MISSISSIPPI LEGISLATURE REGULAR SESSION 2020

By: Senator(s) McCaughn, Hopson To: Judiciary, Division A

SENATE BILL NO. 2394

(As Passed the Senate Version – with Amendments)

AN ACT TO BE KNOWN AS THE “REVISED MISSISSIPPI LAW ON NOTARIAL ACTS”; TO DEFINE CERTAIN TERMS; TO PRESCRIBE THE NOTARIAL ACTS THAT A NOTARIAL OFFICER MAY PERFORM; TO AUTHORIZE NOTARIAL OFFICERS TO CHARGE CERTAIN FEES; TO REQUIRE INDIVIDUALS REQUESTING CERTAIN NOTARIAL SERVICES TO APPEAR BEFORE THE NOTARIAL OFFICER; TO REQUIRE NOTARIAL OFFICERS TO DETERMINE THE IDENTITY OF THE PERSON APPEARING BEFORE THE OFFICER AND TO PRESCRIBE ACCEPTABLE FORMS OF IDENTIFICATION; TO AUTHORIZE NOTARIAL OFFICERS TO REFUSE TO PERFORM CERTAIN ACTS; TO AUTHORIZE AN INDIVIDUAL WHO IS PHYSICALLY UNABLE TO SIGN A RECORD BEFORE A NOTARIAL OFFICER TO DIRECT ANOTHER PERSON TO SIGN ON THE INDIVIDUAL’S BEHALF; TO AUTHORIZE NOTARIAL ACTS TO BE PERFORMED BY NOTARIES PUBLIC, ELECTED JUDGES AND CLERKS OF COURT AND THE SECRETARY OF STATE; TO RECOGNIZE CERTAIN QUALIFIED NOTARIAL ACTS PERFORMED UNDER THE AUTHORITY OF ANOTHER STATE, FEDERALLY RECOGNIZED INDIAN TRIBE, THE FEDERAL GOVERNMENT AND FOREIGN STATES; TO REQUIRE A NOTARIAL ACT TO BE EVIDENCED BY A CERTIFICATE; TO REQUIRE NOTARIES PUBLIC TO HAVE AN OFFICIAL SEAL, TO PROCURE A STAMPING DEVICE AND TO MAINTAIN A JOURNAL OF NOTARIAL ACTS; TO AUTHORIZE NOTARIES PUBLIC TO PERFORM NOTARIAL ACTS WITH RESPECT TO ELECTRONIC RECORDS; TO AUTHORIZE INDIVIDUALS TO APPLY TO THE SECRETARY OF STATE FOR A COMMISSION AS A NOTARY PUBLIC AND TO PRESCRIBE THE MINIMUM QUALIFICATIONS; TO AUTHORIZE THE SECRETARY OF STATE TO DENY OR REVOKE A COMMISSION AS A NOTARY PUBLIC FOR CERTAIN SPECIFIED ACTS; TO REQUIRE THE SECRETARY OF STATE TO MAINTAIN AN ELECTRONIC DATABASE OF NOTARIES PUBLIC; TO PROHIBIT NOTARIES PUBLIC FROM ACTING IN CERTAIN CAPACITIES AND PERFORMING CERTAIN ACTS; TO SPECIFY THAT A NOTARIAL ACT IS NOT INVALIDATED DUE TO A FAILURE OF A NOTARIAL OFFICER TO PERFORM CERTAIN STATUTORY DUTIES; TO AUTHORIZE THE SECRETARY OF STATE TO ADOPT RULES NECESSARY TO IMPLEMENT THE REVISED MISSISSIPPI LAW ON NOTARIAL ACTS; TO CLARIFY THAT A COMMISSION AS A NOTARY PUBLIC IN EFFECT ON JULY 1, 2019, CONTINUES UNTIL ITS EXPIRATION, AT WHICH TIME A RENEWAL OF THE COMMISSION MUST COMPLY WITH THIS ACT; TO CLARIFY THAT THIS ACT WILL NOT AFFECT THE VALIDITY OR EFFECT OF NOTARIAL ACTS PERFORMED BEFORE JULY 1, 2019; TO SPECIFY THAT THIS ACT SUPERSEDES CERTAIN FEDERAL STATUTES REGARDING ELECTRONIC SIGNATURES IN COMMERCE; TO AMEND SECTION 25-7-1, MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE PRECEDING PROVISIONS; TO REPEAL SECTIONS 25-33-1 THROUGH 25-33-33, MISSISSIPPI CODE OF 1972, WHICH AUTHORIZE THE APPOINTMENT OF NOTARIES PUBLIC AND PRESCRIBE THEIR POWERS AND DUTIES; TO REPEAL SECTION 25-7-29, MISSISSIPPI CODE OF 1972, WHICH AUTHORIZES NOTARIES PUBLIC TO CHARGE FEES FOR CERTAIN SERVICES; TO AMEND SECTION 89-3-1, MISSISSIPPI CODE OF 1972, TO REVISE PROOF NECESSARY TO RECORDING; TO AMEND SECTION 89-3-7, MISSISSIPPI CODE OF 1972, TO CONFORM THE FORMS OF ACKNOWLEDGMENT TO THIS ACT; TO AMEND SECTION 89-5-8, MISSISSIPPI CODE OF 1972, TO CONFORM PROVISIONS CONCERNING AFFIDAVITS RELATING TO IDENTIFICATION, MARITAL STATUS, HEIRSHIP OR OTHER MATTERS AFFECTING TITLE TO REAL PROPERTY; TO REPEAL SECTION 89-3-3, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR ACKNOWLEDGMENT AND PROOF NECESSARY FOR RECORDATION; TO REPEAL SECTION 89-3-5, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR ACKNOWLEDGMENTS BEFORE COMMISSIONED OFFICERS OF UNITED STATES ARMED FORCES; TO REPEAL SECTION 89-3-9, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR FOREIGN ACKNOWLEDGMENTS; TO REPEAL SECTION 89-3-11, MISSISSIPPI CODE OF 1972, WHICH CLARIFIES THE CONSTRUCTION OF CERTAIN FOREIGN ACKNOWLEDGMENTS; TO REPEAL SECTION 89-3-13, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR ACKNOWLEDGMENTS OR PROOF MADE IN A FOREIGN COUNTRY; TO REPEAL SECTION 89-3-15, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR PROOF IN THE ABSENCE OF ANY GRANTOR OR WITNESS; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

**SECTION 1**. Short Title. This act shall be known and may be cited as the “Revised Mississippi Law on Notarial Acts.”

**SECTION 2**. Definitions. As used in this act, the following words and phrases have the meanings ascribed in this section unless the context clearly requires otherwise:

(a) “Acknowledgment” means a declaration by an individual in person before a notarial officer that the individual has signed a record for the purpose stated in the record and, if the record is signed in a representative capacity, that the individual signed the record with proper authority and signed it as the act of the individual or entity identified in the record.

