

The House Committee on Judiciary offers the following substitute to HB 381:

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 45 of the Official Code of Georgia Annotated, relating to public officers and
2 employees, so as to repeal Chapter 17, relating to notaries public, and enact the "Revised
3 Georgia Law on Notarial Acts of 2015"; to provide for a short title; to provide for definitions;
4 to provide for applicability; to provide for the authority to perform a notarial act; to provide
5 for requirements for certain notarial acts; to provide appearances and identification of
6 individuals seeking notarization; to provide for refusal to notarize; to provide for signatures
7 when a person is physically unable to sign a record; to provide for notarial acts performed
8 in this state, in other states, and under authority of federally recognized Indian tribes and
9 federal authority; to provide for foreign notarial acts; to provide for certificate of notarial act;
10 to provide for forms; to provide for the power to commission a notary public; to provide for
11 qualifications, examination, and commission for a notary public; to provide for the contents
12 of an official seal; to provide for a journal; to provide for electronic records; to provide for
13 an examination and course of study; to provide for denial, revocation, and suspension of a
14 notary public's commission; to provide for a data base of notaries public; to provide for
15 prohibited acts; to provide for fees; to provide for change of residence, address, or name of
16 a notary public; to provide for validity of notarial acts; to provide for rules or regulations; to
17 provide for application, construction, savings clause, interaction with federal law, and
18 penalties; to amend Article 2 of Chapter 6 of Title 15 of the Official Code of Georgia
19 Annotated, relating to clerks of superior courts, so as to revise cross-references; to provide
20 for related matters; to provide effective dates; to repeal conflicting laws; and for other
21 purposes.

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

23 **SECTION 1.**

24 This Act shall be known and may be cited as the "Revised Georgia Law on Notarial Acts of
25 2015."

H. B. 381 (SUB)

26 **SECTION 2.**

27 Title 45 of the Official Code of Georgia Annotated, relating to public officers and employees,
 28 is amended by repealing in its entirety Chapter 17, relating to notaries public, and enacting
 29 a new Chapter 17 to read as follows:

30 "CHAPTER 1731 45-17-1.

32 As used in this chapter, the term:

33 (1) 'Acknowledgment' means a declaration by an individual that the individual has signed
 34 for the purpose stated in the record and, if signed in a representative capacity, that the
 35 individual signed with proper authority and as the act of the individual or entity
 36 identified.

37 (2) 'Attesting' or 'attestation' means bearing witness to a signature or execution of a
 38 record.

39 (3) 'Electronic' means relating to technology having electrical, digital, magnetic,
 40 wireless, optical, electromagnetic, or similar capabilities.

41 (4) 'Electronic signature' means an electronic symbol, sound, or process attached to or
 42 logically associated with a record and executed or adopted by an individual with the
 43 intent to sign.

44 (5) 'In a representative capacity' means acting as:

45 (A) An authorized officer, agent, partner, trustee, or other representative for a person
 46 other than an individual;

47 (B) A public officer, personal representative, guardian, or other representative in the
 48 capacity stated;

49 (C) An agent or attorney-in-fact for a principal; or

50 (D) An authorized representative of another in any other capacity.

51 (6) 'Notarial act' means, pertaining to a record:

52 (A) Attesting a signature;

53 (B) Taking an acknowledgment;

54 (C) Administering an oath or affirmation which is not required by law to be
 55 administered by a particular officer;

56 (D) Taking a verification on oath or affirmation;

57 (E) Certifying or attesting a copy as authorized; or

58 (F) Noting a protest of a negotiable instrument.

59 (7) 'Notarial officer' means a notary public or other individual authorized by law to
 60 perform a notarial act.

61 (8) 'Person' means an individual, corporation, business trust, statutory trust, estate, trust,
 62 partnership, limited liability company, association, joint venture, public corporation,
 63 government or governmental subdivision, agency, or instrumentality, or any other legal
 64 or commercial entity.

65 (9) 'Public record' means any document, whether in a tangible or electronic format, on
 66 file with a government entity and open to public inspection.

67 (10) 'Record' means information that is inscribed or that is stored and is retrievable in
 68 perceivable form.

69 (11) 'Sign' means, with present intent to authenticate or adopt a record:

70 (A) To execute or adopt a tangible symbol; or

71 (B) To attach to or logically associate an electronic symbol, sound, or process.

72 (12) 'Signature' means a tangible symbol or an electronic signature that evidences
 73 signing.

74 (13) 'Verification on oath or affirmation' means a declaration, made by an individual on
 75 oath or affirmation, that a statement in a record is true.

76 45-17-2.

77 This chapter shall apply to a notarial act performed on or after July 1, 2016.

78 45-17-3.

79 (a) A notarial officer shall not perform a notarial act when such officer or his or her spouse
 80 is a party to the record being notarized or in which either such officer or his or her spouse
 81 has a direct beneficial interest. A notarial act performed in violation of this subsection
 82 shall be void ab initio.

83 (b) A notarial officer shall have authority to:

84 (1) Perform a notarial act;

85 (2) Witness affidavits upon oath or affirmation;

86 (3) Make certified copies, provided that the document presented for copying is an
 87 original document and is neither a public record nor a publicly recorded document; and

88 (4) Perform such other acts as authorized by other laws of this state.

89 45-17-4.

90 (a) A notarial officer who takes an acknowledgment of a record shall determine, from
 91 personal knowledge or satisfactory evidence of the identity of the individual, that the
 92 individual appearing before the officer and making the acknowledgment has the identity
 93 claimed and that the signature on the record is that of the individual.

