

By: Representatives Hulum, Yancey

To: Business and Commerce

HOUSE BILL NO. 1257

1 AN ACT TO AMEND SECTION 25-34-9, MISSISSIPPI CODE OF 1972, TO
 2 CLARIFY THAT NOTARIES PUBLIC MAY CHARGE A FEE EXCEEDING \$5.00 WHEN
 3 PERMITTED TO DO SO BY STATE LAW OR RULES PROMULGATED BY THE
 4 SECRETARY OF STATE; TO AMEND SECTION 25-34-7, MISSISSIPPI CODE OF
 5 1972, IN CONFORMITY TO THE PRECEDING PROVISIONS; TO AMEND SECTION
 6 25-34-41, MISSISSIPPI CODE OF 1972, TO AUTHORIZE QUALIFIED
 7 NONRESIDENTS OF THE STATE OF MISSISSIPPI WHO ARE EMPLOYED OR HAVE
 8 A PRACTICE WITHIN THE STATE TO BE ISSUED A COMMISSION AS A NOTARY
 9 PUBLIC; TO AMEND SECTION 25-34-37, MISSISSIPPI CODE OF 1972, IN
 10 CONFORMITY TO THE PRECEDING PROVISIONS; AND FOR RELATED PURPOSES.

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

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

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

18 **SECTION 2.** Section 25-34-7, Mississippi Code of 1972, is
 19 amended as follows:

20 25-34-7. (1) A notarial officer may perform the following
 21 notarial acts:

22 (a) Take acknowledgements;



- 23 (b) Administer oaths and affirmations;
24 (c) Take verifications on oath or affirmation;
25 (d) Certify depositions of witnesses;
26 (e) Witness or attest signatures;
27 (f) Make or note a protest of a negotiable instrument;
28 (g) Make an affidavit regarding the truth of any
29 witnesses or attested signatures in question along with any
30 corrected language and, if the authenticity or correctness of
31 language affects real property, file the same in the land records
32 in the office of the chancery clerk where the land is located; and
33 (h) Any other acts so authorized by the law of this
34 state.

35 (2) A notarial officer may not perform a notarial act when
36 the officer:

- 37 (a) Is a party to the record being notarized;
38 (b) Is a spouse, child, sibling, parent, grandparent,
39 grandchild, aunt or uncle, or niece or nephew, including a son or
40 daughter-in-law, a mother or father-in-law, a stepchild or
41 stepparent, or a half-sibling, of the person whose signature is
42 being notarized or the person taking a verification on oath or
43 affirmation from the officer; or
44 (c) Will receive as a direct result any commission,
45 fee, advantage, right, title, beneficial interest, cash, property
46 or other consideration exceeding in value the fees * * * permitted
47 by rules established by the Secretary of State.



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

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

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

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

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

60 **SECTION 3.** Section 25-34-41, Mississippi Code of 1972, is
61 amended as follows:

62 25-34-41. (1) An individual qualified under subsection (2)
63 may apply to the Secretary of State for a commission as a notary
64 public. The applicant must comply with and provide the
65 information required by rules established by the Secretary of
66 State and pay any application fee.

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

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

69 (b) Be a citizen or permanent legal resident of the
70 United States;

71 (c) Be a resident of Mississippi or a nonresident who
72 is an employee or has a practice in the State of Mississippi for



73 not less than thirty (30) days immediately preceding the date of
74 the application;

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

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

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

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

84 (4) Before issuance of a commission as a notary public, the
85 applicant for a commission must submit to the Secretary of State
86 an assurance in the form of a surety bond or its functional
87 equivalent in the amount of Five Thousand Dollars (\$5,000.00)
88 pursuant to the rules set forth by the Secretary of State. The
89 assurance must be issued by a surety or other entity licensed by
90 the Mississippi Department of Insurance. The assurance must cover
91 acts performed during the term of the notary public's commission
92 and must be in the form prescribed by the Secretary of State. If
93 a notary public violates a law with respect to notaries public in
94 this state, the surety or issuing entity is liable under the
95 assurance. The surety or issuing entity must give thirty (30)
96 days' notice to the Secretary of State before canceling the
97 assurance. The surety or issuing entity must notify the Secretary



98 of State not later than thirty (30) days after making a payment to
99 a claimant under the assurance. A notary public may perform
100 notarial acts in this state only during the period that a valid
101 assurance is on file with the Secretary of State.

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

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

109 **SECTION 4.** Section 25-34-37, Mississippi Code of 1972, is
110 amended as follows:

111 25-34-37. (1) A notary public must maintain a journal in
112 which the notary public chronicles all notarial acts that the
113 notary public performs.

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



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

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

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

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

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

131 (e) If identity of the individual is based on
132 satisfactory evidence, a brief description of the method of
133 identification and the identification credential presented, if
134 any, including the date of issuance and expiration of any
135 identification credential;

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

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

139 (4) If the journal of a notary public is lost or stolen, the
140 notary public must notify promptly the Secretary of State upon
141 discovery that the journal is lost or stolen.

142 (5) On resignation from, or the revocation or suspension of,
143 a notary public's commission, the notary public must deposit all
144 journal records with the circuit clerk of the county of residence
145 or employment of the notary public.



146 (6) Upon the death or adjudication of incompetency of a
147 current or former notary public, the notary public's personal
148 representative or guardian or any other person knowingly in
149 possession of the journal shall:

150 (a) Notify the Secretary of State of the death or
151 adjudication in writing; and

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

155 **SECTION 5.** This act shall take effect and be in force from
156 and after July 1, 2024.

