

House Bill 334 (COMMITTEE SUBSTITUTE)

By: Representatives Gullett of the 19th, Jones of the 25th, Leverett of the 33rd, Kelley of the 16th, Burchett of the 176th, and others

A BILL TO BE ENTITLED

AN ACT

1 To amend Article 2 of Chapter 6 of Title 15 and Article 1 of Chapter 17 of Title 45 of the
2 Official Code of Georgia Annotated, relating to clerks of superior courts and general
3 provisions regarding notaries public, respectively, so as to provide for remote online notaries
4 public and remote online notarizations; to provide for and revise definitions; to revise the
5 powers of the Georgia Superior Court Clerks' Cooperative Authority; to provide for
6 requirements for remote online notaries public and remote online notarization; to provide that
7 the Georgia Superior Court Clerks' Cooperative Authority may adopt certain standards for
8 remote online notarization; to provide for application and appointment as a remote online
9 notary public; to provide requirements for electronic journaling; to amend Part 2 of Article
10 15 of Chapter 1 of Title 10, Part 1 of Article 1 of Chapter 2 of Title 44 and Article 4 of
11 Chapter 18 of Title 50 of the Official Code of Georgia Annotated, relating to the "Fair
12 Business Practices Act of 1975," recording of deeds and other real property transactions and
13 inspection of public records, respectively, so as to provide for an unfair or deceptive practice
14 in consumer transactions in the recording of certain residential real estate documents; revise
15 recordation standards for deeds and other real property transactions requiring an official and
16 an unofficial witness; to provide for electronic executions; to provide that certain records of
17 remote online notarization processes shall not be subject to public disclosure; to provide for

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18 related matters; to provide an effective date; to repeal conflicting laws; and for other
19 purposes.

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

21 **PART I**
22 **SECTION 1-1.**

23 Article 2 of Chapter 6 of Title 15 of the Official Code of Georgia Annotated, relating to
24 clerks of superior courts, is amended by revising paragraphs (8) and (9) and by adding a new
25 paragraph to subsection (d) of Code Section 15-6-94, relating to the Georgia Superior Court
26 Clerks' Cooperative Authority, as follows:

27 "(8) To exercise any power granted by the laws of this state to public or private
28 corporations which is not in conflict with the public purpose of the authority; and
29 (9) To issue technical standards for remote online notarization pursuant to Article 1 of
30 Chapter 17 of Title 45; and
31 ~~(9)~~(10) To do all things necessary or convenient to carry out the powers conferred by this
32 Code section and to carry out such duties and activities as are specifically imposed upon
33 the authority by law."

34 **SECTION 1-2.**

35 Article 1 of Chapter 17 of Title 45 of the Official Code of Georgia Annotated, relating to
36 general provisions regarding notaries public, is amended by revising Code Section 45-17-1,
37 relating to definitions, as follows:

38 "45-17-1.

39 As used in this article, the term:

40 (1) 'Appear', 'personally appear', and 'in the presence of' mean:

41 (A) Being in the same physical location as another individual and close enough to see,
42 hear, communicate with, and exchange tangible identification credentials with such
43 individual; or

44 (B) Interacting with another individual by means of communication technology that
45 complies with the provisions of this article.

46 (2) 'Attesting', and 'attestation', and 'attested' are synonymous and mean the notarial act
47 of witnessing or attesting a signature or execution of a deed or other written instrument,
48 where such notarial act does not involve the taking of an acknowledgment, the
49 administering of an oath or affirmation, the taking of a verification, or the certification
50 of a copy.

51 (3) 'Communication technology' means an electronic device or process that allows a
52 remote online notary public physically located in this state and a remotely located
53 individual to communicate with each other simultaneously by sight and sound and which,
54 as necessary, makes reasonable accommodations for individuals with vision, hearing, or
55 speech impediments.

56 (4) 'Credential analysis' means a process or service operating according to the standards
57 through which a third person or entity affirms the validity of a government issued
58 identification credential through review of public or proprietary data sources.