94 (b) A notarial officer who takes a verification on oath or affirmation shall determine, from
 95 personal knowledge or satisfactory evidence of the identity of the individual, that the
 96 individual appearing before the officer and making the verification on oath or affirmation
 97 has the identity claimed and that the signature is that of the individual.

98 (c) A notarial officer who attests to a signature shall determine, from personal knowledge
 99 or satisfactory evidence of the identity of the individual, that the individual appearing
 100 before the officer and signing the record has the identity claimed.

101 (d) A notarial officer who certifies or attests a copy of a record or an item that was copied
 102 shall determine that the copy is a full, true, and accurate transcription or reproduction of
 103 the record or item.

104 (e) A notarial officer who makes or notes a protest of a negotiable instrument shall
 105 determine the matters set forth in subsection (b) of Code Section 11-3-505.

106 45-17-5.

107 If a notarial act relates to a statement made in or a signature executed on a record, the
 108 individual making the statement or executing the signature shall appear personally before
 109 the notarial officer.

110 45-17-6.

111 (a) A notarial officer shall be deemed to have personal knowledge of the identity of an
 112 individual appearing before such officer if the individual is personally known to the officer
 113 through dealings sufficient to provide reasonable certainty that the individual has the
 114 identity claimed.

115 (b) A notarial officer shall be deemed to have satisfactory evidence of the identity of an
 116 individual appearing before such officer if the officer can identify the individual by means
 117 of inspecting:

118 (1) A current passport, driver's license, or other government issued identification card;
 119 or

120 (2) Another form of government identification issued to an individual that is current,
 121 contains the signature and photograph of the individual, and is satisfactory to the officer.

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

124 45-17-7.

125 (a) A notarial officer may refuse to perform a notarial act if the officer knows or suspects
 126 the transaction is illegal, false, or deceptive or such officer is not satisfied that:

127 (1) The individual executing the record is competent;

128 (2) The individual executing the record has the capacity to execute the record; or

129 (3) The individual's signature is knowingly and voluntarily made.

130 (b) A notarial officer may refuse to perform a notarial act.

131 45-17-8.

132 If an individual is physically unable to sign, the individual may direct an individual other
133 than the notarial officer to sign the individual's name so long as all parties appear
134 personally before the notarial officer. The notarial officer shall insert 'Signature affixed
135 by (name of other individual) at the direction of (name of individual)' or words of similar
136 import.

137 45-17-9.

138 (a) A notarial act may be performed in any county in this state by:

139 (1) A notary public of this state; or

140 (2) Any other individual authorized by the laws of this state to perform the notarial act.

141 (b) The signature and title of an individual performing a notarial act in this state shall be
142 prima-facie evidence that his or her signature is genuine and that the individual holds the
143 designated title.

144 (c) The signature and title of an individual described in subsection (a) of this Code section
145 shall be prima-facie evidence of the authority of such individual to perform the notarial act.

146 45-17-10.

147 (a) As used in this Code section, the term 'another state' means a state of the United States
148 other than Georgia, the District of Columbia, Puerto Rico, the United States Virgin Islands,
149 or any territory or insular possession subject to the jurisdiction of the United States.

150 (b) A notarial act performed in another state shall have the same effect under the laws of
151 this state as though performed by a notarial officer of this state if the laws of another state
152 are substantially similar to the laws of this state and the act performed in another state is
153 performed by:

154 (1) A notary public of another state; or

155 (2) Any other individual authorized by the law of another state to perform a notarial act.

156 (c) The signature and title of an individual performing a notarial act in another state shall
157 be prima-facie evidence that his or her signature is genuine and that the individual holds
158 the designated title.

159 (d) The signature and title of an individual described in subsection (b) of this Code section
160 shall be prima-facie evidence of the authority of such individual to perform the notarial act.

161 45-17-11.

162 (a) A notarial act performed under the authority and in the jurisdiction of a federally
 163 recognized Indian tribe shall have the same effect under the laws of this state as though
 164 performed by a notarial officer of this state if the laws of the federally recognized Indian
 165 tribe are substantially similar to the laws of this state and the act performed in the
 166 jurisdiction of the tribe is performed by:

167 (1) A notary public of the tribe; or

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

169 (b) The signature and title of an individual performing a notarial act under the authority
 170 of and in the jurisdiction of a federally recognized Indian tribe shall be prima-facie
 171 evidence that his or her signature is genuine and that the individual holds the designated
 172 title.

173 (c) The signature and title of an individual described in subsection (a) of this Code section
 174 shall be prima-facie evidence of the authority of such individual to perform the notarial act.

175 45-17-12.

176 (a) A notarial act performed under federal law shall have the same effect under the laws
 177 of this state as though performed by a notarial officer of this state if the act performed
 178 under federal law is performed by:

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

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

183 (3) Any other individual authorized by federal law to perform a notarial act.

184 (b) The signature and title of an individual performing a notarial act under federal
 185 authority shall be prima-facie evidence that his or her signature is genuine and that the
 186 individual holds the designated title.

187 (c) The signature and title of an individual described in subsection (a) of this Code section
 188 shall be prima-facie evidence of the authority of such individual to perform the notarial act.

189 45-17-13.

190 (a) As used in this Code section, the term 'foreign state' means a government other than
 191 the United States, a federally recognized Indian tribe, this state, or another state as such
 192 term is defined in Code Section 45-17-10. Such term shall not mean the government of
 193 Cuba, Iran, Sudan, or Syria.

