual holds the designated
258 title.

259 (3) The signature and title of a notarial officer described
260 in subsection (1)(a) or (b) conclusively establish the authority
261 of the officer to perform the notarial act.



262 **SECTION 14.** (1) A notarial act performed under federal law
263 has the same effect under the law of this state as if performed by
264 a notarial officer of this state, if the act performed under
265 federal law is performed by:

266 (a) A judge, clerk or deputy clerk of a court;

267 (b) An individual in military service or performing
268 duties under the authority of military service who is authorized
269 to perform notarial acts under federal law;

270 (c) An individual designated a notarizing officer by
271 the United States Department of State for performing notarial acts
272 overseas; or

273 (d) Any other individual authorized by federal law to
274 perform the notarial act.

275 (2) The signature and title of an individual acting under
276 federal authority and performing a notarial act are prima facie
277 evidence that the signature is genuine and that the individual
278 holds the designated title.

279 (3) The signature and title of an officer described in
280 subsection (1)(a), (b) or (c) conclusively establish the authority
281 of the officer to perform the notarial act.

282 **SECTION 15.** (1) In this section, "foreign state" means a
283 government other than the United States, a state or a federally
284 recognized Indian tribe.

285 (2) If a notarial act is performed under authority and in
286 the jurisdiction of a foreign state or constituent unit of the



287 foreign state or is performed under the authority of a
288 multinational or international governmental organization, the act
289 has the same effect under the law of this state as though
290 performed by a notarial officer of this state.

291 (3) If the title of office and indication of authority to
292 perform notarial acts in a foreign state appears in a digest of
293 foreign law or in a list customarily used as a source for that
294 information, the authority of an officer with that title to
295 perform notarial acts is established conclusively.

296 (4) The signature and official seal of an individual holding
297 an office described in subsection (3) are prima facie evidence
298 that the signature is genuine and the individual holds the
299 designated title.

300 (5) An apostille in the form prescribed by the Hague
301 Convention of October 5, 1961, and issued by a foreign state party
302 to the Convention conclusively establishes that the signature of
303 the notarial officer is genuine and that the officer holds the
304 indicated office.

305 (6) A consular authentication issued by an individual
306 designated by the United States Department of State as a
307 notarizing officer for performing notarial acts overseas and
308 attached to the record with respect to which the notarial act is
309 performed conclusively establishes that the signature of the
310 notarial officer is genuine and that the officer holds the
311 indicated office.



312 **SECTION 16.** (1) A notarial act must be evidenced by a
313 certificate. The certificate must:

314 (a) Be executed contemporaneously with the performance
315 of the notarial act;

316 (b) Be signed and dated by the notarial officer and, if
317 the notarial officer is a notary public, be signed in the same
318 manner as on file with the Secretary of State;

319 (c) Identify the jurisdiction in which the notarial act
320 is performed;

321 (d) Contain the title of office of the notarial
322 officer; and

323 (e) If the notarial officer is a notary public,
324 indicate the date of expiration of the notary public's commission.

325 (2) If a notarial act regarding a tangible record is
326 performed by a notary public, the notary public's official seal
327 must be affixed to the certificate. If a notarial act is
328 performed regarding a tangible record by a notarial officer other
329 than a notary public and the certificate contains the information
330 specified in subsection (1) (b), (c) and (d), the notarial
331 officer's official seal may be affixed to the certificate. If a
332 notarial act regarding an electronic record is performed by a
333 notarial officer and the certificate contains the information
334 specified in subsection (1) (b), (c) and (d), the notarial
335 officer's official seal may be attached to or logically associated
336 with the certificate.



337 (3) The party drafting a record that is the subject of a
338 notarial act is responsible for the form of the certificate, its
339 wording and legal sufficiency. A notary public is not required to
340 draft, edit or amend a certificate where the record presented does
341 not contain an acceptable certificate; instead, the notary must
342 refuse to perform the notarial act with respect to the record.

343 (4) A certificate of a notarial act is sufficient if it
344 meets the requirements of subsections (1) and (2) and:

345 (a) Is in a form otherwise permitted by the law of this
346 state;

347 (b) Is in a form permitted by the law applicable in the
348 jurisdiction in which the notarial act was performed; or

349 (c) Sets forth the actions of the notarial officer and
350 the actions are sufficient to meet the requirements of the
351 notarial act as provided in Sections 4, 5, 6 and 7 of this act or
352 any law of this state other than this act.