(b) “Communication technology” means an electronic device or process that:

(1) allows a notarial officer and a remotely located individual to communicate with each other simultaneously by sight and sound; and

(2) when necessary and consistent with other applicable law, facilitates communication with a remotely located individual who has a vision, hearing, or speech impairment.

(c) “Credential analysis” means a process or service operating according to criteria approved by the Secretary of State through which a third person or party affirms the validity of a government-issued identification credential through review of public or proprietary data sources.

(d) “Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities.

(e) “Electronic notarization system” means a set of applications, programs, hardware, software, or technologies designed to enable a notary public to perform electronic notarizations that renders every electronic notarial act tamper-evident through the use of a security procedure and that meets the requirements of this act and any rules established by the Secretary of State.

(f) “Electronic signature” means an electronic symbol, sound or process attached to or logically associated with a record and executed or adopted by an individual with the intent to sign the record.

(g) “Foreign state”, as used in Section 6, means a jurisdiction other than the United States, a state, or a federally recognized Indian tribe.

(h) “Identity proofing” means a process or service by which a third person provides a notarial officer with a means to verify the identity of a remotely located individual by a review of personal information from public or private data sources.

(i) “In a representative capacity” means acting as:

(i) An authorized officer, manager, member, agent, partner, trustee or other representative for a person other than an individual;

(ii) A public officer, personal representative, guardian or other representative, in the capacity stated in a record;

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

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

(j) “Notarial act” means an act, whether performed with respect to a tangible or electronic record, that a notarial officer may perform under this act and any other law of this state.

(k) “Notarial officer” means a notary public or other individual authorized to perform a notarial act.

(l) “Notary public” means an individual commissioned to perform a notarial act by the Secretary of State.

(m) “Official seal” means a physical image affixed to a tangible record or an electronic image attached to or logically associated with an electronic record.

(n) “Outside the United States” means a location outside the geographic boundaries of the United States, Puerto Rico, the United States Virgin Islands, and any territory, insular possession, or other location subject to the jurisdiction of the United States.

(o) “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(p) “Remotely located individual” means an individual who is not in the physical presence of a notarial officer performing a notarial act.

(q) “Remote ink-signed notarization” or “RIN” means a notarial act performed for a remotely located individual by means of communication technology on a tangible record.

(r) “Remote online notarization” or “RON” means a notarial act performed for a remotely located individual by means of communication technology and an electronic notarization system on an electronic record.

(s) “Sign” means, with present intent to authenticate or adopt a record:

(i) To execute or adopt a tangible symbol; or

(ii) To attach to or logically associate with the record an electronic symbol, sound or process.

(t) “Signature” means a tangible symbol or an electronic signature that evidences the signing of a record.

(u) “Stamping device” means:

(i) A physical device capable of affixing to a tangible record an official seal; or

(ii) An electronic device or process capable of attaching to or logically associating an official seal with an electronic record.

(v) “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands or any territory or insular possession subject to the jurisdiction of the United States.

(w) “Verification on oath or affirmation,” formerly known as a jurat, means a declaration, made by an individual on oath or affirmation before a notarial officer, that a statement in a record is true.

**SECTION 3**. Applicability. This act applies to a notarial act performed on or after the effective date of this act.

**SECTION 4**. Authority to Perform Notarial Act. (1) A notarial officer may perform the following notarial acts:

(a) Take acknowledgements;

(b) Administer oaths and affirmations;

(c) Take verifications on oath or affirmation;

(d) Certify depositions of witnesses;

(e) Witness or attest signatures;

(f) Make or note a protest of a negotiable instrument;

(g) Make an affidavit regarding the truth of any witnesses or attested signatures in question along with any corrected language and, if the authenticity or correctness of language affects real property, file the same in the land records in the office of the chancery clerk where the land is located;

(h) A notarial officer may certify that a tangible copy of an electronic record is a true and correct copy of the electronic record; and

(i) Any other acts so authorized by the law of this state.

(2) A notarial officer may not perform a notarial act when the officer:

(a) Is a party to the record being notarized;

(b) Is a spouse, child, sibling, parent, grandparent, grandchild, aunt or uncle, or niece or nephew, including a son or daughter-in-law, a mother or father-in-law, a stepchild or stepparent, or a half-sibling, of the person whose signature is being notarized or the person taking a verification on oath or affirmation from the officer; or

(c) Will receive as a direct result any commission, fee, advantage, right, title, beneficial interest, cash, property or other consideration exceeding in value the fees required by rules established by the Secretary of State.

(3) A notarial officer is not disqualified from performing a notarial act by virtue of his or her profession when the officer:

(a) Is an employee performing a notarial act on behalf of, or which benefits, the employer;

(b) Is an attorney who maintains an attorney-client relationship with the person whose signature is the subject of the notarial act; or

(c) Is a shareholder of a corporation or member of a limited liability company which is a party to a record that is the subject of the notarial act.

(4) A notarial act performed in violation of subsection (2) is voidable.

**SECTION 5**. Fees.

(1) The Secretary of State may establish by rule the maximum fees that may be charged by notaries public for various notarial services.

(2) A notary public need not charge fees for notarial acts.

**SECTION 6**. Requirements for Certain Notarial Acts. (1) A notarial officer who takes an acknowledgment of a record, takes a verification of a statement on oath or affirmation (jurat), or witnesses or attests to a signature, must determine, from personal knowledge or satisfactory evidence of the identity of the individual, that the individual appearing in person before the officer has the identity claimed and that the signature on the record is the signature of the individual.

(2) A notarial officer who makes or notes a protest of a negotiable instrument must determine the matters set forth in Section 75-3-505(b).

(3) A notary public located in this state may, upon registration with and after providing notification to the Secretary of State pursuant to Section 20 of this act, perform a remote ink-signed notarization or remote online notarization if:

(a) the notary public:

(1) has personal knowledge under Section 8(1) of the identity of the individual; or

(2) has obtained satisfactory evidence of the identity of the remotely located individual by using at least two different types of identity proofing.

(b) the notary public is able reasonably to confirm that a record before the notary public is the same record in which the remotely located individual made the statement or on which the remotely located individual executed the signature;

(c) the notary public, or a person acting on behalf of the notary public, creates an audio-visual recording of the performance of the notarial act; and

(d) for an individual located outside the United States,

(1) the individual confirms to the notary public that the record is to be filed with or relates to a matter before a court, governmental entity, public official, or other entity under the jurisdiction of the United States, or involves property located in the territorial jurisdiction of the United States or a transaction substantially connected with the United States; and

(2) to the notary public’s actual knowledge, the act of making the statement or signing the record is not prohibited by the foreign state in which the remotely located individual is located.

(4) Regardless of the physical location of the individual at the time of the notarial act, the validity of a remote ink-signed notarization or remote online notarization performed by a notary public commissioned in this state shall be determined by applying the laws of this state.

**SECTION 7**. Personal or Remote Appearance Required.

(1) If a notarial act relates to a statement made in or a signature executed on a record, the individual making the statement or executing the signature must appear personally before the notarial officer.