59 (5) 'Digital signature' means an electronic signature that embeds registered personal key
60 infrastructure technology into the signing process and provides for the authentication of
61 the identity of a remote online notary public, confirmation of the signed document's
62 contents, and for the nonrepudiation of the notary's electronic signature. The digital
63 signature shall be made pursuant to and associated with a digital certificate issued by a
64 trusted service provider which is attached to or logically associated with an electronic
65 document and adopted by a notary public with the intent to sign an electronic document
66 in the official capacity as a notary. A digital signature means an electronic signature that
67 is, and shall be, made in compliance with the standards adopted pursuant to this article

68 by the Georgia Superior Court Clerks' Cooperative Authority based on the Digital
69 Signature Standard (DSS) of the National Institute of Standards and Technology (NIST).
70 (6) 'Electronic' means relating to technology having electrical, digital, magnetic,
71 wireless, optical, electromagnetic, or similar capabilities.
72 (7) 'Electronic document' and 'electronic record' mean information that is created,
73 generated, sent, communicated, received, or stored by electronic means.
74 (8) 'Electronic journal' means a record kept by the remote online notary public to track
75 and document every notarial act performed, as provided by subsection (a) of Code
76 Section 45-17-8.5.
77 (9) 'Electronic in-person notarization' means the notarization of an electronic record
78 when the signer or signers of the record are in the physical presence of the notary public
79 and that include the notary's electronic notarial certificate, the notary's digital signature,
80 and electronic signatures of each signer.
81 (10) 'Electronic notarial certificate' means the electronic form of an acknowledgment,
82 jurat, verification by oath or affirmation, or verification of witness or attestation that is
83 completed by a notary performing an electronic in-person notarization and:
84 (A) Contains the notary public's digital signature, electronic seal, title, and commission
85 expiration date; or
86 (B) Otherwise conforms to the requirements for an acknowledgment, jurat, verification
87 by oath or affirmation, or verification of witness or attestation under the laws of this
88 state.
89 (11) 'Electronic seal' means information within a notarized electronic document that
90 confirms the remote online notary public's, or electronic in person notary public's, name,
91 jurisdiction, commission expiration date, commission number, and otherwise generally
92 corresponds to information in notary public seals used on paper documents.

- 93 (12) 'Electronic signature' means an electronic sound, symbol, or process attached to or
94 logically associated with an electronic record and executed or adopted by an individual
95 with the intent to sign the electronic document or record.
- 96 (13) 'Identity proofing' means a process or service operating pursuant to the standards
97 through which credential analysis and authentication confirms the identity of an
98 individual.
- 99 ~~(2)~~(14) 'Notarial act' means any act that a notary public is authorized by law to perform
100 and includes, without limitation, attestation, the taking of an acknowledgment, the
101 administration of an oath or affirmation, the taking of a verification upon an oath or
102 affirmation, and the certification of a copy.
- 103 ~~(3)~~(15) 'Notarial certificate' means the notary's documentation of a notarial act.
- 104 (16) 'Notary' and 'notary public' mean a person who has been appointed by a clerk of
105 superior court pursuant to Code Section 45-17-2.3.
- 106 (17) 'Original appointment' means a notary public appointment other than a remote
107 online notary public appointment.
- 108 (18) 'Real estate document' means any instrument, document, or deed entitled to
109 recordation in the real property records or lien indices or recording records maintained
110 by the clerk of superior court, and any instrument or document executed in connection
111 with the conveyance of land whether recorded or not.
- 112 (19) 'Remote online notarial certificate' is the electronic form of an acknowledgment,
113 jurat, verification by oath or affirmation, or verification of witness or attestation that is
114 completed by a remote online notary public performing a remote online notarization and:
- 115 (A) Contains the remote online notary public's digital signature, electronic seal, title,
116 and commission expiration date;
- 117 (B) Contains the date and location address of the signer or signers and the location of
118 the remote online notary public;

119 (C) Contains a statement that the signer or signers executing the electronic document
120 or making the acknowledgment, oath, affirmation, verification, or attestation appeared
121 remotely online;

122 (D) Otherwise conforms to the requirements for an acknowledgment, jurat, verification
123 by oath or affirmation, verification of witness or attestation under the laws of this state;
124 and

125 (E) Contains a statement that the signer or signers affirmatively agreed to electronic
126 execution and remote online notarization.

127 (20) 'Remote online notarization' or 'remote online notarial act' means a notarial act
128 performed by a remote online notary public by means of communication technology
129 according to the provisions of this article.

130 (21) 'Remote online notary public' means a notary public who has been commissioned
131 as a remote online notary public to perform online notarizations under this article.