353 (5) By executing a certificate of a notarial act, a notarial
354 officer certifies that the officer has complied with the
355 requirements and made the determinations specified in Sections 4,
356 5, 6 and 7 of this act.

357 (6) A notarial officer may not affix the officer's signature
358 to, or logically associate it with, a certificate until the
359 notarial act has been performed.

360 (7) If a notarial act is performed regarding a tangible
361 record, a certificate must be part of, or securely attached to,



362 the record. If a notarial act is performed regarding an
363 electronic record, the certificate must be affixed to, or
364 logically associated with, the electronic record. If the
365 Secretary of State has established standards pursuant to Section
366 20 of this act for attaching, affixing or logically associating
367 the certificate, the process must conform to those standards.

368 (8) The signature of a notarial officer certifying a
369 notarial act may not be deemed evidence to show that the notarial
370 officer had knowledge of the contents of the record so signed,
371 other than those specific contents which constitute the signature,
372 execution, acknowledgment, oath, affirmation, affidavit,
373 verification or other act which the signature of that notarial
374 officer chronicles.

375 **SECTION 17.** (1) Every notary public appointed and
376 commissioned shall procure, at his own expense, a suitable
377 official seal. The official seal of a notary public must:

378 (a) Include the notary public's name, jurisdiction,
379 commission expiration date and other information required by the
380 Secretary of State; and

381 (b) Be capable of being copied together with the record
382 to which it is affixed or attached or with which it is logically
383 associated.

384 (2) The board of supervisors of every county shall provide
385 an official seal, with the inscription "notary public" around the
386 margin and the image of an eagle in the center, which official



387 seal must be kept in the office of the clerk of the circuit court.
388 A judge, chancellor, clerk or deputy clerk of a court of this
389 state, the Mississippi Secretary of State or an assistant
390 secretary of state of this state may use the official seal to
391 perform a notarial act under Section 10(1)(b) or (c) of this act.

392 (c) On the death or adjudication of incompetency of a
393 current or former notary public, the notary public's personal
394 representative or guardian or any other person knowingly in
395 possession of the official seal shall destroy or deface, as soon
396 as reasonably practicable, all official seals of the notary public
397 so that they may not be misused.

398 **SECTION 18.** (1) A notary public is responsible for the
399 security of the notary public's stamping device and may not allow
400 another individual to use the device to perform a notarial act.
401 On resignation from, or the revocation or expiration of, the
402 notary public's commission, or on the expiration of the date set
403 forth in the stamping device, if any, the notary public shall
404 disable the stamping device by destroying, defacing, damaging,
405 erasing or securing it against use in a manner that renders it
406 unusable. On the death or adjudication of incompetency of a
407 notary public, the notary public's personal representative or
408 guardian or any other person knowingly in possession of the
409 stamping device shall render it unusable by destroying, defacing,
410 damaging, erasing or securing it against use in a manner that
411 renders it unusable.



412 (2) If a notary public's stamping device is lost or stolen,
413 the notary public or the notary public's personal representative
414 or guardian must notify promptly the Secretary of State on
415 discovering that the device is lost or stolen.

416 **SECTION 19.** (1) A notary public shall maintain a journal in
417 which the notary public chronicles all notarial acts that the
418 notary public performs.

419 (2) A journal must be created on a tangible or electronic
420 medium. A notary public shall maintain only one (1) journal at a
421 time to chronicle all notarial acts, whether those notarial acts
422 are performed regarding tangible or electronic records. If the
423 journal is tangible, it must be a permanent, bound register with
424 numbered pages. An electronic journal must conform to
425 specifications set forth in rules by the Secretary of State.