(2) As used in this section, “appear personally” means:

(a) an individual is in the physical presence of a notarial officer; or

(b) a remotely located individual appears before a notary public by communication technology in compliance Section (6)(3) and the rules adopted pursuant to Section 26.

**SECTION 8**. Identification of Individual. (1) A notarial officer has personal knowledge of the identity of an individual appearing before the officer if the individual is known personally to the officer through dealings sufficient to provide reasonable certainty that the individual has the identity claimed.

(2) A notarial officer has satisfactory evidence of the identity of an individual appearing before the officer if the officer can identify the individual by means of inspecting:

(a) An unexpired passport, an unexpired driver’s license or a driver’s license that has not been expired for more than five (5) years, a government-issued nondriver identification card, a Mississippi voter ID card or an unexpired photographic identification card issued by a federally recognized Indian tribe or nation; or

(b) Another form of government identification issued to an individual which is not expired, contains the signature and a photograph of the individual, and is satisfactory to the officer.

(3) Notwithstanding subsection (2) of this section, in performing a remote ink-signed notarization or remote online notarization, a notary public has satisfactory evidence of the identity of an individual appearing personally before the notary public if the notary public can identify the individual through the use of communication technology that meets the requirements of this section, any rules promulgated by the Secretary of State, and by the following:

(a) The notary public's personal knowledge of the individual; or

(b) Each of the following:

1. Remote presentation by the individual of a government-issued identification credential specified in subsection (2) that contains the signature and photograph of the individual;

2. Credential analysis of the identification credential described by subparagraph (b)(1) of this paragraph; and

3. Identity proofing of the individual; or

(c) A valid public key certificate that complies with the rules promulgated by the Secretary of State.

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

**SECTION 9**. Authority to Refuse to Perform Notarial Act. (1) A notarial officer may refuse to perform a notarial act if the officer knows or suspects the transaction is illegal, false or deceptive, or if the officer is not satisfied that:

(a) The individual executing the record is competent;

(b) The individual executing the record has the capacity to execute the record;

(c) The individual’s signature is knowingly and voluntarily made; or

(d) The notarial act is in compliance with this act or with rules issued by the Secretary of State to implement this act.

(2) A notarial officer may refuse to perform a notarial act unless refusal is prohibited by any law other than this act.

(3) A notary may not be required to perform a notarial act outside the notary’s regular workplace or business hours.

(4) A notary public shall refuse a request that would require the notary to:

(a) use an electronic notarization system or a communication technology that the notary does not know how to operate; or

(b) use an electronic notarization system or communication technology that does not meet the requirements of this act or standards adopted by rule.

**SECTION 10**. Signature if Individual Unable to Sign. If an individual is physically unable to sign a record, the individual may direct an individual other than the notarial officer to sign the individual’s name on the record. The notarial officer shall insert “Signature affixed by (name of other individual) at the direction of (name of individual)” or words of similar import.

**SECTION 11**. Notarial Act in this State. (1) A notarial act may be performed in this state by:

(a) A notary public of this state;

(b) An elected judge, a clerk or deputy clerk of a court of this state; or

(c) The Mississippi Secretary of State or a Mississippi Assistant Secretary of State.

(2) The signature and title of an individual performing a notarial act in this state are prima facie evidence that the signature is genuine and that the individual holds the designated title.

(3) The signature and title of a notarial officer described in subsection (1) conclusively establish the authority of the officer to perform the notarial act.

**SECTION 12**. Notarial Act in Another State. (1) A notarial act performed in another state has the same effect under the law of this state as if performed by a notarial officer of this state, if the act performed in that state is performed by:

(a) A notary public of that state;

(b) A judge, a clerk or a deputy clerk of a court of that state; or

(c) Any other individual authorized by the law of that state to perform the notarial act.

(2) The signature and title of an individual performing a notarial act in another state is prima facie evidence that the signature is genuine and that the individual holds the designated title.

(3) The signature and title of a notarial officer described in subsection (1)(a) or (b) conclusively establish the authority of the officer to perform the notarial act.

**SECTION 13**. Notarial Act Under Authority of Federally Recognized Indian Tribe. (1) A notarial act performed under the authority and in the jurisdiction of a federally recognized Indian tribe has the same effect under the laws of this state as if performed by a notarial officer of this state, if the act performed in the jurisdiction of the tribe is performed by:

(a) A notary public authorized by the tribe;

(b) A judge, a clerk or a deputy clerk of a court of that tribe; or

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

(2) The signature and title of an individual performing a notarial act under the authority of and in the jurisdiction of a federally recognized Indian tribe is prima facie evidence that the signature is genuine and that the individual holds the designated title.

(3) The signature and title of a notarial officer described in subsection (1)(a) or (b) conclusively establish the authority of the officer to perform the notarial act.

**SECTION 14**. Notarial Act Under Federal Authority. (1) A notarial act performed under federal law has the same effect under the laws of this state as if performed by a notarial officer of this state, if the act performed under federal law is performed by:

(a) A judge, clerk or deputy clerk of a court;

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

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

(d) Any other individual authorized by federal law to perform the notarial act.

(2) The signature and title of an individual acting under federal authority and performing a notarial act are prima facie evidence that the signature is genuine and that the individual holds the designated title.

(3) The signature and title of an officer described in subsection (1)(a), (b) or (c) conclusively establish the authority of the officer to perform the notarial act.

**SECTION 15**. Foreign Notarial Act. (1) In this section, “foreign state” means a government other than the United States, a state of the United States or a federally recognized Indian tribe.

(2) If a notarial act is performed under authority and in the jurisdiction of a foreign state or constituent unit of the foreign state or is performed under the authority of a multinational or international governmental organization, the act has the same effect under the law of this state as though performed by a notarial officer of this state.

(3) If the title of office and indication of authority to perform notarial acts in a foreign state appears in a digest of foreign law or in a list customarily used as a source for that information, the authority of an officer with that title to perform notarial acts is established conclusively.

(4) The signature and official seal of an individual holding an office described in subsection (3) are prima facie evidence that the signature is genuine, and the individual holds the designated title.

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

(6) A consular authentication issued by an individual designated by the United States Department of State as a notarizing officer for performing notarial acts overseas and attached to the record with respect to which the notarial act is performed conclusively establishes that the signature of the notarial officer is genuine and that the officer holds the indicated office.

**SECTION 16**. Certificate of Notarial Act. (1) A notarial act must be evidenced by a certificate. The certificate must:

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

(b) Be signed and dated by the notarial officer and, if the notarial officer is a notary public, be signed in the same manner as on file with the Secretary of State;

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

(d) Contain the title of office of the notarial officer; and

(e) If the notarial officer is a notary public, indicate the date of expiration of the notary public’s commission.

(2) If a notarial act regarding a tangible record is performed by a notary public, the notary public’s official seal must be affixed to the certificate. If a notarial act is performed regarding a tangible record by a notarial officer other than a notary public and the certificate contains the information specified in subsection (1)(b), (c) and (d), the notarial officer’s official seal may be affixed to the certificate. If a notarial act regarding an electronic record is performed by a notarial officer and the certificate contains the information specified in subsection (1)(b), (c) and (d), the notarial officer’s official seal may be attached to or logically associated with the certificate.