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

196 or international governmental organization, such act shall have the same effect under the
 197 laws of this state as though performed by a notarial officer of this state.

198 (c) If the title of office and indication of authority to perform notarial acts in a foreign state
 199 appears in a digest of foreign law or in a list customarily used as a source for such
 200 information, the authority of an officer with that title to perform notarial acts shall be
 201 prima-facie evidence of his or her title and authority to perform notarial acts in a foreign
 202 state.

203 (d) The signature and official seal of an individual holding an office described in
 204 subsection (c) of this Code section shall be prima-facie evidence that his or her signature
 205 is genuine and the individual holds the designated title.

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

209 (f) A consular authentication issued by an individual designated by the United States
 210 Department of State as a notarizing officer for performing notarial acts overseas and
 211 attached to the record on which the notarial act is performed shall conclusively establish
 212 that his or her signature is genuine and that the officer holds the indicated office.

213 45-17-14.

214 (a) A notarial act shall be evidenced by a certificate. The certificate shall:

- 215 (1) Be executed contemporaneously with the performance of a notarial act;
 216 (2) Be signed and dated by the notarial officer and, if the notarial officer is a notary
 217 public, be signed in the same manner as is on file with the clerk of superior court who
 218 issued the notary public's commission;
 219 (3) Identify the jurisdiction in which the notarial act is performed;
 220 (4) Contain the title of office of the notarial officer; and
 221 (5) If the notarial officer is a notary public, indicate the date of expiration of the notary
 222 public's commission and identify the notarial act performed.

223 (b) If a notarial act regarding a tangible record is performed by a notary public, the notary
 224 public's official seal shall be affixed to the certificate. If a notarial act is performed
 225 regarding a tangible record by a notarial officer other than a notary public and the
 226 certificate contains the information specified in paragraphs (2) through (4) of subsection (a)
 227 of this Code section, the notarial officer's official seal may be affixed to the certificate. If
 228 a notarial act regarding an electronic record is performed by a notarial officer and the
 229 certificate contains the information specified in paragraphs (2) through (4) of subsection (a)
 230 of this Code section, the notarial officer's official seal may be attached to or logically
 231 associated with the certificate.

232 (c) A certificate of a notarial act shall be sufficient if it meets the requirements of
 233 subsections (a) and (b) of this Code section and:

234 (1) Is in a short form set forth in Code Section 45-17-15;

235 (2) Is in a form otherwise permitted by the laws of this state;

236 (3) Is in a form permitted by the law applicable in the jurisdiction in which the notarial
 237 act was performed; or

238 (4) Sets forth the actions of the notarial officer and his or her actions are sufficient to
 239 meet the requirements provided in Code Sections 45-17-3 through 45-17-6.

240 (d) By executing a certificate of a notarial act, a notarial officer certifies that he or she has
 241 complied with the requirements and made the determinations specified in Code Sections
 242 45-17-3 through 45-17-6.

243 (e) A notarial officer shall not affix his or her signature to, or logically associate it with,
 244 a certificate until the notarial act has been performed.

245 (f) If a notarial act is performed regarding a tangible record, a certificate shall be made a
 246 part of, or securely attached to, such record. If a notarial act is performed regarding an
 247 electronic record, a certificate shall be affixed to, or logically associated with, the
 248 electronic record and shall conform to any rules or regulations established pursuant to Code
 249 Section 45-17-30.

250 (g) The signature of a notarial officer certifying a notarial act shall not be evidence to show
 251 that such notarial officer had knowledge of the contents of the record so signed, other than
 252 those specific contents which constitute the signature, execution, acknowledgment, oath,
 253 affirmation, affidavit, verification, or other act which the signature of that notarial officer
 254 chronicles, nor shall a certification by a notarial officer that a record is a certified or true
 255 copy of an original document be evidence to show that such notarial officer had knowledge
 256 of the contents of the record so certified.

257 45-17-15.

258 The following short form certificates of notarial acts shall be sufficient for the purposes
 259 indicated, if completed with the information required by subsections (a) and (b) of Code
 260 Section 45-17-14:

261 (1) For an acknowledgment in an individual capacity:

262 State of _____

263 County of _____

264 This record was acknowledged before me on (date) by (name(s) of individual(s)).

265 _____

266 Signature of notarial officer

267 Seal

268 _____

269 Title of office

270 My commission expires: _____

271 (2) For an acknowledgment in a representative capacity:

272 State of _____

273 County of _____

274 This record was acknowledged before me on (date) by (name(s) of individual(s))
275 as (title) of (name of party on behalf of whom record was executed) .

276 _____

277 Signature of notarial officer

278 Seal

279 _____

280 Title of office

281 My commission expires: _____

282 (3) For a verification on oath or affirmation:

283 State of _____

284 County of _____

285 Signed and sworn to (or affirmed) before me on (date) by (name(s) of individual(s)
286 making statement).

287 _____

288 Signature of notarial officer

289 Seal

290 _____

291 Title of office

292 My commission expires: _____

293 (4) For witnessing or attesting a signature:

294 State of _____

295 County of _____

296 Signed or attested before me on (date) by (name(s) of individual(s)) _____.

297 _____

298 Signature of notarial officer

299 Seal

300 _____

301 Title of office

302 My commission expires: _____

303 (5) For certifying a copy of a record:

304 State of _____

305 County of _____

306 I certify that this is a true and correct copy of a record in the possession

307 of _____.