426 (3) An entry in a journal must be made contemporaneously
427 with performance of the notarial act and contain the following
428 information:

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

430 (b) A description of the record, if any, and type of
431 notarial act;

432 (c) The full name and address of each individual for
433 whom the notarial act is performed;

434 (d) If identity of the individual is based on personal
435 knowledge, a statement to that effect;



436 (e) If identity of the individual is based on
437 satisfactory evidence, a brief description of the method of
438 identification and the identification credential presented, if
439 any, including the date of issuance and expiration of any
440 identification credential;

441 (f) The address where the notarial act was performed if
442 not the notary's business address; and

443 (g) The fee, if any, charged by the notary public.

444 (4) If a notary public's journal is lost or stolen, the
445 notary public must notify promptly the Secretary of State on
446 discovering that the journal is lost or stolen.

447 (5) On resignation from, or the revocation or suspension of,
448 a notary public's commission, the notary public shall deposit all
449 journal records with the circuit clerk of the county of residence
450 of the notary public.

451 (6) On the death or adjudication of incompetency of a
452 current or former notary public, the notary public's personal
453 representative or guardian or any other person knowingly in
454 possession of the journal shall:

455 (a) Notify the Secretary of State of the death or
456 adjudication in writing; and

457 (b) Within thirty (30) days of death or adjudication of
458 incompetency, transmit all journal records to the circuit clerk of
459 the county of residence of the notary public.



460 **SECTION 20.** (1) A notary public may perform a notarial act
461 with respect to electronic records pursuant to this act.

462 (2) The Secretary of State shall have the sole power to
463 determine the methods by which notarial acts with respect to
464 electronic records may be implemented in this state. Those
465 methods must be set forth in rules promulgated by the Secretary of
466 State.

467 (3) A notary public seeking to perform notarial acts with
468 respect to electronic records shall file an additional
469 registration with the Secretary of State subsequent to being
470 granted a notary commission.

471 **SECTION 21.** (1) An individual qualified under subsection
472 (2) may apply to the Secretary of State for a commission as a
473 notary public. The applicant must comply with and provide the
474 information required by rules established by the Secretary of
475 State and pay any application fee.

476 (2) An applicant for a commission as a notary public must:

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

478 (b) Be a citizen or permanent legal resident of the
479 United States;

480 (c) Be a resident of Mississippi for a period of not
481 less than thirty (30) days immediately preceding the date of the
482 application;

483 (d) Be able to read and write English;



484 (e) Not be disqualified to receive a commission under
485 Section 22 of this act; and

486 (f) Meet such other requirements as the Secretary of
487 State may establish by rule.

488 (3) Before issuance of a commission as a notary public, an
489 applicant for the commission must execute the oath of office
490 prescribed by Section 268 of the Constitution and submit it to the
491 Secretary of State.

492 (4) Before issuance of a commission as a notary public, the
493 applicant for a commission must submit to the Secretary of State
494 an assurance in the form of a surety bond or its functional
495 equivalent in the amount of Five Thousand Dollars (\$5,000.00)
496 pursuant to the rules set forth by the Secretary of State. The
497 assurance must be issued by a surety or other entity licensed by
498 the Mississippi Department of Insurance. The assurance must cover
499 acts performed during the term of the notary public's commission
500 and must be in the form prescribed by the Secretary of State. If
501 a notary public violates a law with respect to notaries public in
502 this state, the surety or issuing entity is liable under the
503 assurance. The surety or issuing entity shall give thirty (30)
504 days' notice to the Secretary of State before canceling the
505 assurance. The surety or issuing entity shall notify the
506 Secretary of State not later than thirty (30) days after making a
507 payment to a claimant under the assurance. A notary public may



508 perform notarial acts in this state only during the period that a
509 valid assurance is on file with the Secretary of State.

510 (5) On compliance with this section, the Secretary of State
511 shall issue a commission as a notary public to an applicant for a
512 term of four (4) years.

513 (6) A commission to act as a notary public authorizes the
514 notary public to perform notarial acts. The commission does not
515 provide the notary public any immunity or benefit conferred by the
516 laws of this state on public officials or employees.