(3) In addition to the information specified in subsection (1), a certificate of a remote ink-signed notarization or remote online notarization must indicate that the notarial act was performed using communication technology. A certificate subject to this subsection is sufficient if it:

(a) is in the form provided in subsection (2)(e) or (f) of Section 89-3-7, Mississippi Code of 1972 or otherwise contains a statement substantially as follows: “This notarial act involved the use of communication technology.”; or

(2) complies with rules under Section 26.

(4) The party drafting a record that is the subject of a notarial act is responsible for the form of the certificate, its wording and legal sufficiency. A notary public is not required to draft, edit or amend a certificate where the record presented does not contain an acceptable certificate; instead, the notary must refuse to perform the notarial act with respect to the record.

(5) A certificate of a notarial act is sufficient if it meets the requirements of subsections (1) through (3) and:

(a) Is in a form otherwise permitted by the law of this state;

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

(c) Sets forth the actions of the notarial officer and the actions are sufficient to meet the requirements of the notarial act as provided in Sections 4, 5, 6 and 7 of this act or any law of this state other than this act.

(6) By executing a certificate of a notarial act, a notarial officer certifies that the officer has complied with the requirements and made the determinations specified in Sections 4, 5, 6 and 7 of this act.

(7) A notarial officer may not affix the officer’s signature to, or logically associate it with, a certificate until the notarial act has been performed.

(8) If a notarial act is performed regarding a tangible record, a certificate must be part of, or securely attached to, the record. If a notarial act is performed regarding an electronic record, the certificate must be affixed to, or logically associated with, the electronic record. If the Secretary of State has established standards under Section 20 of this act for attaching, affixing or logically associating the certificate, the process must conform to those standards.

(9) The signature of a notarial officer certifying a notarial act may not be deemed evidence to show that the notarial officer had knowledge of the contents of the record so signed, other than those specific contents which constitute the signature, execution, acknowledgment, oath, affirmation, affidavit, verification or other act which the signature of that notarial officer chronicles.

**SECTION 17**. Official Seal. (1) Every notary public appointed and commissioned must procure, at his own expense, a suitable official seal. The official seal of a notary public must:

(a) Include the notary public’s name, jurisdiction, commission expiration date and other information required by the Secretary of State; and

(b) Be capable of being copied together with the record to which it is affixed or attached or with which it is logically associated.

(2) The board of supervisors of every county must provide an official seal, with the inscription “notary public” around the margin and the image of an eagle in the center, which official seal must be kept in the office of the clerk of the circuit court. A judge, chancellor, clerk or deputy clerk of a court of this state, the Mississippi Secretary of State or an Assistant Secretary of State of this state may use the official seal to perform a notarial act under Section 10(1)(b) or (c) of this act.

(3) On the death or adjudication of incompetency of a current or former notary public, the notary public’s personal representative or guardian or any other person knowingly in possession of the official seal shall destroy or deface, as soon as reasonably practicable, all official seals of the notary public so that they may not be misused.

**SECTION 18**. Stamping Device. (1) A notary public is responsible for the security of the notary public’s stamping device and may not allow another individual to use the device to perform a notarial act. On resignation from, or the revocation or expiration of, the notary public’s commission, or on the expiration of the date set forth in the stamping device, if any, the notary public must disable the stamping device by destroying, defacing, damaging, erasing or securing it against use in a manner that renders it unusable. On the death or adjudication of incompetency of a notary public, the notary public’s personal representative or guardian or any other person knowingly in possession of the stamping device must render it unusable by destroying, defacing, damaging, erasing or securing it against use in a manner that renders it unusable.

(2) If a notary public’s stamping device is lost or stolen, the notary public or the notary public’s personal representative or guardian must notify promptly the Secretary of State upon discovery that the device is lost or stolen.

**SECTION 19**. Journal and Audio-Visual Recordings. (1) A notary public must maintain a journal in which the notary public chronicles all notarial acts that the notary public performs. If a notary public performs a remote ink-signed notarization or remote online notarization, the notary public, or a person acting on behalf of the notary public, shall make an audiovisual recording of the performance of the notarial act.

(2) A journal must be created on a tangible or electronic medium. A notary public shall maintain only one (1) journal at a time to chronicle all notarial acts performed regarding tangible records. A notary public may maintain one or more journals to chronicle all notarial acts performed regarding electronic records. If the journal is tangible, it must be a permanent, bound register with numbered pages. An electronic journal must conform to specifications set forth in rules by the Secretary of State.

(3) An entry in a journal must be made contemporaneously with performance of the notarial act and contain the following information:

(a) The date and time of the notarial act;

(b) A description of the record, if any, and type of notarial act;

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

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

(e) If identity of the individual is based on satisfactory evidence, a brief description of the method of identification and the identification credential presented, if any, including the date of issuance and expiration of any identification credential;

(f) The address where the notarial act was performed if not the notary’s business address;

(g) If the notarial act is performed using an electronic notarization system or communication technology, or both, a notation identifying the system or technology, or both; and

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

(4) If the journal of notary public is lost or stolen, the notary public must notify promptly the Secretary of State upon discovery that the journal is lost or stolen.

(5) On resignation from, or the revocation or suspension of, a notary public’s commission, the notary public must deposit all journal records with the circuit clerk of the county of residence of the notary public.

(6) Upon the death or adjudication of incompetency of a current or former notary public, the notary public’s personal representative or guardian or any other person knowingly in possession of the journal shall:

(a) Notify the Secretary of State of the death or adjudication in writing;

(b) Within thirty (30) days of death or adjudication of incompetency, transmit all journal records to the circuit clerk of the county of residence of the notary public; and

(c) Within thirty (30) days of death or adjudication of incompetency, transmit all audio-visual recordings required under subsection (1) and Section 6(3)(c) to the Secretary of State or a repository designated by the Secretary of State for retention. Unless a different period is required by rule adopted under Section 26, the recording must be retained for at least seven years after the audio-visual recording is made.

**SECTION 20**. Electronic Records. (1) A notary public may perform a notarial act with respect to electronic records pursuant to this act.

(2) The Secretary of State has the sole power to determine the methods by which notarial acts with respect to electronic records may be implemented in this state. Those methods must be set forth in rules promulgated by the Secretary of State.

(3) Before a notary public performs the notary public’s initial notarial act using an electronic notarization system or a communication technology, a notary public shall:

(a) notify the Secretary of State that the notary public will be performing notarial acts using the electronic notarization system or the communication technology; and

(b) identify the electronic notarization system or communication technology, or both, that the notary public intends to use. If the Secretary of State has established by rule the standards for the system or technology, the system or technology must comply with the standards.

**SECTION 21**. Commission as Notary Public; Qualifications; No Immunity or Benefit. (1) An individual qualified under subsection (2) may apply to the Secretary of State for a commission as a notary public. The applicant must comply with and provide the information required by rules established by the Secretary of State and pay any application fee.

