

By: Senator(s) Doty

To: Judiciary, Division A

SENATE BILL NO. 2722

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 WILL NOT AFFECT THE
36 VALIDITY OR EFFECT OF NOTARIAL ACTS PERFORMED BEFORE JULY 1, 2019;
37 TO 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.



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

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

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

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

(l) "Stamping device" means:

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

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

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

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

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

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



(a) Take acknowledgements;

(b) Administer oaths and affirmations;

(c) Take verifications on oath or affirmation;

(d) Certify depositions of witnesses;

(e) Witness or attest signatures;

(f) Make or note a protest of a negotiable instrument;

(g) Make an affidavit regarding the truth of any witnesses or attested signatures in question along with any corrected language and, if such authenticity or correctness of language affects real property, file the same in the land records in the office of the chancery clerk where such land is located; and

(h) Any other acts so authorized by the law of the State of Mississippi.

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

(a) Is a party to the record being notarized;

(b) Is a spouse, child, sibling, parent, grandparent, grandchild, aunt or uncle, or niece or nephew, including a son or daughter-in-law, a mother or father-in-law, a stepchild or stepparent, or a half sibling, of the person whose signature is being notarized or the person taking a verification on oath or affirmation from the officer; or

(c) Will receive as a direct result any commission, fee, advantage, right, title, beneficial interest, cash, property



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

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

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

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

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

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

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

SECTION 6. (1) A notarial officer who takes an acknowledgment of a record, takes a verification of a statement on oath or affirmation (jurat), or witnesses or attests to a signature, shall determine, from personal knowledge or satisfactory evidence of the identity of the individual, that the 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



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

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

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

(a) The individual executing the record is competent;

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

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

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

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

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

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



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

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

- (a) A notary public of this state;
- (b) An elected judge, a clerk or deputy clerk of a court of this state; or
- (c) The Mississippi Secretary of State or an assistant secretary of state of this state.

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

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

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

- (a) A notary public of that state;
- (b) A judge, a clerk or a deputy clerk of a court of that state; or
- (c) Any other individual authorized by the law of that state to perform the notarial act.



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

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

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

(a) A notary public authorized by the tribe;

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

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

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

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



SECTION 14.

(1) A notarial act performed under federal law has the same effect under the law of this state as if performed by a notarial officer of this state, if the act performed under federal law is performed by:

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

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

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

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

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

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

SECTION 15.

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

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



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

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

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

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

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



SECTION 16.

(1) A notarial act must be evidenced by a certificate. The certificate must:

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

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

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

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

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

(2) If a notarial act regarding a tangible record is performed by a notary public, the notary public's official seal must be affixed to the certificate. If a notarial act is performed regarding a tangible record by a notarial officer other than a notary public and the certificate contains the information specified in subsection (1)(b), (c) and (d), the notarial officer's official seal may be affixed to the certificate. If a notarial act regarding an electronic record is performed by a notarial officer and the certificate contains the information specified in subsection (1)(b), (c) and (d), the notarial officer's official seal may be attached to or logically associated 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,



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

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

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

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

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

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



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

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

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



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

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

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

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

- (a) The date and time of the notarial act;
- (b) A description of the record, if any, and type of notarial act;
- (c) The full name and address of each individual for whom the notarial act is performed;
- (d) If identity of the individual is based on personal 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.



SECTION 20.

(1) A notary public may perform a notarial act with respect to electronic records pursuant to this act.

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

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

SECTION 21.

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

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

- (a) Be at least eighteen (18) years of age;
- (b) Be a citizen or permanent legal resident of the United States;
- (c) Be a resident of Mississippi for a period of not less than thirty (30) days immediately preceding the date of the application;
- (d) Be able to read and write English;



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

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

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

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



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

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

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

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

(a) Failure to comply with this act;

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

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

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



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

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

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

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

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

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

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

(2) If the Secretary of State denies, refuses to renew,
revokes, suspends or imposes conditions on a commission as a
notary public, the applicant or notary public is entitled to file
an appeal in proper form with the Secretary of State within
forty-five (45) days after denial, except that an applicant may
not appeal when the Secretary of State, within five (5) years
preceding 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 this act that the grounds for revocation of the applicant's commission existed.

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

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

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

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

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

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

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

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



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

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

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

(4) A notary public, other than an attorney licensed to practice law in this state, may not advertise or represent that the notary public may assist persons in drafting legal records, give legal advice or otherwise practice law. If a notary public who is not an attorney licensed to practice law in this state in any manner advertises or represents that the notary public offers notarial services, whether orally or in a record, including broadcast media, print media and the Internet, the notary public must include the following statement, or an alternate statement authorized or required by the Secretary of State, in the advertisement or representation, prominently and in each language used in the advertisement or representation: "I am not an attorney licensed to practice law in this state. I am not allowed to draft legal records, give advice on legal matters, including immigration, or charge a fee for those activities." If the form of advertisement or representation is not broadcast media, print media or the Internet and does not permit inclusion of the 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



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

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

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

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

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



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

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

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

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

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

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

25-7-1. It shall be lawful for the Clerk of the Supreme Court, the clerks of the circuit and chancery courts, the clerks of the justice court, masters and commissioners in chancery, 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.