517 **SECTION 22.** (1) The Secretary of State may deny, refuse to
518 renew, revoke, suspend or impose a condition on a commission as
519 notary public for any act or omission that demonstrates the
520 individual lacks the honesty, integrity, competence or reliability
521 to act as a notary public, including:

522 (a) Failure to comply with this act;

523 (b) A fraudulent, dishonest or deceitful misstatement
524 or omission in the application for a commission as a notary public
525 submitted to the Secretary of State;

526 (c) A conviction of any felony, including a plea of
527 nolo contendere, of the applicant or notary public, unless
528 released from incarceration more than ten (10) years before the
529 commission is to take effect or, if no incarceration is ordered,
530 more than ten (10) years from the conviction date;

531 (d) A conviction, including a plea of nolo contendere,
532 of the applicant or notary public for any crime determined by the



533 Secretary of State to be of a nature incompatible with the duties
534 of a notary public;

535 (e) Failure by the notary public to discharge any duty
536 required of a notary public, whether required by this act, rules
537 of the Secretary of State or any federal or state law;

538 (f) Use of false or misleading advertising or
539 representation by the notary public representing that the notary
540 has a duty, right or privilege that the notary does not have;

541 (g) Violation by the notary public of a rule of the
542 Secretary of State regarding a notary public;

543 (h) Denial, refusal to renew, revocation, suspension or
544 conditioning of a notary public commission in another state;

545 (i) Failure of the notary public to maintain an
546 assurance as provided in subsection (4) of Section 21 of this act;
547 or

548 (j) Failure to maintain and protect the notary's
549 journal pursuant to this act and any rules in furtherance of this
550 act.

551 (2) If the Secretary of State denies, refuses to renew,
552 revokes, suspends or imposes conditions on a commission as a
553 notary public, the applicant or notary public is entitled to file
554 an appeal in proper form with the Secretary of State within
555 forty-five (45) days after denial, except that an applicant may
556 not appeal when the Secretary of State, within five (5) years
557 preceding the application, has:



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

560 (b) Made a finding under this act that the grounds for
561 revocation of the applicant's commission existed.

562 (3) The authority of the Secretary of State to deny, refuse
563 to renew, suspend, revoke or impose conditions on a commission as
564 a notary public does not prevent a person from seeking and
565 obtaining other criminal or civil remedies provided by law.

566 **SECTION 23.** The Secretary of State shall maintain an
567 electronic database of notaries public:

568 (a) Through which a person may verify the authority of
569 a notary public to perform notarial acts; and

570 (b) Which indicates whether a notary public has
571 notified the Secretary of State that the notary public will be
572 performing notarial acts on electronic records.

573 **SECTION 24.** (1) A commission as a notary public does not
574 authorize an individual to:

575 (a) Assist persons in drafting legal records, give
576 legal advice or otherwise practice law;

577 (b) Act as an immigration consultant or an expert on
578 immigration matters;

579 (c) Represent a person in a judicial or administrative
580 proceeding relating to immigration to the United States, United
581 States citizenship or related matters; or



582 (d) Receive compensation for performing any of the
583 activities listed in this subsection.

584 (2) A notary public may not engage in false or deceptive
585 advertising.

586 (3) A notary public, other than an attorney licensed to
587 practice law in this state, may not use the term "notario" or
588 "notario publico."

589 (4) A notary public, other than an attorney licensed to
590 practice law in this state, may not advertise or represent that
591 the notary public may assist persons in drafting legal records,
592 give legal advice or otherwise practice law. If a notary public
593 who is not an attorney licensed to practice law in this state in
594 any manner advertises or represents that the notary public offers
595 notarial services, whether orally or in a record, including
596 broadcast media, print media and the Internet, the notary public
597 must include the following statement, or an alternate statement
598 authorized or required by the Secretary of State, in the
599 advertisement or representation, prominently and in each language
600 used in the advertisement or representation: "I am not an
601 attorney licensed to practice law in this state. I am not allowed
602 to draft legal records, give advice on legal matters, including
603 immigration, or charge a fee for those activities." If the form
604 of advertisement or representation is not broadcast media, print
605 media or the Internet and does not permit inclusion of the
606 statement required by this subsection because of size, it must be



607 displayed prominently or provided at the place of performance of
608 the notarial act before the notarial act is performed.

609 (5) Except as otherwise allowed by law, a notary public may
610 not withhold access to or possession of an original record
611 provided by a person that seeks performance of a notarial act by
612 the notary public.