308 Dated _____

309 _____

310 Signature of notarial officer

311 Seal

312 _____

313 Title of office

314 My commission expires: _____

315 45-17-16.

316 The clerks of the superior court shall have the power to issue a commission to a notary
317 public.

318 45-17-17.

319 (a) An applicant for a commission as a notary public shall:

320 (1) Be at least 18 years old;

321 (2) Be a citizen of the United States;

322 (3) Except as provided in subsection (c) of this Code section, be a legal resident of the
323 county from which such individual is appointed;

324 (4) Have, and provide at the time of the application, the applicant's operating telephone
325 number;

326 (5) Be able to read and write the English language;

327 (6) Have passed the examination required by Code Section 45-17-22;

328 (7) Submit at least one set of classifiable electronically recorded fingerprints to the
329 sheriff of the county where the applicant resides. Such sheriff shall submit such
330 fingerprints to the Georgia Crime Information Center, which shall submit the fingerprints
331 to the Federal Bureau of Investigation for a search of bureau records and an appropriate
332 report and promptly conduct a search of state records based upon the fingerprints, and
333 return such report to the clerk of superior court. The sheriff shall collect the applicable
334 fee charged by the Georgia Crime Information Center; and

335 (8) Not have been convicted of any felony or of any crime involving fraud, dishonesty,
336 or deceit in the courts of this state or another state. As used in this paragraph, the term
337 'another state' shall have the same meaning as set forth in Code Section 45-17-10; the
338 term 'felony' shall mean any offense which, if committed in this state, would be deemed
339 a felony, without regard to its designation elsewhere; and the term 'conviction' shall mean
340 a finding or verdict of guilty or a plea of guilty, regardless of whether an appeal of the
341 conviction has been sought.

342 (b) An individual qualified under subsection (a) of this Code section may apply to the
343 clerk of superior court for a commission as a notary public. After receiving the report from
344 the Georgia Crime Information Center and the Federal Bureau of Investigation, the clerk
345 of superior court shall determine whether the applicant may be commissioned or a renewal
346 shall be issued. The applicant shall comply with and provide the information required by
347 rules or regulations established pursuant to Code Section 45-17-30 and pay the application
348 fee set forth in Code Section 15-6-77 or 15-6-77.3, as applicable.

349 (c)(1) Any individual who is a resident of Alabama, Florida, North Carolina, South
350 Carolina, or Tennessee may be commissioned as a notary public by the clerk of the

351 superior court of the county in which the individual carries on such business, profession,
352 or employment so long as he or she meets all of the requirements of this subsection and
353 he or she:

354 (A) Carries on a business or profession in the State of Georgia; or

355 (B) Is regularly employed in this state.

356 (2) The nonresident applicant described in paragraph (1) of this subsection shall submit
357 the application, endorsements, and declaration of applicant required by subsection (f) of
358 this Code section to the clerk of superior court in the county in which such individual
359 carries on his or her business, profession, or employment. The clerk of superior court
360 shall approve or deny such application based on the provisions of this Code section.
361 Upon approval and payment of the fee set forth in Code Section 15-6-77 or 15-6-77.3,
362 as applicable, the applicant shall be commissioned as a notary public of this state and
363 shall be authorized to perform all of the duties and exercise all of the powers and
364 authorities relating to notaries public who are residents of this state.

365 (d) Any individual desiring to be a notary public shall submit an application to the clerk
366 of superior court of the county in which the individual resides or, when applying under the
367 provisions of subsection (c) of this Code section, to the clerk of superior court of the county
368 in which the individual carries on a business, profession, or employment. Except for
369 applicants applying under the provisions of subsection (c) of this Code section, the
370 applicant shall submit proof to the clerk of superior court that he or she resides in the
371 county in which he or she is applying. Such proof shall consist of one of the following:

372 (1) An unexpired Georgia driver's license;

373 (2) An unexpired United States passport;

374 (3) An unexpired voter identification card; or

375 (4) Such other unexpired identification issued by a local or state government or by the
376 United States government.

377 (e) The applicant shall sign and swear or affirm as outlined in subsection (g) of this Code
378 section to the truthfulness of the application which shall state:

379 (1) That the applicant resides or carries on a business, profession, or employment in the
380 county of application and the address of the residence or business. The applicant shall
381 use his or her residential address for purposes of the application and shall only use a
382 business address for the application if the applicant is applying pursuant to the provisions
383 of subsection (c) of this Code section;

384 (2) That the applicant is at least 18 years old;

385 (3) That the applicant is a citizen of the United States;

386 (4) That the applicant can read and write the English language;

387 (5) That the applicant has an operating telephone number; and

388 (6) All denials, revocations, suspensions, restrictions, or resignations of a notary public
389 commission held by the applicant.

390 (f) A declaration of an applicant shall be signed in the presence of a notarial officer. The
391 declaration shall be in the following form:

392 I, _____, do solemnly swear or affirm under penalty of perjury
393 that the personal information I have written in this application is true, complete, and
394 correct.

395 _____
396 (Signature of applicant)

397 State of _____
398 County of _____

399 On this day of _____, before me appeared _____,
400 the person who signed the preceding declaration in my presence and who swore or
401 affirmed that (he/she) understood the document and freely declared it to be truthful.

