

House Bill 1437

By: Representatives Gaines of the 120th, Leverett of the 123rd, Efstration of the 104th, Silcox of the 53rd, Reeves of the 99th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 17 of Title 45 of the Official Code of Georgia Annotated,
2 relating to general provisions regarding notaries public, so as to provide for notarial acts to
3 be performed using electronic means when certain requirements are satisfied; to provide for
4 definitions; to provide for related matters; to provide for an effective date; to repeal
5 conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

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

11 "45-17-1.

12 As used in this article, the term:

13 (1) 'Attesting' and 'attestation' are synonymous and mean the notarial act of witnessing
14 or attesting a signature or execution of a deed or other written instrument, where such
15 notarial act does not involve the taking of an acknowledgment, the administering of an
16 oath or affirmation, the taking of a verification, or the certification of a copy.

H. B. 1437

17 (2) 'Electronic notarial certificate' means the part of or attachment to an electronic record
 18 that is completed by a notary public, that bears the notary's electronic signature and
 19 electronic seal, and that states the facts attested to by the notary relative to a notarial act.

20 (3) 'Electronic seal of office' or 'electronic seal' means information within a notarized
 21 electronic record which includes all of the information required under Code
 22 Section 45-17-6 for such seal of office.

23 (4) 'Electronic signature' means an electronic symbol or process attached to or logically
 24 associated with an electronic record that is executed or adopted by an individual with the
 25 intent to affix his or her signature to such electronic record.

26 ~~(2)~~(5) 'Notarial act' means any act that a notary public is authorized by law to perform
 27 and includes, without limitation, attestation, the taking of an acknowledgment, the
 28 administration of an oath or affirmation, the taking of a verification upon an oath or
 29 affirmation, and the certification of a copy.

30 ~~(3)~~(6) 'Notarial certificate' means the notary's documentation of a notarial act. Such term
 31 includes an electronic notarial certificate."

32 **SECTION 2.**

33 Said article is further amended in Code Section 45-17-6, relating to seal of office, by revising
 34 subsection (a) as follows:

35 "(a)(1) For the authentication of his or her notarial acts, each notary public ~~must~~ shall
 36 provide a seal of office, which seal ~~shall have for its impression his name, the words~~
 37 'Notary Public,' ~~the name of the state, and the county of his residence;~~ or it shall have for
 38 its impression his name and the words 'Notary Public, Georgia, State at Large.' Notaries
 39 commissioned or renewing their commission after July 1, 1985, shall provide a seal of
 40 office which shall:

41 (A) Shall have for its impression the notary's name, the words 'Notary Public,' the
 42 name of the state, and the county of ~~his~~ the notary's appointment.;

43 (B) Shall be an electronic seal of office in an appropriate file format which includes the
 44 notary's name, commission number, commission expiration date, and the words 'Notary
 45 Public, Georgia, Electronic Seal'; or

46 (C) For notaries commissioned or renewing their commissions on or before
 47 July 1, 1985, shall have for its impression:

48 (i) The notary's name, the words 'Notary Public,' the name of the state, and the county
 49 of the notary's residence; or

50 (ii) The notary's name and the words 'Notary Public, Georgia, State at Large.'

51 (2) The embossment of notarial certificates by the notary's seal shall be authorized but
 52 not necessary, and the use of a notary's electronic seal or a rubber or other type stamp
 53 shall be sufficient for imprinting the notary's seal. A scrawl or initials shall not be a
 54 sufficient notary seal. An official notarial act ~~must~~ shall be documented by the notary's
 55 seal.

56 ~~(2)~~(3) No document executed prior to July 1, 1986, which would otherwise be eligible
 57 for recording in the real property records maintained by any clerk of superior court or
 58 constitute record notice or actual notice of any matter to any person shall be ineligible for
 59 recording or fail to constitute such notice because of noncompliance with the requirement
 60 that the document contain a notary seal."

61 **SECTION 3.**

62 Said article is further amended by revising Code Section 45-17-8.1, relating to the signature
 63 and date of notarial act, as follows:

64 "45-17-8.1.

65 (a) Except as otherwise provided in this Code section, in documenting a notarial act, a
 66 notary public shall ~~sign~~:

67 (1) Sign on the notarial ~~certification~~ certificate, by hand in ink, only and exactly the
68 name indicated on the notary's commission and shall record on the notarial ~~certification~~
69 certificate the exact date of the notarial act; or

70 (2) Affix on the electronic notarial certificate the notary's electronic signature only and
71 exactly as indicated on the notary's commission and shall record on the electronic notarial
72 certificate the exact date of the notarial act.

73 (b) The requirement of subsection (a) of this Code section for recording of the date of the
74 notarial act shall not apply to an attestation of deeds or any other instruments pertaining to
75 real property.

76 (c) No document executed prior to July 1, 1986, which would otherwise be eligible for
77 recording in the real property records maintained by any clerk of superior court or
78 constitute record notice or actual notice of any matter to any person shall be ineligible for
79 recording or fail to constitute such notice because of noncompliance with the present or any
80 prior requirements of this Code section."

81 **SECTION 4.**

82 This Act shall become effective upon its approval by the Governor or upon its becoming law
83 without such approval.

84 **SECTION 5.**

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