613 (6) Failure to comply with subsections (1) through (5) of
614 this section constitutes an unfair or deceptive act as provided in
615 Section 75-24-5.

616 (7) Any person who knowingly and willfully violates
617 subsections (1) through (5) is guilty of a misdemeanor, and upon
618 conviction, must be fined in an amount not to exceed One Thousand
619 Dollars (\$1,000.00).

620 (8) Upon a second conviction of any person under subsections
621 (1) through (5), the offenses being committed within a period of
622 five (5) years, the person is guilty of a misdemeanor, and upon
623 conviction, must be punished by imprisonment in the county jail
624 for a period not to exceed one (1) year or a fine in an amount not
625 to exceed One Thousand Dollars (\$1,000.00), or both.

626 (9) Upon a third or subsequent conviction of any person for
627 violations of subsections (1) through (5), the offenses being
628 committed within a period of five (5) years, the person is guilty
629 of a felony, and upon conviction, must be punished by confinement
630 in the custody of the Mississippi Department of Corrections for a



631 period not to exceed five (5) years or a fine in an amount not to
632 exceed Five Thousand Dollars (\$5,000.00), or both.

633 (10) Criminal convictions in other jurisdictions for
634 violations of substantially similar provisions to those contained
635 in subsections (1) through (5) are counted in computing whether a
636 violation under subsections (1) through (5) is a first, second,
637 third or subsequent offense.

638 **SECTION 25.** Except as otherwise provided in subsection (2)
639 of Section 4 of this act, the failure of a notarial officer to
640 perform a duty or meet a requirement specified in this act does
641 not invalidate a notarial act performed by the notarial officer.
642 The validity of a notarial act under this act does not prevent an
643 aggrieved person from seeking to invalidate the record or
644 transaction that is the subject of the notarial act or from
645 seeking other remedies based on the laws of this state other than
646 this act or the laws of the United States. This section does not
647 validate a purported notarial act performed by an individual who
648 does not have the authority to perform notarial acts.

649 **SECTION 26.** The Secretary of State may adopt any rules
650 necessary to implement this chapter pursuant to the Administrative
651 Procedures Law.

652 **SECTION 27.** A commission as a notary public in effect on
653 July 1, 2019, continues until its date of expiration. A notary
654 public who applies to renew a commission as a notary public on or
655 after July 1, 2019, is subject to and must comply with this act.



656 A notary public, in performing notarial acts after July 1, 2019,
657 must comply with this act.

658 **SECTION 28.** This chapter does not affect the validity or
659 effect of a notarial act performed before July 1, 2019.

660 **SECTION 29.** This chapter modifies, limits and supersedes the
661 Electronic Signatures in Global and National Commerce Act, 15 USC
662 Section 7001 et seq., but does not modify, limit or supersede
663 Section 101(c) of that act, 15 USC Section 7001(c), or authorize
664 electronic delivery of any of the notices described in Section
665 103(b) of that act, 15 USC Section 7003(b).

666 **SECTION 30.** Sections 25-33-1, 25-33-3, 25-33-5, 25-33-7,
667 25-33-9, 25-33-11, 25-33-13, 25-33-15, 25-33-17, 25-33-19,
668 25-33-21, 25-33-23, 25-33-25, 25-33-27, 25-33-29, 25-33-31 and
669 25-33-33, Mississippi Code of 1972, which authorize the
670 appointment of notaries public by the Governor and prescribe the
671 powers and duties of notaries public, are repealed.

672 **SECTION 31.** Section 25-7-29, Mississippi Code of 1972, which
673 authorizes notaries public to charge fees for certain services, is
674 repealed.

675 **SECTION 32.** Section 25-7-1, Mississippi Code of 1972, is
676 amended as follows:

677 25-7-1. It shall be lawful for the Clerk of the Supreme
678 Court, the clerks of the circuit and chancery courts, the clerks
679 of the justice court, masters and commissioners in chancery,
680 sheriffs, constables, justice court judges, * * * and other



681 officers and persons named in this chapter to demand, receive, and
682 take the several fees hereinafter mentioned and allowed for any
683 business by them respectively done by virtue of their several
684 offices, and no more.

685 **SECTION 33.** This act shall take effect and be in force from
686 and after July 1, 2019.