(2) An applicant for a commission as a notary public must:

(a) Be at least eighteen (18) years of age;

(b) Be a citizen or permanent legal resident of the United States;

(c) Be a resident of Mississippi for not less than thirty (30) days immediately preceding the date of the application;

(d) Be able to read and write English;

(e) Not be disqualified to receive a commission under Section 22 of this act; and

(f) Meet such other requirements as the Secretary of State may establish by rule.

(3) Before issuance of a commission as a notary public, an applicant for the commission must execute the oath of office prescribed by Section 268 of the Constitution and submit it to the Secretary of State.

(4) Before issuance of a commission as a notary public, the applicant for a commission must submit to the Secretary of State an assurance in the form of a surety bond or its functional equivalent in the amount of Five Thousand Dollars ($5,000.00) pursuant to the rules set forth by the Secretary of State. The assurance must be issued by a surety or other entity licensed by the Mississippi Department of Insurance. The assurance must cover acts performed during the term of the notary public’s commission and must be in the form prescribed by the Secretary of State. If a notary public violates a law with respect to notaries public in this state, the surety or issuing entity is liable under the assurance. The surety or issuing entity must give thirty (30) days’ notice to the Secretary of State before canceling the assurance. The surety or issuing entity must notify the Secretary of State not later than thirty (30) days after making a payment to a claimant under the assurance. A notary public may perform notarial acts in this state only during the period that a valid assurance is on file with the Secretary of State.

(5) On compliance with this section, the Secretary of State shall issue a commission as a notary public to an applicant for a term of four (4) years.

(6) A commission to act as a notary public authorizes the notary public to perform notarial acts. The commission does not provide the notary public any immunity or benefit conferred by the laws of this state on public officials or employees.

**SECTION 22**. Grounds to Deny, Refuse to Renew, Revoke, Suspend, or Condition Commission of Notary Public. (1) The Secretary of State may deny, refuse to renew, revoke, suspend or impose a condition on a commission as notary public for any act or omission that demonstrates the individual lacks the honesty, integrity, competence or reliability to act as a notary public, including:

(a) Failure to comply with this act;

(b) A fraudulent, dishonest or deceitful misstatement or omission in the application for a commission as a notary public submitted to the Secretary of State;

(c) A conviction of any felony, including a plea of nolo contendere, of the applicant or notary public, unless released from incarceration more than ten (10) years before the commission is to take effect or, if no incarceration is ordered, more than ten (10) years from the conviction date have passed;

(d) A conviction, including a plea of nolo contendere, of the applicant or notary public for any crime determined by the Secretary of State to be of a nature incompatible with the duties of a notary public;

(e) Failure by the notary public to discharge any duty required of a notary public, whether required by this act, rules of the Secretary of State or any federal or state law;

(f) Use of false or misleading advertising or representation by the notary public representing that the notary has a duty, right or privilege that the notary does not have;

(g) Violation by the notary public of a rule of the Secretary of State regarding a notary public;

(h) Denial, refusal to renew, revocation, suspension or conditioning of a notary public commission in another state;

(i) Failure of the notary public to maintain an assurance as provided in Section 21(4) of this act; or

(j) Failure to maintain and protect the notary’s journal as required by this act and any rules promulgated by the Secretary of State under this act.

(2) If the Secretary of State denies, refuses to renew, revokes, suspends or imposes conditions on a commission as a notary public, the applicant or notary public is entitled to file an appeal in proper form with the Secretary of State within forty-five (45) days after the Secretary of States’ action, except that an applicant may not appeal when the Secretary of State, within five (5) years preceding the application, has:

(a) Denied or revoked for disciplinary reasons any previous application, commission or license of the applicant; or

(b) Made a finding under this act that the grounds for revocation of the applicant’s commission existed.

(3) The authority of the Secretary of State to deny, refuse to renew, suspend, revoke or impose conditions on a commission as a notary public does not prevent a person from seeking and obtaining other criminal or civil remedies provided by law.

**SECTION 23**. Database of Notaries Public. The Secretary of State must maintain an electronic database of notaries public:

(a) Through which a person may verify the authority of a notary public to perform notarial acts; and

(b) Which indicates whether a notary public has notified the Secretary of State that the notary public will be performing notarial acts on electronic records.

**SECTION 24**. Prohibited Acts. (1) A commission as a notary public does not authorize an individual to:

(a) Assist persons in drafting legal records, give legal advice or otherwise practice law;

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

(c) Represent a person in a judicial or administrative proceeding relating to immigration to the United States, United States citizenship or related matters; or

(d) Receive compensation for performing any of the activities listed in this subsection.

(2) A notary public may not engage in false or deceptive advertising.

(3) A notary public who is not an attorney licensed to practice law in this state may not use the term “notario” or “notario publico.”

(4) A notary public who is not an attorney licensed to practice law in this state may not advertise or represent that the notary public may assist persons in drafting legal records, give legal advice or otherwise practice law. If a notary public who is not an attorney licensed to practice law in this state in any manner advertises or represents that the notary public offers notarial services, whether orally or in a record, including broadcast media, print media and the internet, the notary public must include the following statement, or an alternate statement authorized or required by the Secretary of State, in the advertisement or representation, prominently and in each language used in the advertisement or representation: “I am not an attorney licensed to practice law in this state. I am not allowed to draft legal records, give advice on legal matters, including immigration, or charge a fee for those activities.” If the form of advertisement or representation is not broadcast media, print media or the internet and does not permit inclusion of the statement required by this subsection because of size, it must be displayed prominently or provided at the place of performance of the notarial act before the notarial act is performed.

(5) Except as otherwise allowed by law, a notary public may not withhold access to or possession of an original record provided by a person that seeks performance of a notarial act by the notary public.

(6) Failure to comply with subsections (1) through (5) constitutes an unfair or deceptive act under Section 75-24-5.

(7) A person who knowingly and willfully violates subsections (1) through (5) is guilty of a misdemeanor, and upon conviction, shall be fined in an amount not to exceed One Thousand Dollars ($1,000.00).

(8) Upon a second conviction of any person under subsections (1) through (5), the offenses being committed within a period of five (5) years, the person is guilty of a misdemeanor, and upon conviction, shall be punished by imprisonment in the county jail for a period not to exceed one (1) year or a fine in an amount not to exceed One Thousand Dollars ($1,000.00), or both.

(9) Upon a third or subsequent conviction of any person for violation of subsections (1) through (5), the offenses being committed within a period of five (5) years, the person is guilty of a felony, and upon conviction, shall be punished by confinement in the custody of the Mississippi Department of Corrections for a period not to exceed five (5) years or a fine in an amount not to exceed Five Thousand Dollars ($5,000.00), or both.

(10) Criminal convictions in other jurisdictions for violations of substantially similar provisions to those contained in subsections (1) through (5) are counted in computing whether a violation under subsections (1) through (5) is a first, second, third or subsequent offense.