132 (22) 'Remote presentation' means transmission to the remote online notary public
133 through communication technology of an image of a government issued identification
134 credential that is of sufficient quality to enable the remote online notary public to:

135 (A) Identify the individual seeking the remote online notary public's services; and

136 (B) Perform credential analysis.

137 (23) 'Remotely located individual' means an individual who is not in the physical
138 presence of the remote online notary public.

139 (24) 'Repository' means a third-party business entity authorized to transact business in
140 this state that is in the business of retaining electronic journals and audiovisual copies of
141 remote online notarizations according to Code Section 45-17-8.5.

142 (25) 'Signer' means an individual whose electronic signature is notarized in an electronic
143 in-person notarization or a remote online notarization or is making an oath or affirmation
144 or an acknowledgment, other than in the capacity of a witness, for a document which is
145 to be notarized by an electronic in-person notarization or a remote online notarization.

146 (26) 'Standards' means the remote online notary standards as shall be adopted by the
147 Georgia Superior Court Clerks' Cooperative Authority."

148 **SECTION 1-3.**

149 Said article is further amended by revising Code Section 45-17-6, relating to seal of office,
150 as follows:

151 "45-17-6.

152 (a)(1) For the authentication of his or her notarial acts, each notary public must provide
153 a seal of office, which seal shall have for its impression ~~his~~ the notary's name, the words
154 'Notary Public,' the name of the state, and the county of ~~his residence~~ the notary's
155 appointment; or it shall have for its impression ~~his~~ the notary's name and the words
156 'Notary Public, Georgia, State at Large.' Notaries commissioned or renewing their
157 commission after July 1, 1985, shall provide a seal of office which shall have for its
158 impression the notary's name, the words 'Notary Public,' the name of the state, and the
159 county of ~~his~~ the notary's appointment. The embossment of notarial certificates by the
160 notary's seal shall be authorized but not necessary; and the use of a rubber or other type
161 stamp shall be sufficient for imprinting the notary's seal on paper notarial certificates. A
162 scrawl shall not be a sufficient notary seal. An official notarial act must be documented
163 by the notary's seal. An electronic seal shall be used for purposes of any electronic
164 in-person notarization or remote online notarization.

165 (2) No document executed prior to July 1, 1986, which would otherwise be eligible for
166 recording in the real property records maintained by any clerk of superior court or
167 constitute record notice or actual notice of any matter to any person shall be ineligible for
168 recording or fail to constitute such notice because of noncompliance with the requirement
169 that the document contain a notary seal.

170 (b) It shall be unlawful for any person, firm, or corporation to supply a notary public seal
171 to any person unless the person has presented the duplicate original of the certificate

172 commissioning the person as a notary public. It shall be unlawful for any person to order
173 or obtain a notary public seal unless such person is commissioned as a notary public."

174 **SECTION 1-4.**

175 Said article is further amended by revising subsection (a) of Code Section 45-17-8.1, relating
176 to signature and date of notarial act, as follows:

177 "(a) Except as otherwise provided in this Code section, in documenting a notarial act, a
178 notary public shall sign on the notarial certification, digitally in the case of electronic
179 in-person notarization or remote online notarization or by hand in ink in all other cases,
180 only and exactly the name indicated on the notary's commission and shall record on the
181 notarial certification the exact date of the notarial act."

182 **SECTION 1-5.**

183 Said article is further amended by adding new Code sections to read as follows:

184 "45-17-8.3.

185 (a) Prior to January 1, 2022, the Georgia Superior Court Clerks' Cooperative Authority
186 shall adopt standards for remote online notarization in accordance with this article.

187 (b) The Georgia Superior Court Clerks' Cooperative Authority may confer with any
188 appropriate state agency on matters relating to equipment, security, and technological
189 aspects of the remote online notarization standards.

190 (c) In the adoption of any standards it may adopt pursuant to this article, the Georgia
191 Superior Court Clerks' Cooperative Authority shall consider the most recent standards
192 established by relevant national bodies, such as the Mortgage Industry Standards
193 Maintenance Organization (MISMO) and the National Association of Secretaries of State
194 (NASS).

195 45-17-8.4

196 (a) Appointment as a notary public in this state shall be a requirement and condition
197 precedent for appointment as a remote online notary public.