402 _____
403 (Signature of the notarial officer)

404 _____
405 (Seal of the notarial officer)

406 (g) Before issuance of a commission as a notary public, an applicant for the commission
407 shall take and subscribe before the clerk of the superior court the following oath, which
408 shall be entered on the superior court minutes:

409 I, _____, do solemnly swear or affirm that I will well and truly
410 perform the duties of a notary public to the best of my ability; and I further swear or
411 affirm that I am not the holder of any public money belonging to this state and
412 unaccounted for, so help me God.'

413 (h) Upon compliance with this Code section, the clerk of superior court shall issue a
414 commission as a notary public to an applicant for a term of four years.

415 (i) A commission to act as a notary public shall authorize the notary public to perform
416 notarial acts. A commission shall not provide the notary public with any immunity or
417 benefit conferred by the laws of this state on public officials or employees.

418 45-17-18.

419 (a) A notary public's official seal may be circular but shall not be more than two inches in
420 diameter or may be rectangular but shall not be more than one inch in width by two and
421 one-half inches in length. The official seal of a notary public shall:

422 (1) Have for its impression the notary public's name as commissioned, the words 'Notary
423 Public,' the words 'State of Georgia,' the county name of appointment, the commission
424 expiration date, and the unique number assigned to the notary public and issued by the
425 clerk of superior court or his or her designee;

426 (2) Be photographically reproducible with the record to which it is affixed or attached
427 or with which it is logically associated, and the impression shall be made in a manner that
428 ensures a clear, legible, and sufficiently dark image when photocopied or scanned;

429 (3) Not contain any words, numbers, or symbols other than those referenced in
430 paragraph (1) of this subsection; and

431 (4) Be surrounded by a border except as otherwise permitted by the rules or regulations
432 of the Georgia Superior Court Clerks' Cooperative Authority.

433 (b) A notary public shall be responsible for the security of his or her official seal and shall
434 not allow another individual to use his or her official seal to perform a notarial act. On
435 resignation from, or the revocation or expiration of, the notary public's commission, or on
436 the expiration of the date set forth in the official seal, if any, the notary public shall disable
437 the official seal by destroying, defacing, damaging, erasing, or securing it in a manner that
438 renders it unusable. On the death or adjudication of incompetency of a notary public, his
439 or her personal representative or guardian or any other person knowingly in possession of
440 such notary public's official seal shall render it unusable by destroying, defacing,
441 damaging, erasing, or securing it against use in a manner that renders it unusable.

442 (c) If a notary public's official seal is lost or stolen, the notary public or the notary public's
443 personal representative or guardian shall notify the clerk of superior court and the Georgia
444 Superior Court Clerks' Cooperative Authority within ten days of discovering that such
445 official seal is lost or stolen.

446 (d) A notary public's official seal is the property of the notary public only and shall not be
447 retained or used by any other person including an employer of a notary public even if the
448 employer purchased or paid for the notary public's official seal.

449 (e) It shall be unlawful for any person to supply a notary public official seal to any
450 individual unless the individual has presented a copy of the evidence of the commissioning
451 of the individual as a notary public. It shall be unlawful for any individual to order or
452 obtain a notary public official seal unless such individual is commissioned as a notary
453 public.

454 45-17-19.

455 (a) A notary public shall maintain a journal in which he or she shall chronicle all notarial
456 acts he or she performs. A notary public shall retain his or her journal for ten years after
457 the performance of the last notarial act chronicled in such journal.

458 (b) A journal may be created on a tangible medium or in an electronic format. A notary
459 public shall maintain only one journal at a time to chronicle all notarial acts, whether those
460 notarial acts are performed regarding tangible or electronic records. If a journal is
461 maintained on a tangible medium, it shall be a permanent, bound register with numbered
462 pages. If a journal is maintained in an electronic format, it shall be in a permanent,
463 tamper-evident electronic format that complies with the rules or regulations established
464 pursuant to Code Section 45-17-30.

465 (c) A journal entry shall be made contemporaneously with performing the notarial act and
466 contain the following information:

467 (1) The date and time of the notarial act and a description of the type of notarial act;

468 (2) A description of the tangible or electronic record being notarized;

469 (3) The full name and address of each individual for whom the notarial act is performed;

470 (4) If identity of the individual is based on personal knowledge, a statement to that
471 effect;

472 (5) If identity of the individual is based on satisfactory evidence, a brief description of
473 the method of identification and the identification credential presented, including the date
474 of issuance and expiration of the identification credential; and

475 (6) The fee, if any, charged by the notary public.

476 (d) Upon discovering that a notary public's journal is lost or stolen, the notary public shall
477 promptly notify the clerk of superior court who issued his or her commission and the
478 Georgia Superior Court Clerks' Cooperative Authority.

479 (e) When a notary public's commission is suspended or revoked, the notary public shall
480 transmit his or her journal to the clerk of superior court who issued his or her commission
481 or a repository approved by such clerk of superior court. The clerk of superior court shall
482 retain such journals for ten years and thereafter may destroy such journals or may digitally
483 copy each journal, in which case the original journals may be destroyed by such clerk of
484 superior court and, in lieu thereof, the digital copy of each journal shall be retained for ten
485 years.

486 (f) When a current or former notary public dies or is adjudicated incompetent, such notary
487 public's personal representative or guardian or any other person knowingly in possession
488 of such notary public's journal shall transmit it to the clerk of superior court who issued his
489 or her commission or a repository approved by the clerk of superior court. The clerk of

490 superior court shall retain such journals for ten years and thereafter may destroy such
491 journals.

492 45-17-20.