**SECTION 25**. Validity of Notarial Acts. Except as otherwise provided in Section 4(2) of this act, the failure of a notarial officer to perform a duty or meet a requirement specified in this act does not invalidate a notarial act performed by the notarial officer. The validity of a notarial act under this act does not prevent an aggrieved person from seeking to invalidate the record or transaction that is the subject of the notarial act or from seeking other remedies based on the laws of this state other than this act or the laws of the United States. This section does not validate a purported notarial act performed by an individual who does not have the authority to perform notarial acts.

**SECTION 26**. Rules.

(1) The Secretary of State may adopt any rules necessary to implement this act after complying with the Mississippi Administrative Procedures Law, including, but not limited to, rules that:

(a) prescribe the manner of performing notarial acts regarding tangible and electronic records;

(b) establish standards for communication technology and identity proofing including the use of credential analysis, dynamic knowledge-based authentication, biometrics, or other means of identification;

(c) establish requirements or procedures to approve providers of communication technology and the process of identity proofing; and

(d) establish standards and periods for the retention of an audio-visual recording created under Section 6(3)(c) and Section 19(1) of the performance of a notarial act.

(2) Before adopting, amending, or repealing rules about the performance of a notarial act with respect to a remotely located individual, the Secretary of State shall consider, if consistent:

(a) the most recent standards regarding the performance of a notarial act with respect to remotely located individuals promulgated by national standard-setting organizations, including the National Association of Secretaries of State;

(b) standards, practices, and customs of other jurisdictions that enact a statute substantially similar to this section; and

(c) the views of governmental officials and entities and other interested persons.

(3) Rules adopted regarding the performance of notarial acts with respect to electronic records, electronic notarization systems, or communication technology may not require or accord legal status or effect to the implementation or application of a specific system, technology, or technical specification.

**SECTION 27**. Notary Public Commission in Effect. A commission as a notary public in effect on the effective date of this act continues until its date of expiration. A notary public who applies to renew a commission as a notary public on or after the effective date of this act is subject to and must comply with this act. A notary public, in performing notarial acts after the effective date of this act must comply with this act.

**SECTION 28**. Savings Clause. This chapter does not affect the validity or effect of a notarial act performed before the effective date of this act.

**SECTION 29**. Relation to Electronic Signatures in Global and National Commerce Act. This chapter modifies, limits and supersedes the Electronic Signatures in Global and National Commerce Act, 15 USC Section 7001 et seq., but does not modify, limit or supersede Section 101(c) of that act, 15 USC Section 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 USC Section 7003(b).

**SECTION 30**. Section 25-7-1, Mississippi Code of 1972, is amended as follows:

25-7-1. It shall be lawful for the Clerk of the Supreme Court, the clerks of the circuit and chancery courts, the clerks of the justice court, masters and commissioners in chancery, sheriffs, constables, justice court judges, \* \* \* and other officers and persons named in this chapter to demand, receive, and take the several fees hereinafter mentioned and allowed for any business by them respectively done by virtue of their several offices, and no more.

**SECTION 31**. Section 89-3-1, Mississippi Code of 1972, is amended as follows:

89-3-1. (1) \* \* \* A document concerning real property or conveying personal property may not be recorded unless, in the case of a paper document, it contains an original signature or signatures, or in the case of an electronic document, it contains an electronic signature or signatures that comply with the Uniform Real Property Electronic Recording Act (Title 89, Chapter 5, Article 3, Mississippi Code of 1972), and such signatures are acknowledged or proved according to law, or in the case of a document that is an affidavit, verified upon oath or affirmation. For purposes of this section, the terms “document,” “paper document,” and “electronic document” have the meaning given in the Uniform Real Property Electronic Recording Act .

(2) (a) A tangible copy of an electronic document that is otherwise eligible for recording under the laws of this state may be recorded if the tangible copy of the electronic document has been certified to be a true and correct copy of the electronic document as required in subsection (2)(b).

(b) The certificate must be transmitted with and be recorded as a part of the tangible copy of the electronic document being recorded and must:

(i) contain an original signature of a licensed attorney or custodian of the electronic document that is verified upon oath or affirmation;

(ii) identify the jurisdiction in which the certification is performed;

(iii) contain the title of the notarial officer;

(iv) indicate the date of expiration, if any, of the notarial officer’s commission; and

(v) include an official seal of the notary public affixed to the certificate.

(c) The following form of certificate is sufficient for purposes of this subsection if completed with the information required by subsection (b):

“CERTIFICATE OF ELECTRONIC DOCUMENT

I, \_\_\_\_\_\_\_\_\_\_, [a licensed attorney][the custodian of the electronic document], hereby certify that the attached document, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (insert title), dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, and containing \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ pages, is a true and correct copy of an electronic document printed by me or under my supervision. This certification is made under penalty of perjury.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(Signature of Person Making Certification)

STATE OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

COUNTY OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(Signature of Notarial Officer)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(Title of office)

My commission expires:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(Affix official seal, if applicable)

(d) All tangible copies of electronic documents eligible for recording pursuant to this subsection (2) are validly recorded when accepted for recording by the chancery clerk’s office. Tangible copies of electronic documents recorded by a chancery clerk prior to the effective date of the Revised Mississippi Law on Notarial Acts, shall be considered validly recorded with or without the certification provided in subsection (2)(b).

(e) The person making the certification provided in this section shall:

(i) confirm that the electronic document contains an electronic signature that is capable of independent verification and renders any subsequent changes or modifications to the electronic document evident;

(ii) personally print or supervise the printing of the electronic document onto paper; and

(iii) not make any changes or modifications to the electronic document other than the certification described in subsection (2).

(f) If a certificate is completed with the information required by subsection (b) and is attached to or made part of a tangible copy of an electronic document, the certificate shall be prima facie evidence that the requirements of subsection (e) have been satisfied.

(g) This section does not apply to a maps or plats that are subject to the requirements of Sections 19-27-23, -25, or -27, Mississippi Code of 1972. (3) \* \* \* The chancery clerk’s office may refuse to \* \* \* record a document that does not satisfy subsections (1) or (2). However, if \* \* \* a document \* \* \* does not satisfy subsections (1) or (2), but is otherwise admitted to record, then all persons shall be on constructive notice of the contents of the \* \* \* document.

(4) \* \* \* If the relative priorities of conflicting claims to real property were established before July 1, 2011, then the law applicable to those claims at the time those claims were established shall determine their priority.

(5) This section does not require the acknowledgement or verification upon oath or affirmation or prohibit the recording of any of the following filed for record under the Uniform Commercial Code or otherwise specially provided for by law: (a) a financing statement; (b) a security agreement filed as a financing statement; or (c) a continuation statement.