198 (b) Before each application for appointment as a remote online notary public, an individual
199 shall complete a course of instruction provided by the Georgia Superior Court Clerks'
200 Cooperative Authority and pass an examination based on such course. The content of the
201 course shall include notarial standards and procedures, the standards, and ethical
202 obligations pertaining to electronic in-person notarization and remote online notarization
203 in this article or in any other law. Such course may be taken in conjunction with any
204 course required by the clerk of superior court for an original appointment. The standards
205 for such course shall be developed and maintained and administered by the Georgia
206 Superior Court Clerks' Cooperative Authority.

207 (c) Except for a remote online notary public as appointed under subsection (h) of this Code
208 section, effective January 1, 2022, an individual who meets the qualifications for becoming
209 a notary public of this state desiring to be appointed as a remote online notary public shall
210 submit an application to the clerk of superior court of the county of the applicant's current
211 residence. In the event that such applicant is the holder of an unexpired notary commission
212 issued from a county other than the county of the applicant's current residence, such
213 applicant shall officially resign the unexpired commission and make new application to the
214 clerk of superior court for the county of current residence for both a notary commission and
215 commission as a remote online notary public. An application may request both an original
216 appointment or renewal and a remote online notary public appointment. The application
217 for a remote online notary public appointment shall set forth the declaration that the notary
218 meets the qualifications for remote online notarization as provided by this article. Such
219 application shall include, but shall not be limited to:

220 (1) The applicant's legal name to be used in acting as a notary public;

221 (2) Email address of the applicant;

- 222 (3) Telephone number of the applicant;
223 (4) Proof of successful completion by the applicant of the course and examination
224 required by subsection (b) of this Code section;
225 (5) A physical residential address of the applicant in this state if a resident of this state;
226 (6) The business address of the applicant in this state if the applicant is a resident of a
227 state bordering this state who maintains a business or profession in the State of Georgia
228 or who is regularly employed in this state.
229 (7) Evidence that the notary surety bond prescribed by this article for the performance
230 or remote online notarial acts has been issued;
231 (8) The identity of the technology provider the remote online notary public intends to use
232 for remote online notarization and the repository to be used by such notary for
233 maintenance of his or her electronic journal and audiovisual recordings. The technology
234 provider, communication technology, and repository selected by the remote online notary
235 public must conform to standards;
236 (9) A certification that the applicant will comply with this article and the standards;
237 (10) Disclosure of any and all license or commission revocations or other governmental
238 disciplinary actions against the applicant; and
239 (11) Any other information, evidence, or declaration requested by the clerk of superior
240 court.
241 (d) The fee for submitting an application for appointment as a remote online notary shall
242 be the same fee as for an application for an original appointment pursuant to Code Section
243 45-17-4. One fee shall be collected for:
244 (1) An application for a commission as a remote online notary public;
245 (2) An application for a notary commission renewal and a commission as a remote online
246 notary public; or
247 (3) An application for an original or new notary commission and commission as a remote
248 online notary public.

249 (e) Upon the applicant's fulfillment of the requirements for appointment under this chapter,
250 the clerk of superior court may approve or deny the appointment based on the provisions
251 of this article and Code Section 45-17-2.3, and upon approval shall issue to the applicant
252 a commission as a remote online notary public and a unique remote online notary public
253 commission number.

254 (f) Unless terminated pursuant to this article, the term of commission to perform remote
255 online notarization shall coincide with the term of the original appointment or any renewal
256 thereof.

257 (g) Upon approval of the application to be appointed a remote online notary public by the
258 clerk of superior court, such notary shall:

259 (1) Be authorized to perform remote online notarization pursuant to this article;

260 (2) Maintain a notary surety bond in the amount of \$2,000.00;

261 (3) Except for a remote online notary public as appointed under subsection (h) of this
262 Code section, maintain a residential domicile and physical presence in this state; and

263 (4) Promptly notify the appointing clerk of superior court, with a copy to the Georgia
264 Superior Court Clerks' Cooperative Authority, of any change in the information provided
265 in the remote online notary public application, including, but not limited to, legal name,
266 email address, telephone number, physical residential address, any change in the
267 technology or repository provider used by such online notary public, and the name and
268 address of the repository used by such remote online notary public for maintenance of his
269 or her electronic journal.

