

The House Committee on Judiciary offers the following substitute to HB 289:

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 revise and provide for 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; to
15 revise recordation standards for deeds and other real property transactions requiring an
16 official and an unofficial witness; to provide for the electronic execution of instruments,
17 documents, deeds, and real estate documents; to provide that certain records of remote online

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18 notarization processes shall not be subject to public disclosure; to provide for related matters;
 19 to provide an effective date; to repeal conflicting laws; and for other 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, to read 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-party business 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. Such term means an electronic signature that is, and
67 shall be, made in compliance with the standards adopted pursuant to this article by the

68 Georgia Superior Court Clerks' Cooperative Authority based on the Digital Signature
69 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 created, generated,
73 sent, communicated, received, or stored by electronic means.

74 (8) 'Electronic in-person notarization' means the notarization of an electronic record
75 when the signer or signers of the record are in the physical presence of the notary public
76 and that include the notary's electronic notarial certificate, the notary's digital signature,
77 and electronic signatures of each signer.

78 (9) 'Electronic journal' means a record kept by the remote online notary public to track
79 and document each notarial act performed, as provided by subsection (a) of Code Section
80 45-17-8.5.

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 granted a commission by
105 a clerk of 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
118 address of the remote online notary public;

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

122 (D) Otherwise conforms to the requirements for an acknowledgment, jurat, verification
123 by oath or affirmation, or verification of witness or attestation under the laws of this
124 state; 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 copies of audiovisual
141 recordings of 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, 2027, 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, including, but not limited to, the Mortgage Industry
193 Standards Maintenance Organization (MISMO) and the National Association of Secretaries
194 of State (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 commissioned under subsection (h) of this
208 Code section, effective January 1, 2027, an individual who meets the qualifications for
209 becoming a notary public of this state desiring to be appointed as a remote online notary
210 public shall submit an application to the clerk of superior court of the county of the
211 applicant's current residence. In the event that such applicant is the holder of an unexpired
212 notary commission issued from a county other than the county of the applicant's current
213 residence, such applicant shall officially resign the unexpired commission and make new
214 application to the clerk of superior court for the county of current residence for both a
215 notary commission and appointment as a remote online notary public. An application may
216 request both an original appointment or renewal and a remote online notary public
217 appointment. The application for a remote online notary public appointment shall set forth
218 the declaration that the notary meets the qualifications for remote online notarization as
219 provided by this article. Such 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 each of the following:
244 (1) An application for an appointment as a remote online notary public;
245 (2) An application for a notary commission renewal and an appointment as a remote
246 online notary public; or
247 (3) An application for an original or new notary commission and appointment as a
248 remote online notary public.

249 (e) Upon the applicant's fulfillment of the requirements for commission or appointment
250 under this chapter, the clerk of superior court may approve or deny the commission or
251 appointment based on Code Section 45-17-2.3 and the provisions of this article, and upon
252 approval shall issue to the applicant an appointment as a remote online notary public and
253 a unique remote online notary public 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 this state and who carries on a
271 business or profession in the State of Georgia or who is regularly employed in this state
272 may be appointed as a remote online notary public by the clerk of the superior court of
273 the county in which the person carries on said profession, business, or employment.

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

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

286 45-17-8.5.

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

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

291 (2) Type of remote online notarial act;

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

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

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

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

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

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

327 including, but not limited to, the Digital Signature Standard (DSS) of the National
328 Institute of Standards and Technology (NIST).

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

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

334 45-17-8.6.

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

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

341 (1) In this state;

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

343 (3) Outside the United States if:

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

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

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

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

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

354 45-17-8.7.

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

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

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

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

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

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

378 45-17-8.8.

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

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

388 (2) Credential analysis; and

389 (3) Successful verified identity proofing.

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

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

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

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

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

408 45-17-8.9.

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

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

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

421 45-17-8.10.

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

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

430 45-17-8.11.

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

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

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

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

447 **SECTION 1-6.**

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

450 "45-17-9.

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

453 **SECTION 1-7.**

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

456 "45-17-17.

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

462 **SECTION 1-8.**

463 Said article is further amended by revising Code Section 45-17-18, relating to destruction of
464 seal upon expiration or denial of renewal of commission, as follows:

465 "45-17-18.

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

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471

PART II
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 (34), and 35 of and by 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, to
476 read as 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 (34) For any person, firm, partnership, business, association, or corporation to willfully
 507 and knowingly accept or use an individual taxpayer identification number issued by the
 508 Internal Revenue Service for fraudulent purposes and in violation of federal law; and

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

514 ~~(35)~~ (36) Failure to comply with the provisions of Code Section 10-6A-9 or 10-6A-10
 515 regarding brokerage engagements and options to enter into brokerage engagements."

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 authorized 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 a real estate document be witnessed, attested, or acknowledged
 530 by an unofficial witness is satisfied if:

531 (1) The witness is physically present with the signer, personally sees the signer execute
 532 such real estate document by hand in ink; or

533 (2) The witness is physically present with the signer, personally sees the signer
 534 electronically execute the real estate document, or is physically present in this state and
 535 sees the signer electronically execute such real estate document by the use of
 536 communication technology in accordance with Chapter 17 of Title 45, and electronically
 537 executes the real estate document by the use of communication technology in accordance
 538 with Chapter 17 of Title 45.

539 (b) Terms used in this Code Section shall have the same meanings set forth in Code
 540 Section 45-17-1."

541 **SECTION 2-4.**

542 Article 4 of Chapter 18 of Title 50 of the Official Code of Georgia Annotated, relating to
 543 inspection of public records, is amended by revising paragraphs (51) and (52) of and by
 544 adding a new paragraph to subsection (a) of Code Section 50-18-72, relating to when public
 545 disclosure not required, to read as follows:

546 "(51) Reports submitted to the Department of Revenue, the Atlanta-region Transit Link
547 'ATL' Authority, or the Department of Transportation by a for-hire ground transport
548 service provider as required pursuant to Code Section 48-13-143; or
549 (52) Any information, including, but not limited to, data and records, prohibited from
550 disclosure pursuant to Code Section 50-18-160; or
551 (53) Records consisting of any audiovisual recording of the performance of a remote
552 online notarization process as provided for by Code Section 45-17-8.5."

553 **PART III**
554 **SECTION 3-1.**

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

557 **SECTION 3-2.**

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