

House Bill 120

By: Representatives Welch of the 110th, Willard of the 51st, Raffensperger of the 50th, Caldwell of the 131st, and Evans of the 42nd

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 2018"; to provide for definitions; to provide for
4 applicability; to provide for the authority to perform a notarial act; to provide for
5 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 a short title; to provide for related matters; to provide effective dates; to repeal conflicting
21 laws; and for other 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 2018."

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, 2018.

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. A notarial act performed in violation of this
 81 subsection shall be voidable.

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

83 (1) Perform a notarial act;

84 (2) Witness affidavits upon oath or affirmation;

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

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

88 45-17-4.

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

93 (b) A notarial officer who takes a verification on oath or affirmation shall determine, from
 94 personal knowledge or satisfactory evidence of the identity of the individual, that the

95 individual appearing before the officer and making the verification on oath or affirmation
 96 has the identity claimed and that the signature is that of the individual.

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

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

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

105 45-17-5.

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

109 45-17-6.

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

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

117 (1) An unexpired passport, driver's license, or other government issued identification
 118 card; or

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

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

123 45-17-7.

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

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

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

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

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

130 45-17-8.

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

136 45-17-9.

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

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

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

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

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

145 45-17-10.

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

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

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

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

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

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

160 45-17-11.

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

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

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

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

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

174 45-17-12.

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

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

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

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

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

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

188 45-17-13.

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

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

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

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

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

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

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

212 45-17-14.

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

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

215 (2) Be signed and dated by the notarial officer and, if the notarial officer is a notary
216 public, be signed in the same manner as is on file with the clerk of superior court who
217 issued the notary public's commission;

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

219 (4) Contain the title of office of the notarial officer; and

220 (5) If the notarial officer is a notary public, indicate the date of expiration of the notary
221 public's commission and identify the notarial act performed.

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

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

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

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

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

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

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

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

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

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

256 45-17-15.

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

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

261 State of _____

262 County of _____

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

264 _____
265 Signature of notarial officer

266 Seal

267 _____
268 Title of office

269 My commission expires: _____

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

271 State of _____

272 County of _____

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

275 _____
276 Signature of notarial officer

277 Seal

278 _____
279 Title of office

280 My commission expires: _____

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

282 State of _____

283 County of _____

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

286 _____
287 Signature of notarial officer

288 Seal

289 _____
290 Title of office

291 My commission expires: _____

292 (4) For witnessing or attesting a signature:

293 State of _____

294 County of _____

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

296 _____

297 Signature of notarial officer

298 Seal

299 _____

300 Title of office

301 My commission expires: _____

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

303 State of _____

304 County of _____

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

306 of _____.

307 Dated _____

308 _____

309 Signature of notarial officer

310 Seal

311 _____

312 Title of office

313 My commission expires: _____

314 45-17-16.

315 The clerks of the superior court shall have the power to issue a commission to a notary

316 public.

317 45-17-17.

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

319 (1) Be at least 18 years old;

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

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

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

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

326 (6) Have completed the course of study required by Code Section 45-17-22;

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

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

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

350 (c)(1) Any individual who is a resident of Alabama, Florida, North Carolina, South
351 Carolina, or Tennessee may be commissioned as a notary public by the clerk of the
352 superior court of the county in which the individual carries on such business, profession,

353 or employment so long as he or she meets all of the requirements of this subsection and
354 he or she:

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

356 (B) Is regularly employed in this state.

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

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

372 Such proof shall consist of one of the following:

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

374 (2) An unexpired United States passport;

375 (3) An unexpired voter identification card; or

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

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

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

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

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

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

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

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

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

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

396 _____
 397 (Signature of applicant)

398 State of _____

399 County of _____

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

403 _____
 404 (Signature of the notarial officer)

405 _____
 406 (Seal of the notarial officer)'

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

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

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

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

419 45-17-18.

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

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

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

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

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

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

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

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

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

455 45-17-19.

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

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

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

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

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

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

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

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

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

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

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

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

492 superior court shall retain such journals for ten years and thereafter may destroy such
493 journals or may digitally copy each journal, in which case the original journals may be
494 destroyed by such clerk of superior court and, in lieu thereof, the digital copy of each
495 journal shall be retained for ten years.

496 45-17-20.

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

506 45-17-21.

507 Except for the report generated as provided under paragraph (7) of subsection (a) of Code
508 Section 45-17-17, the information in the application for appointment and commissioning
509 as a notary public shall be a matter of public record. The journal retained by the clerk of
510 superior court pursuant to subsection (e) or (f) of Code Section 45-17-19 shall not be
511 subject to disclosure under Article 4 of Chapter 18 of Title 50.

512 45-17-22.

513 Not more than 30 days prior to a commission as a notary public or renewal being granted,
514 an applicant shall be required to complete a course of study offered by the Georgia
515 Superior Court Clerks' Cooperative Authority or an entity approved by the Georgia
516 Superior Court Clerks' Cooperative Authority. Such course of study shall not exceed one
517 hour in duration, shall be offered regularly and online, and shall provide information on the
518 laws, rules, regulations, procedures, and ethics relevant to notarial acts.