270 (h)(1) Any person who is a resident of a state bordering on the State of Georgia and who
271 carries on a business or profession in the State of Georgia or who is regularly employed
272 in this state may be commissioned as a remote online notary public by the clerk of the
273 superior court of the county in which the person carries on said profession, business, or
274 employment.

275 (2) Such person wishing to be commissioned as a remote online notary public must meet
276 all the requirements of Code Section 45-17-2 as to an original appointment and this
277 article as to a remote online notary public appointment.

278 (3) In addition to the submission requirements for an original appointment under Code
279 Section 45-17-2.1, such individual shall submit the application for a remote online notary
280 public as required in this article to the clerk of superior court in the county in which such
281 individual carries on such profession, business, or employment. The clerk of superior
282 court shall approve or deny such application based on the provisions of this article and
283 Code Section 45-17-2.3. Upon approval and payment of the usual fees to the clerk, the
284 applicant shall be issued a unique remote online notary public commission number and
285 shall be authorized to perform all duties and exercise all of the powers and authorities
286 relating to remote online notary publics who are residents of this state.

287 45-17-8.5

288 (a) Each remote online notary public shall keep a secure, permanent, tamper-evident
289 electronic journal in accordance with this article and the standards with entries for each
290 remote online notarization. A journal entry shall at a minimum include the:

291 (1) Date and time of the remote online notarization;

292 (2) Type of remote online notarial act;

293 (3) Type, title, or description of the electronic document or proceeding;

294 (4) Name and address of each signer involved in the transaction or proceeding, notarized
295 by such notary;

296 (5) Confirmation of identify based on evidence of identity presented for each signer
297 involved in the transaction or proceeding in the form of:

298 (A) Notation of the type of identification document provided to the remote online
299 notary public pursuant to the credential analysis; and

300 (B) A description and results of each identity proofing performed;

- 301 (6) Physical location of the signer or signers of the document at the time of notarization;
302 (7) Physical location of the remote online notary public at the time of remote online
303 notarization; and
304 (8) The fee, if any, charged for the remote online notarization.
- 305 (b) The electronic journal shall be retained and maintained for at least ten years after the
306 date of the last remote online notarial transaction performed.
- 307 (c) Each remote online notary public shall cause an electronic copy of each electronic
308 journal entry to be promptly transmitted to and retained by a repository for retention. Each
309 repository receiving any journal or journal entry shall securely retain and maintain such
310 electronic journal for a minimum of ten years following the last submission of an electronic
311 journal entry by a remote online notary public.
- 312 (d) Each remote online notary public shall create an audiovisual recording of the
313 performance of the remote online notarial act as evidence of participant identity, type of
314 participant identification presented, and the validity of the notarial act.
- 315 (e) Each remote online notary public shall cause an electronic copy of each audiovisual
316 recording to be immediately transmitted to and retained by a repository. Each repository
317 receiving any audiovisual recording shall securely retain and maintain such audiovisual
318 recording for a minimum of ten years following submission of the last audiovisual
319 recording submitted by a remote online notary public.
- 320 (f)(1) When adopting standards regarding remote online notarization, the Georgia
321 Superior Court Clerks' Cooperative Authority shall consider the most recent guidance or
322 model standards proposed by relevant organizations recognized in such field of practice,
323 including, but not limited to, the Mortgage Industry Standards Maintenance Organization
324 (MISMO) and the National Association of Secretaries of State (NASS).
- 325 (2) When adopting standards regarding digital signatures, the Georgia Superior Court
326 Clerks' Cooperative Authority shall consider the most recent guidance or model standards
327 proposed by relevant organizations recognized in such field of practice, including, but not

328 limited to, the Digital Signature Standard (DSS) of the National Institute of Standards and
329 Technology (NIST).

330 (g) A remote online notary public shall take reasonable steps to:

- 331 (1) Ensure the integrity, security, and authenticity of each remote online notarization;
332 (2) Maintain a backup of each electronic journal required by subsection (a) of this Code
333 section and the recording required by subsection (d) of this Code section; and
334 (3) Protect the backup record from unauthorized use.

335 45-17-8.6

336 (a) A notary public physically located in this state may perform electronic in-person
337 notarization in accordance with this article and the standards for an individual who is in the
338 physical presence of the notary public.