**SECTION 32**. Section 89-3-7, Mississippi Code of 1972, is amended as follows:

89-3-7. Forms of ~~Acknowledgments~~Certificates. (1) The following long forms of acknowledgment may be used in the case of conveyances or other written instruments affecting real \* \* \* or personal property; and any acknowledgment so taken and certified shall be sufficient to satisfy all requirements of law:

(a) In the case of natural persons acting in their own right:

“STATE OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

COUNTY OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Personally appeared before me, the undersigned authority in and for the said county and state, on this \_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_, 20\_\_\_\_\_\_\_\_, within my jurisdiction, the within named \_\_\_\_\_\_\_\_, who acknowledged that (he) (she) (they) executed the above and foregoing instrument.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(\* \* \*Signature of notarial officer)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(Title of office)

My commission expires:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_”

(Affix official seal, if applicable)

(b) In the case of corporations:

“STATE OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

COUNTY OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Personally appeared before me, the undersigned authority in and for the said county and state, on this \_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_, 20\_\_\_\_\_, within my jurisdiction, the within named \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, who acknowledged that (he) (she) is \_\_\_\_\_\_\_\_ of \_\_\_\_\_\_\_\_, a \_\_\_\_\_\_\_\_ corporation, and that for and on behalf of the said corporation, and as its act and deed (he) (she) executed the above and foregoing instrument, after first having been duly authorized by said corporation so to do.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(\* \* \*Signature of notarial officer)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(Title of office)

My commission expires:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_”

(Affix official seal, if applicable)

(c) In the case of a corporate general partner of a limited partnership:

“STATE OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

COUNTY OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Personally appeared before me, the undersigned authority in and for the said county and state, on this\_\_\_\_\_\_\_\_ day of\_\_\_\_\_\_\_\_, 20\_\_\_\_\_\_\_\_, within my jurisdiction, the within named\_\_\_\_\_\_\_\_, who acknowledged to me that (he) (she) is\_\_\_\_\_\_\_\_ of\_\_\_\_\_\_\_\_, a \_\_\_\_\_\_\_\_ corporation and general partner of\_\_\_\_\_\_\_\_, a\_\_\_\_\_\_\_\_ limited partnership, and that for and on behalf of said corporation as general partner of said limited partnership, and as the act and deed of said corporation as general partner of said limited partnership, and as the act and deed of said limited partnership, (he) (she) executed the above and foregoing instrument, after first having been duly authorized by said corporation and said limited partnership so to do.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(\* \* \*Signature of notarial officer)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(Title of office)

My commission expires:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_”

(Affix official seal, if applicable)

(d) In the case of a corporate member of a member-managed limited liability company:

“STATE OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

COUNTY OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Personally appeared before me, the undersigned authority in and for the said county and state, on this\_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_, 20\_\_\_\_\_\_\_\_, within my jurisdiction, the within named \_\_\_\_\_\_\_\_, who acknowledged to me that (he) (she) is \_\_\_\_\_\_\_\_ of \_\_\_\_\_\_\_\_, a \_\_\_\_\_\_\_\_ corporation and member of \_\_\_\_\_\_\_\_, a \_\_\_\_\_\_\_\_ member-managed limited liability company, and that for and on behalf of said corporation as member of said limited liability company, and as the act and deed of said corporation as member of said limited liability company, and as the act and deed of said limited liability company, (he) (she) executed the above and foregoing instrument, after first having been duly authorized by said corporation and said limited liability company so to do.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(\* \* \*Signature of notarial officer)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(Title of office)

My commission expires:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_”

(Affix official seal, if applicable)

(e) In the case of a corporate manager of a manager-managed limited liability company:

“STATE OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

COUNTY OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Personally appeared before me, the undersigned authority in and for the said county and state, on this\_\_\_\_\_\_\_\_ day of\_\_\_\_\_\_\_\_, 20\_\_\_\_\_\_\_\_, within my jurisdiction, the within named\_\_\_\_\_\_\_\_, who acknowledged to me that (he) (she) is\_\_\_\_\_\_\_\_ of\_\_\_\_\_\_\_\_, a \_\_\_\_\_\_\_\_ corporation and manager of\_\_\_\_\_\_\_\_, a\_\_\_\_\_\_\_\_ manager-managed limited liability company, and that for and on behalf of said corporation as manager of said limited liability company, and as the act and deed of said corporation as manager of said limited liability company, and as the act and deed of said limited liability company, (he) (she) executed the above and foregoing instrument, after first having been duly authorized by said corporation and said limited liability company so to do.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(\* \* \*Signature of notarial officer)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(Title of office)

My commission expires:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_”

(Affix official seal, if applicable)

(f) In the case of persons acting in representative capacities:

“STATE OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

COUNTY OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Personally appeared before me, the undersigned authority in and for the said county and state, on this \_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_, 20\_\_\_\_\_\_, within my jurisdiction, the within named \_\_\_\_\_\_\_\_, who acknowledged that (he) (she) is \_\_\_\_\_\_\_\_ of \_\_\_\_\_\_\_\_, and that in said representative capacity (he) (she) executed the above and foregoing instrument, after first having been duly authorized so to do.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(\* \* \*Signature of notarial officer)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(Title of office)

My commission expires:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_”

(Affix official seal, if applicable)

(g) In the case of proof of execution of the instrument made by a subscribing witness:

“STATE OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

COUNTY OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Personally appeared before me, the undersigned authority in and for the said county and state, on this \_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_, 20\_\_\_\_\_, within my jurisdiction, CD, one of the subscribing witnesses to the above and foregoing instrument, who, being first duly sworn, states that (he) (she) saw the within (or above) named AB, whose name is subscribed thereto, sign and deliver the same to EF (or that (he) (she) heard AB acknowledge that (he) (she) signed and delivered the same to EF); and that the affiant subscribed (his) (her) name as witness thereto in the presence of AB.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(\* \* \*Signature of notarial officer)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(Title of office)

My commission expires:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_”

(Affix official seal, if applicable)

(h) In the case of any business organization, foreign or domestic:

“STATE OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

COUNTY OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Personally appeared before me, the undersigned authority in and for the said county and state, on this \_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_, 20\_\_\_\_\_\_\_\_, within my jurisdiction, the within named \_\_\_\_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed in the above and foregoing instrument and acknowledged that he/she/they executed the same in his/her/their representative capacity(ies), and that by his/her/their signature(s) on the instrument, and as the act and deed of the person(s) or entity(ies) upon behalf of which he/she/they acted, executed the above and foregoing instrument, after first having been duly authorized so to do.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(\* \* \*Signature of notarial officer)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(Title of office)

My commission expires:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_”

(Affix official seal, if applicable)

(2) The following short form certificates of notarial acts are sufficient for the purposes indicated if the certificate complies with Section 16(1) and (2) of the Revised Mississippi Law on Notarial Acts as codified:

(a) For an acknowledgment in an individual capacity:

“STATE OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

COUNTY OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(\* \* \*Signature of notarial officer)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(Title of office)

My commission expires:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_”

(Affix official seal, if applicable)

(b) For an acknowledgment in a representative capacity:

“STATE OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

COUNTY OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

This record was acknowledged before me on (date) by (name(s) of individual(s)) as (type of authority, such as officer or trustee) of (name of party on behalf of whom record was executed).