493 Before a notary public performs his or her initial notarial act for an electronic record, the
494 notary public shall notify the Georgia Superior Court Clerks' Cooperative Authority that
495 the notary public will be performing notarial acts for electronic records and shall identify
496 the technology the notary public intends to use. If the technology conforms to the specific
497 standards adopted by the Georgia Superior Court Clerks' Cooperative Authority, such
498 authority shall approve the use of the technology. A person shall not require a notary
499 public to perform a notarial act for an electronic record with a technology that the notary
500 public has not selected.

501 45-17-21.

502 The information in the application for appointment and commissioning as a notary public
503 shall be a matter of public record.

504 45-17-22.

505 (a) Not more than 30 days prior to a commission as a notary public or renewal being
506 granted, an applicant shall be required to take and pass an examination based on a course
507 of study described in subsection (b) of this Code section. The Georgia Superior Court
508 Clerks' Cooperative Authority, or an entity approved by the Georgia Superior Court Clerks'
509 Cooperative Authority, shall administer such examination.

510 (b) The Georgia Superior Court Clerks' Cooperative Authority, or an entity approved by
511 the Georgia Superior Court Clerks' Cooperative Authority, shall regularly offer a course
512 of study to individuals desiring to become a notary public in this state. The course of study
513 shall include the laws, rules, regulations, procedures, and ethics relevant to notarial acts.

514 45-17-23.

515 (a) The clerk of superior court shall review an applicant's criminal background information
516 and a notary public's criminal background information and may deny, refuse to renew,
517 revoke, suspend, or impose a condition on a commission as a notary public for any act or
518 omission that demonstrates the individual lacks the honesty, integrity, competence, or
519 reliability to act as a notary public, including:

520 (1) Failure to comply with this chapter;

521 (2) A fraudulent, dishonest, or deceitful misstatement or omission in the application for
522 a commission as a notary public submitted to the clerk of superior court;

- 523 (3) A conviction of the applicant or notary public of any felony or a crime involving
 524 fraud, dishonesty, or deceit;
- 525 (4) A finding against, or admission of liability by, the applicant or notary public in any
 526 legal proceeding or disciplinary action based on the applicant's or notary public's fraud,
 527 dishonesty, or deceit;
- 528 (5) Failure by the notary public to discharge any duty required of a notary public,
 529 whether required by this chapter, rules or regulations established pursuant to Code
 530 Section 45-17-30, or any federal or state law;
- 531 (6) Use of false or misleading advertising or representation by the notary public
 532 representing that the notary public has a duty, right, or privilege that the notary public
 533 does not have;
- 534 (7) Violation by the notary public of rules or regulations established pursuant to Code
 535 Section 45-17-30 regarding a notary public; and
- 536 (8) Denial, refusal to renew, revocation, suspension, or conditioning of a notary public
 537 commission in another state, as such term is defined in Code Section 45-17-10.
- 538 (b) Any applicant who is denied a notary public commission or renewal by the clerk of
 539 superior court shall upon demand be allowed a hearing and adjudication before the clerk
 540 of superior court with a right of de novo appeal to the superior court, such appeal to be
 541 determined by the court without the intervention of a jury.
- 542 (c) Any notary public whose notarial commission is revoked by the clerk of superior court
 543 shall upon demand be allowed a hearing and adjudication before the clerk of superior court
 544 with a right of de novo appeal to the superior court, such appeal to be determined by the
 545 court without the intervention of a jury.
- 546 (d) Whenever a clerk of superior court denies the issuance of a commission as a notary
 547 public, or refuses to renew, revokes, suspends, or imposes conditions on a commission as
 548 a notary public, such clerk shall forward the name and identifying information regarding
 549 such action to the Georgia Superior Court Clerks' Cooperative Authority.
- 550 45-17-24.
- 551 (a) The Georgia Superior Court Clerks' Cooperative Authority shall maintain an electronic
 552 data base of notaries public:
- 553 (1) Through which a person may verify the authority of a notary public to perform
 554 notarial acts; and
- 555 (2) Which indicates whether a notary public has notified the clerk of superior court that
 556 the notary public will be performing notarial acts on electronic records.
- 557 (b) The Georgia Superior Court Clerks' Cooperative Authority shall keep a record for each
 558 notary public showing the notary public's name, address, signature, age, sex, and term of

559 the commission and whether the notary public has been approved to perform notarial acts
560 on electronic records.

561 45-17-25.

562 (a) A commission as a notary public shall not authorize an individual to:

563 (1) Assist persons in drafting legal documents, give legal advice, or otherwise practice
564 law;

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

566 (3) Represent an individual in a judicial or administrative proceeding relating to
567 immigration to the United States, United States citizenship, or related matters;

568 (4) Receive compensation for performing any of the activities listed in this subsection;
569 or

570 (5) Make certified copies of documents which are either a public record or a publicly
571 recorded document.

572 (b) A notary public shall not engage in false or deceptive advertising.

573 (c) A notary public shall not execute a notarial certificate containing a statement known
574 by the notary public to be false nor perform any action with an intent to deceive or defraud.

575 (d) A notary public, other than an attorney licensed to practice law in this state, shall not
576 use the term 'notario' or 'notario publico.'

577 (e) A notary public, other than an attorney licensed to practice law in this state, shall not
578 advertise or represent that the notary public may assist persons in drafting legal documents,

579 give legal advice, or otherwise practice law. If a notary public who is not an attorney
580 licensed to practice law in this state in any manner advertises or represents that the notary

581 public offers notary public services, whether orally or in a record, including broadcast
582 media, print media, and the Internet, the notary public shall include the following

583 statement, or an alternate statement authorized or required by rules or regulations
584 established pursuant to Code Section 45-17-30, in the advertisement or representation,

585 prominently and in each language used in the advertisement or representation: 'I am not an
586 attorney licensed to practice law in this state. I am not allowed to draft legal documents,

587 give advice on legal matters, including immigration, or charge a fee for those activities.'