339 (b) A remote online notary public physically located in this state may perform remote
340 online notarization using communication technology in accordance with this article and the
341 standards for a remotely located individual who is physically located:

342 (1) In this state;

343 (2) Outside this state but within the United States; or

344 (3) Outside the United States if:

345 (A) The remote online notary public has no actual knowledge that the act of making
346 the statement or signing the electronic record is prohibited in the jurisdiction in which
347 the person is located; and

348 (B) The signer placing his or her electronic signature on the electronic record confirms
349 to the remote online notary public that the requested remote online notarial act and the
350 electronic record:

351 (i) Are part of or pertain to a matter that is to be filed with or is currently before a
352 court, governmental entity, or other entity in the United States;

353 (ii) Relate to property located in the United States; or

354 (iii) Relate to a transaction that is substantively connected to the United States.

355 45-17-8.7.

356 (a) A notary public and a remote online notary public shall take reasonable steps to ensure
357 that any registered device or digital certificate used to create an electronic signature or the
358 notary's or remote online notary public's digital signature is current, valid, and has not been
359 revoked or terminated by the device's or certificate's issuing or registering authority.

360 (b) The duties of the notary public and the remote online notary public, in addition to the
361 duties provided for in Code Section 45-17-8, are to:

362 (1) Keep his or her electronic record, electronic signature, and electronic seal secure and
363 under his or her exclusive control;

364 (2) Not allow another person to use his or her electronic record, digital signature, or
365 electronic seal. A remote online notary public may use such remote online notary
366 public's digital signature only for performing electronic in-person notarization or remote
367 online notarization and a notary public may use such notary public's digital signature only
368 for performing electronic in-person notarization;

369 (3) Attach his or her digital signature and seal to the remote online notarial certificate of
370 an electronic document in a manner that is conducive to independent verification and
371 renders evident any subsequent change or modification to the electronic document; and

372 (4) Immediately notify an appropriate law enforcement agency and appointing clerk of
373 superior court, with a copy to the Georgia Superior Court Clerks' Cooperative Authority,
374 of the theft or vandalism of such notary's or remote online notary public's electronic
375 record, digital signature, or electronic seal. A notary public or a remote online notary
376 public shall immediately notify the appointing clerk of superior court, with a copy to the
377 Georgia Superior Court Clerks' Cooperative Authority, if his or her electronic record,
378 digital signature, or electronic seal has been lost or used by another person.

379 45-17-8.8

380 (a) In performing a remote online notarization, a remote online notary public shall verify
381 the identity of a signer creating an electronic signature at the time that the signature is taken
382 by using secure communication technology that meets the requirements of this article and
383 any standards adopted under this article; provided, however, that a failure to provide an
384 accommodation shall not invalidate an otherwise valid notarial act. Identity shall be
385 verified by each of the following:

386 (1) Remote presentation by the person creating the electronic signature of a valid
387 government issued identification credential, including a passport or driver's license, that
388 contains the signature and a photograph of the person;

389 (2) Credential analysis; and

390 (3) Successful verified identity proofing.

391 (b) The remote online notary public's communication technology provider and repository
392 shall take reasonable steps to ensure that the communication technology used for a remote
393 online notarization is secure from unauthorized interception. Each provider of
394 communication technology products or services for remote online notarization in this state
395 shall cause such products or services to comply with all provisions of this article and the
396 standards relating to remote online notarization. Prior to providing remote online notary
397 public products or services, a communication technology provider shall present a certificate
398 of compliance to the remote online notary public affirming that such products and services
399 comply with the provisions of this article and the standards pursuant to this article.

400 (c) A remote online notary public shall require his or her communication technology
401 provider used to comply with the provisions of this article and the standards.

402 (d) A remote online notarial act meeting the provisions of this Code section satisfies the
403 requirement of any law of this state relating to a notarial act that requires a signer to appear
404 or personally appear before a notary or that the notarial act be performed in the presence

405 of a notary, except for a notarial act pursuant to a law governing the creation and execution
406 of wills, codicils, or testamentary trusts.

407 (e) An electronic document executed by a signer and notarized under this article by a
408 remote online notary public is deemed to be executed in this state.

409 45-17-8.9.

410 (a) A remote online notary public or the remote online notary public's employer may
411 charge a fee for performance of remote online notarization in an amount not to exceed
412 \$25.00 per remote online notarization.