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(\* \* \*Signature of notarial officer)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(Title of office)

My commission expires:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_”

(Affix official seal, if applicable)

(c) For a verification on oath or affirmation (jurat):

“STATE OF \_\_\_\_\_\_\_\_\_\_

COUNTY OF \_\_\_\_\_\_\_\_\_\_

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

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(\* \* \*Signature of notarial officer)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(Title of office)

My commission expires:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_”

(Affix official seal, if applicable)

(d) For witnessing or attesting a signature:

“STATE OF \_\_\_\_\_\_\_\_\_\_

COUNTY OF \_\_\_\_\_\_\_\_\_\_

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

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(\* \* \*Signature of notarial officer)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(Title of office)

My commission expires:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_”

(Affix official seal, if applicable)

(e) For a remote ink-signed notarization or remote online notarization on a tangible or electronic record for an individual located in or outside this state but within the United States:

“STATE OF \_\_\_\_\_\_\_\_\_\_

COUNTY OF \_\_\_\_\_\_\_\_\_\_

This record was (acknowledged) (signed) (signed and sworn to or affirmed) before me by use of communication technology on (date) by (name of individual(s)), who declared that (he) (she) (they) (is) (are) located in (place within the United States where individual(s) was/were physically located at the time of notarial act).

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(\* \* \*Signature of notarial officer)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(Title of office)

My commission expires:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_”

(Affix official seal, if applicable)

(f) For a remote ink-signed notarization or remote online notarization on a tangible or electronic record for an individual located outside the United States:

“STATE OF \_\_\_\_\_\_\_\_\_\_

COUNTY OF \_\_\_\_\_\_\_\_\_\_

This record was (acknowledged) (signed) (signed and sworn to or affirmed) before me by use of communication technology on (date) by (name of individual(s)), who declared that (he) (she) (they) (is) (are) located in (place where individual(s) was/were physically located at the time of notarial act) and that this record is part of or pertains to a matter that is to be filed with or is before a court, governmental entity, or other entity located in the United States or involves property located in, or a transaction substantially connected with, the United States.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(\* \* \*Signature of notarial officer)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(Title of office)

My commission expires:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_”

(Affix official seal, if applicable)

(3) For purposes of the certificates in subsection (1) and (2) above, the words and phrases "acknowledged before me," "appears before me," "signed and sworn to (or affirmed) before me," and other similar phrases used in a certificate shall have the same meaning as "appear personally" in Section 7(2) of the Revised Mississippi Law on Notarial Acts.

**SECTION 33**. Section 89-5-8, Mississippi Code of 1972, is amended as follows:

89-5-8. (1) Any affidavit containing a statement relating to the identification, the marital status, the heirship, the relation, the death \* \* \* or the time of death of any person who is a party to \* \* \* a document affecting the title to real \* \* \* property, or any affidavit relating to the identification of any corporation or other legal entity which is a party to \* \* \* a document affecting the title to real \* \* \* property, \* \* \* signed by the affiant and verified upon oath or affirmation before \* \* \* a notarial officer, shall be recordable in the land records in the office of the chancery clerk in the county where the real \* \* \* property is situated.

(2) (a) Notice of a typographical or other minor error in \* \* \* a document affecting the title to real \* \* \* property may be given by recording an affidavit containing a statement of scrivener’s error. If an affidavit is conspicuously identified as an affidavit of scrivener’s error, the chancery clerk shall index the affidavit in the general index under the names of the original parties to the \* \* \* document if they are identified in the affidavit, and in the sectional index as provided in the indexing instructions of the affidavit. Notice of the corrective information provided by the affiant is effective upon recordation. An affidavit under this paragraph (a) may be prepared only by an attorney licensed to practice law in this state who prepared any \* \* \* document in the chain of title to the subject real \* \* \* property.

(b) The affidavit of scrivener’s error shall be \* \* \* signed by the affiant and verified upon oath or affirmation before \* \* \* a notarial officer, and shall be recordable in the land records in the office of the chancery clerk in the county where the real \* \* \* property is situated.

(c) If requested, the chancery clerk shall make a marginal notation on the \* \* \* document to which the affidavit refers.

(3) Where title to homestead property is in the titled spouse, the nontitled spouse in lieu of joining the titled spouse in executing a conveyance, mortgage, deed of trust or other encumbrance upon a homestead, may file an affidavit of nonhomestead verified upon oath or affirmation that either (a) the nontitled spouse, together with the titled spouse, freely and voluntarily abandoned the old homestead and secured and currently together occupy a new homestead residence, or (b) the nontitled spouse freely and voluntarily separated from the titled spouse with no intent to return to the titled spouse or to reside with the titled spouse, either temporarily or permanently, on the titled spouse’s homestead, and the nontitled spouse currently maintains and occupies a separate residence.

(4) A person who knowingly makes or causes to be made a false statement in an affidavit is guilty of perjury and liable for the actual damages suffered or incurred by any person as a result or consequence of the making of or reliance upon the false affidavit. The court may award punitive damages, costs and attorney’s fees.

(5) From and after the effective date of this act, an affidavit recorded under this section must include a description of the real property covered by the affidavit.

( \* \* \*6) Any affidavit so recorded, or a certified copy thereof, shall be admissible as evidence in any action involving the \* \* \* document to which it relates or the title to the real \* \* \* property affected by the \* \* \* document and shall be prima facie evidence of the facts stated therein and the marketability of the title to real \* \* \* property.

**SECTION 34**. Section 25-7-29, Mississippi Code of 1972, which authorizes notaries public to charge fees for certain services, is repealed.

**SECTION 35**. Sections 25-33-1, 25-33-3, 25-33-5, 25-33-7, 25-33-9, 25-33-11, 25-33-13, 25-33-15, 25-33-17, 25-33-19, 25-33-21, 25-33-23, 25-33-25, 25-33-27, 25-33-29, 25-33-31 and 25-33-33, Mississippi Code of 1972, which authorize the appointment of notaries public by the Governor and prescribe the powers and duties of notaries public, are repealed.

**SECTION 36**. Section 89-3-3, Mississippi Code of 1972, which provides for acknowledgment and proof necessary for recordation, is repealed.

**SECTION 37**. Section 89-3-5, Mississippi Code of 1972, which provides for acknowledgments before commissioned officers of United States Armed Forces, is repealed.

**SECTION 38**. Section 89-3-9, Mississippi Code of 1972, which provides for foreign acknowledgments, is repealed.

**SECTION 39**. Section 89-3-11, Mississippi Code of 1972, which clarifies the construction of certain foreign acknowledgments, is repealed.

**SECTION 40**. Section 89-3-13, Mississippi Code of 1972, which provides for acknowledgments or proof made in a foreign country, is repealed.

**SECTION 41**. Section 89-3-15, Mississippi Code of 1972, which provides for proof in the absence of any grantor or witness, is repealed.

**SECTION 42**. This act shall take effect and be in force from and after [July 1, 2020].