588 If the form of advertisement or representation is not broadcast media, print media, or the
589 Internet and does not permit inclusion of the statement required by this subsection because

590 of size, it shall be displayed prominently or provided at the place of performance of the
591 notarial act before the notarial act is performed.

592 (f) A notary public shall not withhold access to or possession of an original record
593 provided by a person who seeks performance of a notarial act by the notary public.

594 (g) A notary public required to comply with the provisions of subsection (e) of this Code
 595 section shall prominently post at the notary public's place of business a schedule of fees
 596 established in Code Section 45-17-27. The fee schedule shall be written in English and in
 597 any other language in which the notary public's services were solicited and shall contain
 598 the notice required in subsection (e) of this Code section, unless the notice is otherwise
 599 prominently posted at the notary public's place of business.

600 (h) The Attorney General or prosecuting attorney may seek injunctive relief against any
 601 notary public who violates the provisions of this Code section. Nothing in this Code
 602 section shall diminish the authority of the State Bar of Georgia.

603 (i) A violation of subsection (d) or (e) of this Code section shall constitute a deceptive
 604 trade practice under Code Section 10-1-427 in addition to any other penalties provided by
 605 law.

606 (j) It shall be unlawful for a notary public to issue attachments or garnishments, to approve
 607 bonds for the purpose of issuing attachments or garnishments, or to issue a summons in a
 608 dispossessory case, but a notary public may attest an affidavit in an attachment,
 609 garnishment, or dispossessory action; provided, however, that no writ or summons in such
 610 matter shall issue without first having judicial approval as provided by law.

611 45-17-26.

612 The clerk of superior court shall send a copy of the certificate commissioning or
 613 recommissioning a notary public, under his or her seal of office, and remit \$2.00 of the fee
 614 collected pursuant to Code Section 15-6-77 or 15-6-77.3, as applicable, to the Georgia
 615 Superior Court Clerks' Cooperative Authority.

616 45-17-27.

617 (a) It shall be unlawful for a notary public to charge a fee greater than \$4.00 for each
 618 notarial act performed.

619 (b) A notary public may opt not to charge fees for notarial acts.

620 (c) Prior to performing a notarial act, a notary public shall inform the person requesting
 621 the notarial act of the fees permitted for each act.

622 (d) The authenticity of the official signature and term of commission of a notary public
 623 may be evidenced by:

624 (1) A certificate of authority from the clerk of superior court who issued the commission
 625 of the notary public or from the Georgia Superior Court Clerks' Cooperative Authority;
 626 or

627 (2) An apostille in the exact form prescribed by the Hague Convention of October 5,
 628 1961, from the United States Secretary of State, provided that an apostille shall be

629 obtained only from the Georgia Superior Court Clerks' Cooperative Authority on or after
 630 the thirtieth day following the designation, by the United States Department of State, of
 631 the Georgia Superior Court Clerks' Cooperative Authority as an authority in the United
 632 States competent to issue an apostille.

633 (e) The fee for a certificate of authority shall be \$4.00. The fee for an apostille shall be
 634 \$10.00.

635 (f) An apostille as specified by the Hague Convention of October 5, 1961, shall be
 636 attached to any document requiring authentication that is bound for a nation that has signed
 637 and ratified the Hague Convention.

638 45-17-28.

639 (a) When a notary public's telephone number, residence address, or business address,
 640 whichever address was used for the purpose of commissioning, has changed, within 30
 641 days of such change such notary public shall notify, and verify by signature and official
 642 seal, the clerk of superior court who issued the commission to him or her and provide a
 643 copy of such notice to the Georgia Superior Court Clerks' Cooperative Authority. The
 644 notice shall contain both the old and new addresses or old and new telephone numbers, as
 645 applicable.

646 (b)(1) When a notary public's name has changed, within 30 days of such change such
 647 notary public shall notify, and verify by signature and official seal, the clerk of superior
 648 court who issued the commission to him or her and provide a copy of such notice to the
 649 Georgia Superior Court Clerks' Cooperative Authority. The notice shall contain both the
 650 old and new names and new signature.

651 (2) A notary public with a new name may begin to officially sign his or her new name
 652 on notarial certificates after:

653 (A) The notice described in paragraph (1) of this subsection has been received by the
 654 clerk of superior court;

655 (B) A confirmation of the notary public's name change has been received from the
 656 clerk of superior court; and

657 (C) A new official seal bearing the new name exactly as indicated in the confirmation
 658 has been obtained.

659 45-17-29.

660 Except as otherwise provided in subsection (a) of Code Section 45-17-3, the failure of a
 661 notarial officer to perform a duty or meet a requirement specified in this chapter shall not
 662 invalidate a notarial act performed by the notarial officer. The validity of a notarial act
 663 under this chapter shall not prevent an aggrieved person from seeking to invalidate the

664 record or transaction that is the subject of the notarial act or from seeking other remedies
 665 based on a law of this state other than this chapter or law of the United States. This Code
 666 section shall not validate a purported notarial act performed by an individual who does not
 667 have the authority to perform notarial acts.

668 45-17-30.