413 (b) A notary public or a remote online notary public whose commission terminates shall
414 destroy or delete the coding, disk, certificate, card, software, hardware, or password that
415 enables the electronic affixation of the notary public's or remote online notary public's
416 official digital signature and electronic seal.

417 (c) Any person that, without authorization, knowingly obtains, conceals, damages,
418 destroys, or deletes the coding, disk, certificate, card, software, hardware, or password
419 enabling a notary public or a remote online notary public to affix a digital signature or
420 electronic seal shall, upon conviction thereof, be guilty of a misdemeanor and punished
421 pursuant to Code Section 45-17-20.

422 45-17-8.10.

423 (a) Nothing in this article shall be construed to alter or supersede the law as set forth under
424 Article 3 of Chapter 19 of Title 15 or any opinion or ruling by the Supreme Court of
425 Georgia pertaining to the unauthorized practice of law in this state, including, but not
426 limited to, the requirement that a licensed Georgia attorney shall supervise a real estate
427 closing for real property located in this state.

428 (b) A remote online notary public who is not a licensed Georgia attorney shall be
429 prohibited from rendering services or advice that constitutes the practice of law in this
430 state.

431 45-17-8.11.

432 (a) Any public official in this state, including all public officials of county and municipal
433 government entities, shall be authorized to accept as an original a reproduction of any
434 document executed using electronic signatures or electronic signatures and remote online
435 notarization.

436 (b) Any requirement that an instrument, document, or real estate document be attested or
437 acknowledged by a notary public and the requirement of confirmation of identity of the
438 document signer, oath taker, or affirmant contained in 45-17-8 is satisfied by a remote
439 online notarial act or an electronic in-person notarial act meeting the requirements of this
440 article.

441 (c) A remote online notarial act performed by a remote online notary public commissioned
442 or registered in another state has the same effect under the laws of this state as if performed
443 by a notary public appointed in this state.

444 (d) A notary public or a remote online notary public shall not perform any notarial act by
445 electronic in-person notarization or remote online notarial act by remote online notarization
446 if the notarial act or remote online notarial act is pursuant to a law governing the creation
447 and execution of any will, codicil or testamentary trust.

448 **SECTION 1-6.**

449 Said article is further amended by revising Code Section 45-17-9, relating to where notarial
450 acts may be exercised, as follows:

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451 "45-17-9.
452 Notarial acts or remote online notarial acts may be exercised in or from any county in ~~the~~
453 this state."

454 **SECTION 1-7.**

455 Said article is further amended by revising Code Section 45-17-17, relating to resignation of
456 commission, return of papers, and destruction of seal, as follows:

457 "45-17-17.

458 A person who wishes to resign a notarial commission or remote online notarial commission
459 shall send a signed letter of resignation to the appointing clerk of superior court, with a
460 copy to the Georgia Superior Court Clerks' Cooperative Authority, and all papers of
461 appointment. The resigning notary public or remote online notary public shall destroy or
462 delete the official notarial seal."

463 **SECTION 1-8.**

464 Said article is further amended by revising Code Section 45-17-18, relating to the resignation
465 of commission, return of papers, and destruction of seal, as follows:

466 "45-17-18.

467 A notary public or remote online notary public whose commission expires and who does
468 not apply for renewal of such commission or whose application for renewal of a
469 commission is denied shall destroy or delete the official notary seal."

470 **PART II**

471 **SECTION 2-1.**

472 Part 2 of Article 15 of Chapter 1 of Title 10 of the Official Code of Georgia Annotated,
473 relating to the "Fair Business Practices Act of 1975," is amended by revising paragraphs (33)

474 and (34) of, and adding a new paragraph to, subsection (b) of Code Section 10-1-393,
475 relating to unfair or deceptive practices in consumer transactions unlawful and examples, as
476 follows:

477 "(33)(A) For any person, firm, partnership, association, or corporation to issue a gift
478 certificate, store gift card, or general use gift card without:

479 (i) Including the terms of the gift certificate, store gift card, or general use gift card
480 in the packaging which accompanies the certificate or card at the time of purchase,
481 as well as making such terms available upon request; and

482 (ii) Conspicuously printing the expiration date, if applicable, on the certificate or card
483 and conspicuously printing the amount of any dormancy or nonuse fees on:

484 (I) The certificate or card; or

485 (II) A sticker affixed to the certificate or card.