519 45-17-23.

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

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

560 (2) Which indicates whether a notary public has notified the clerk of superior court that
561 the notary public will be performing notarial acts on electronic records.

562 (b) The Georgia Superior Court Clerks' Cooperative Authority shall keep a record for each
563 notary public showing the notary public's name, address, signature, age, sex, and term of
564 the commission and whether the notary public has been approved to perform notarial acts
565 on electronic records.

566 45-17-25.

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

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

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

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

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

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

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

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

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

582 (e) A notary public, other than an attorney licensed to practice law in this state, shall not
583 advertise or represent that the notary public may assist persons in drafting legal documents,
584 give legal advice, or otherwise practice law.

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

587 (g) A notary public required to comply with subsection (e) of this Code section shall
588 prominently post at the notary public's place of business a schedule of fees established in
589 Code Section 45-17-27. The fee schedule shall be written in English and in any other
590 language in which the notary public's services were solicited and shall include a notice
591 stating that the notary public cannot assist persons in drafting legal documents, give legal
592 advice, or otherwise practice law, unless a notice containing such caution is otherwise
593 prominently posted at the notary public's place of business.

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

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

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

605 45-17-26.

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

610 45-17-27.

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

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

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

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

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

621 (2) An apostille in the exact form prescribed by the Hague Convention of October 5,
 622 1961, from the United States Secretary of State, provided that an apostille shall be
 623 obtained only from the Georgia Superior Court Clerks' Cooperative Authority on or after
 624 the thirtieth day following the designation, by the United States Department of State, of
 625 the Georgia Superior Court Clerks' Cooperative Authority as an authority in the United
 626 States competent to issue an apostille.

627 (e) The fee for a certificate of authority shall be \$4.00. The fee for an apostille shall be
 628 \$10.00.

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

632 45-17-28.

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

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

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

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

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

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

653 45-17-29.

654 The failure of a notarial officer to perform a duty or meet a requirement specified in this
655 chapter shall not invalidate a notarial act performed by the notarial officer. The validity
656 of a notarial act under this chapter shall not prevent an aggrieved person from seeking to
657 invalidate the record or transaction that is the subject of the notarial act or from seeking
658 other remedies based on a law of this state other than this chapter or law of the United
659 States. This Code section shall not validate a purported notarial act performed by an
660 individual who does not have the authority to perform notarial acts.

661 45-17-30.

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

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

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

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

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

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

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

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

684 (8) Provide for the administration of the course of study set forth in Code Section
685 45-17-22;

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

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

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

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

693 (2) Standards, practices, and customs of other jurisdictions with substantially similar
694 laws as Georgia; and

695 (3) The views of governmental officials and entities and other interested persons.

696 45-17-31.

697 A commission as a notary public in effect on July 1, 2018, shall continue until its date of
 698 expiration. With the exception of replacing an official seal prior to renewal, a notary
 699 public, in performing notarial acts after July 1, 2018, shall comply with this chapter.

700 45-17-32.

701 (a) This chapter shall not affect the validity or effect of a notarial act performed before
 702 July 1, 2018.

703 (b) No document executed prior to July 1, 2018, which would otherwise be eligible for
 704 recording in the real property records maintained by any clerk of superior court or
 705 constitute record notice or actual notice of any matter to any person shall be ineligible for
 706 recording or fail to constitute such notice because of noncompliance with the requirement
 707 that the document contain a notary public's official seal.

708 45-17-33.

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

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

716 **SECTION 3.**

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

720 "(c) In all counties in this state where the clerk of the superior court is paid or compensated
 721 on a salary basis, the fees provided for in this Code section shall be paid into the county
 722 treasury less and except such sums as are otherwise directed to be paid pursuant to Code
 723 Section 15-6-61 or 45-17-27 and such sums as are collected pursuant to Code ~~Section~~
 724 Sections 36-15-9 and ~~Code Section~~ 15-6-77.4, which ~~sums~~ shall be remitted to such
 725 authorities as provided by law. Fees, sums, or other remuneration for the performance of
 726 duties provided for under the laws of the United States or regulations promulgated pursuant
 727 to such laws shall be as provided in such laws or regulations as personal compensation to
 728 the clerk of the superior court for the performance of such duties."

729 "~~(9) Issuing certificate of appointment and reappointment commissions and~~
730 recommissions to notaries public, as provided by Code Section ~~45-17-4~~
731 45-17-17 20.00"

SECTION 4.

732 Said article is further amended by revising paragraph (4) of subsection (c) of Code Section
733 15-6-77.3, relating to additional fees in counties with populations in unincorporated areas of
734 350,000 or more, as follows:

736 "~~(4) Issuing certificate of appointment and reappointment commissions and~~
737 recommissions to notaries public, as provided by Code Section ~~45-17-4~~
738 45-17-17 8.00"

SECTION 5.

739 For purposes of promulgating rules and regulations by the Georgia Superior Court Clerks'
740 Cooperative Authority as provided in new Code Section 45-17-30, this Act shall become
741 effective upon its approval by the Governor or upon its becoming law without such approval.
742 For all other purposes, this Act shall become effective on July 1, 2018.

SECTION 6.

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