

By: Representative Aguirre

To: Accountability,
Efficiency, Transparency

HOUSE BILL NO. 1105

1 AN ACT TO AMEND SECTION 25-34-9, MISSISSIPPI CODE OF 1972, TO
2 AUTHORIZE THE SECRETARY OF STATE TO PROMULGATE RULES REGARDING
3 WHEN A NOTARY IS PERMITTED TO CHARGE A FEE FOR SERVICES RENDERED;
4 TO AMEND SECTION 25-34-41, MISSISSIPPI CODE OF 1972, TO PROVIDE
5 THAT A NOTARY PUBLIC SHALL NOT BE REQUIRED TO BE A RESIDENT OF
6 MISSISSIPPI IF HE OR SHE IS AN EMPLOYEE IN, OR HAS A PRACTICE IN,
7 MISSISSIPPI; TO AMEND SECTION 25-34-37, MISSISSIPPI CODE OF 1972,
8 TO CONFORM TO THE PRECEDING SECTION; AND FOR RELATED PURPOSES.

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

10 **SECTION 1.** Section 25-34-9, Mississippi Code of 1972, is
11 amended as follows:

12 25-34-9. A notarial officer may charge a fee in an amount
13 not to exceed Five Dollars (\$5.00) for services rendered * * *
14 where permitted by law or by rules promulgated by the Secretary of
15 State.

16 **SECTION 2.** Section 25-34-41, Mississippi Code of 1972, is
17 amended as follows:

18 25-34-41. (1) An individual qualified under subsection (2)
19 may apply to the Secretary of State for a commission as a notary
20 public. The applicant must comply with and provide the



21 information required by rules established by the Secretary of
22 State and pay any application fee.

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

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

25 (b) Be a citizen or permanent legal resident of the
26 United States;

27 (c) Be a resident of Mississippi, or if not a resident
28 of Mississippi, be an employee in, or have a practice in,
29 Mississippi, for not less than thirty (30) days immediately
30 preceding the date of the application;

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

32 (e) Not be disqualified to receive a commission under
33 Section 25-34-43; and

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

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

40 (4) Before issuance of a commission as a notary public, the
41 applicant for a commission must submit to the Secretary of State
42 an assurance in the form of a surety bond or its functional
43 equivalent in the amount of Five Thousand Dollars (\$5,000.00)
44 pursuant to the rules set forth by the Secretary of State. The
45 assurance must be issued by a surety or other entity licensed by



46 the Mississippi Department of Insurance. The assurance must cover
47 acts performed during the term of the notary public's commission
48 and must be in the form prescribed by the Secretary of State. If
49 a notary public violates a law with respect to notaries public in
50 this state, the surety or issuing entity is liable under the
51 assurance. The surety or issuing entity must give thirty (30)
52 days' notice to the Secretary of State before canceling the
53 assurance. The surety or issuing entity must notify the Secretary
54 of State not later than thirty (30) days after making a payment to
55 a claimant under the assurance. A notary public may perform
56 notarial acts in this state only during the period that a valid
57 assurance is on file with the Secretary of State.

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

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

65 **SECTION 3.** Section 25-34-37, Mississippi Code of 1972, is
66 amended as follows:

67 25-34-37. (1) A notary public must maintain a journal in
68 which the notary public chronicles all notarial acts that the
69 notary public performs.



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

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

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

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

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

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

87 (e) If identity of the individual is based on
88 satisfactory evidence, a brief description of the method of
89 identification and the identification credential presented, if
90 any, including the date of issuance and expiration of any
91 identification credential;

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

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



95 (4) If the journal of notary public is lost or stolen, the
96 notary public must notify promptly the Secretary of State upon
97 discovery that the journal is lost or stolen.

98 (5) On resignation from, or the revocation or suspension of,
99 a notary public's commission, the notary public must deposit all
100 journal records with the circuit clerk of the county of residence
101 or employment of the notary public.

102 (6) Upon the death or adjudication of incompetency of a
103 current or former notary public, the notary public's personal
104 representative or guardian or any other person knowingly in
105 possession of the journal shall:

106 (a) Notify the Secretary of State of the death or
107 adjudication in writing; and

108 (b) Within thirty (30) days of death or adjudication of
109 incompetency, transmit all journal records to the circuit clerk of
110 the county of residence or employment of the notary public.

111 **SECTION 4.** This act shall take effect and be in force from
112 and after July 1, 2022.