486 A gift certificate, store gift card, or general use gift card shall be valid in accordance
487 with its terms in exchange for merchandise or services.

488 (B) As used in this paragraph, the term:

489 (i) 'General use gift card' means a plastic card or other electronic payment device
490 which is usable at multiple, unaffiliated merchants or service providers; is issued in
491 an amount which amount may or may not be, at the option of the issuer, increased in
492 value or reloaded if requested by the holder; is purchased or loaded on a prepaid basis
493 by a consumer; and is honored upon presentation by merchants for goods or services.

494 (ii) 'Gift certificate' means a written promise that is usable at a single merchant or an
495 affiliated group of merchants that share the same name, mark, or logo; is issued in a
496 specified amount and cannot be increased in value on the face thereof; is purchased
497 on a prepaid basis by a consumer in exchange for payment; and is honored upon
498 presentation for goods or services by such single merchant or affiliated group of
499 merchants that share the same name, mark, or logo.

500 (iii) 'Store gift card' means a plastic card or other electronic payment device which
501 is usable at a single merchant or an affiliated group of merchants that share the same
502 name, mark, or logo; is issued in a specified amount and may or may not be increased
503 in value or reloaded; is purchased on a prepaid basis by a consumer in exchange for
504 payment; and is honored upon presentation for goods or services by such single
505 merchant or affiliated group of merchants that share the same name, mark, or logo;
506 **and**

507 (34) For any person, firm, partnership, business, association, or corporation to willfully
508 and knowingly accept or use an individual taxpayer identification number issued by the
509 Internal Revenue Service for fraudulent purposes and in violation of federal law; and

510 (35) Knowingly presenting for recording a one-to-four family residential real estate
511 document to the clerk of superior court that the presenter knew at the time of presentation
512 resulted from actions that constitute the unauthorized practice of law in violation of
513 paragraph (2) of Code Section 15-19-50 or paragraph (4) of Code Section 15-19-50 or
514 any advisory opinions issued by the Supreme Court of Georgia related to such
515 paragraphs."

516 **SECTION 2-2.**

517 Part 1 of Article 1 of Chapter 2 of Title 44 of the Official Code of Georgia Annotated,
518 relating to recording of deeds and other real property transactions, is amended by adding a
519 new subsection to Code Section 44-2-14, relating to requirements for recordation, to read as
520 follows:

521 "(e) Any instrument presented to the clerk of superior court for recordation that requires
522 an official and an unofficial witness may be admitted to record if the apparent signatures
523 of both witnesses and any required seals are present on or in such document. The clerk
524 shall have no further duty to examine the circumstances of the witnessing, or witnesses,
525 method or location of same."

526 **SECTION 2-3.**

527 Said part is further amended by adding a new Code section to read as follows:

528 "44-2-31.529 (a) Any requirement that an instrument, document, deed or real estate document be
530 witnessed, attested, or acknowledged by an unofficial witness is satisfied if:531 (1) The witness is physically present with the signer, personally sees the signer execute
532 the instrument, document, or deed and executes the instrument, document, or deed by
533 hand in ink; or534 (2) The witness is physically present with the signer, personally sees the signer
535 electronically execute the instrument, document, or real estate document, or is physically
536 present in this state and sees the signer electronically execute the instrument, document,
537 or real estate document by the use of communication technology in accordance with
538 Chapter 17 of Title 45, and electronically executes the instrument, document, or real
539 estate document by the use of communication technology in accordance with Chapter 17
540 of Title 45.541 (b) Terms used in this Code Section shall have the same meanings as provided for in Code
542 Section 45-17-1."543 **SECTION 2-4.**544 Article 4 of Chapter 18 of Title 50 of the Official Code of Georgia Annotated, relating to
545 inspection of public records, is amended by revising paragraph (12) of subsection (a) of Code
546 Section 50-18-72, relating to when public disclosure not required, as follows:547 "(12) Records consisting of any audiovisual recording of the performance of a remote
548 online notarization process as provided for by Code Section 45-17-8.5 Reserved;"

549

PART III

550

SECTION 3-1.

551 This Act shall become effective upon its approval by the Governor or upon its becoming law

552 without such approval.

553

SECTION 3-2.

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