669 (a) The Georgia Superior Court Clerks' Cooperative Authority shall adopt rules or
 670 regulations to implement this chapter. The rules or regulations shall establish the standards
 671 for the use of and the type of tamper-evident technology that shall be used to perform
 672 notarial acts for electronic records. Rules or regulations adopted regarding the performance
 673 of notarial acts for electronic records shall not require, or accord greater legal status or
 674 effect to, the implementation or application of a specific technology or technical
 675 specification. The rules or regulations may:

676 (1) Prescribe the manner of performing notarial acts regarding tangible and electronic
 677 records;

678 (2) Include provisions to ensure that any change to or tampering with a record bearing
 679 a certificate of a notarial act is self-evident;

680 (3) Include provisions to ensure integrity in the creation, transmittal, storage, or
 681 authentication of electronic records or signatures;

682 (4) Prescribe the process of granting, renewing, conditioning, denying, suspending, or
 683 revoking a notary public commission and assuring the trustworthiness of an individual
 684 holding a commission as a notary public;

685 (5) Include provisions to prevent fraud or mistake in the performance of notarial acts;

686 (6) Prescribe the specifications of a notary public's official seal as set forth in Code
 687 Section 45-17-18;

688 (7) Prescribe the acceptable format for a notary public's journal as set forth in Code
 689 Section 45-17-19 and determine how and when such journals may be inspected and who
 690 will perform such examinations;

691 (8) Provide for the administration of the examination and course of study set forth in
 692 Code Section 45-17-22;

693 (9) Prescribe fees for online training and testing of notaries public; and

694 (10) Prescribe advertisement criteria as set forth in Code Section 45-17-25.

695 (b) In adopting, amending, or repealing rules or regulations for notarial acts for electronic
 696 records, the Georgia Superior Court Clerks' Cooperative Authority shall consider, so far
 697 as is consistent with this chapter:

698 (1) The most recent standards regarding electronic records promulgated by national
 699 bodies such as the National Association of Secretaries of State;

- 700 (2) Standards, practices, and customs of other jurisdictions with substantially similar
 701 laws as Georgia; and
 702 (3) The views of governmental officials and entities and other interested persons.

703 45-17-31.

704 A commission as a notary public in effect on July 1, 2016, shall continue until its date of
 705 expiration. A notary public who applies to renew a commission as a notary public on or
 706 after July 1, 2016, shall be subject to and shall comply with this chapter. With the
 707 exception of replacing an official seal prior to renewal, a notary public, in performing
 708 notarial acts after July 1, 2016, shall comply with this chapter.

709 45-17-32.

710 (a) This chapter shall not affect the validity or effect of a notarial act performed before
 711 July 1, 2016.

712 (b) No document executed prior to July 1, 2016, which would otherwise be eligible for
 713 recording in the real property records maintained by any clerk of superior court or
 714 constitute record notice or actual notice of any matter to any person shall be ineligible for
 715 recording or fail to constitute such notice because of noncompliance with the requirement
 716 that the document contain a notary public's official seal.

717 45-17-33.

718 (a) Any individual who violates subsection (e) of Code Section 45-17-18 or subsection (d)
 719 of Code Section 45-17-25 shall be guilty of a misdemeanor.

720 (b) Any individual who performs a notarial act without complying with the provisions of
 721 this chapter shall upon conviction for the first or second violation be guilty of a
 722 misdemeanor and upon conviction for a third or subsequent violation be guilty of a felony,
 723 punishable by imprisonment of not less than one nor more than five years, a fine not to
 724 exceed \$5,000.00, or both."

725 **SECTION 3.**

726 Article 2 of Chapter 6 of Title 15 of the Official Code of Georgia Annotated, relating to
 727 clerks of superior courts, is amended by revising subsection (c) and paragraph (9) of
 728 subsection (g) of Code Section 15-6-77, relating to fees, as follows:

729 "(c) In all counties in this state where the clerk of the superior court is paid or compensated
 730 on a salary basis, the fees provided for in this Code section shall be paid into the county
 731 treasury less and except such sums as are otherwise directed to be paid pursuant to Code
 732 Section 15-6-61 or 45-17-27 and such sums as are collected pursuant to Code ~~Section~~

733 Sections 36-15-9 and Code Section 15-6-77.4, which ~~sums~~ shall be remitted to such
 734 authorities as provided by law. Fees, sums, or other remuneration for the performance of
 735 duties provided for under the laws of the United States or regulations promulgated pursuant
 736 to such laws shall be as provided in such laws or regulations as personal compensation to
 737 the clerk of the superior court for the performance of such duties."

738 "(9) Issuing ~~certificate of appointment and reappointment~~ commissions and
 739 recommissions to notaries public, as provided by Code Section ~~45-17-4~~
 740 45-17-17 20.00"

SECTION 4.

741 Said article is further amended by revising paragraph (4) of subsection (c) of Code Section
 742 15-6-77.3, relating to additional fees in counties with populations in unincorporated areas of
 743 350,000 or more, as follows:

745 "(4) Issuing ~~certificate of appointment and reappointment~~ commissions and
 746 recommissions to notaries public, as provided by Code Section ~~45-17-4~~
 747 45-17-17 8.00"

SECTION 5.

748 This section, Section 6, and Code Section 45-17-30 of Section 2 of this Act shall become
 749 effective upon its approval by the Governor or upon its becoming law without such approval,
 750 and the remainder of this Act shall become effective on July 1, 2016.

SECTION 6.

752 All laws and parts of laws in conflict with this Act are repealed.