

HB 4012

FILED

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2014



ENROLLED

COMMITTEE SUBSTITUTE
FOR

House Bill No. 4012

(By Delegates P. Smith, R. Phillips, Ellington,
Ferro, Reynolds, Skinner and Storch)



Passed March 6, 2014

In effect July 1, 2014.

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E N R O L L E D

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FOR

H. B. 4012

(BY DELEGATES P. SMITH, R. PHILLIPS, ELLINGTON,
FERRO, REYNOLDS, SKINNER AND STORCH)

[Passed March 6, 2014; in effect July 1, 2014.]

AN ACT to repeal §29-4-3, §29-4-4, §29-4-5, §29-4-6, §29-4-7, §29-4-8, §29-4-12, §29-4-13, §29-4-14, §29-4-15 and §29-4-16 of the Code of West Virginia, 1931, as amended; to repeal §29C-1-101, §29C-1-102, §29C-1-103, §29C-1-104, §29C-1-105, §29C-1-106, §29C-1-107, §29C-2-201, §29C-2-202, §29C-2-203, §29C-2-204, §29C-2-205, §29C-2-206, §29C-2-207, §29C-2-208, §29C-2-301, §29C-3-101, §29C-3-102, §29C-4-101, §29C-4-102, §29C-4-103, §29C-4-104, §29C-4-201, §29C-4-202, §29C-4-203, §29C-4-301, §29C-4-401, §29C-4-402, §29C-4-403, §29C-4-404, §29C-4-405, §29C-5-101, §29C-5-102, §29C-5-103, §29C-5-104, §29C-6-101, §29C-6-102, §29C-6-103, §29C-6-201, §29C-6-202, §29C-6-203, §29C-6-204, §29C-7-101, §29C-7-201, §29C-7-202, §29C-8-101 and §29C-9-101 of said code; to repeal §39-1A-1, §39-1A-2, §39-1A-3, §39-1A-4, §39-1A-5, §39-1A-6, §39-1A-7, §39-1A-8 and §39-1A-9, of said code; to amend and reenact

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§39-1-4 and §39-1-5 of said code; to amend said code by adding thereto a new article, designated §39-4-1, §39-4-2, §39-4-3, §39-4-4, §39-4-5, §39-4-6, §39-4-7, §39-4-8, §39-4-9, §39-4-10, §39-4-11, §39-4-12, §39-4-13, §39-4-14, §39-4-15, §39-4-16, §39-4-17, §39-4-18, §39-4-19, §39-4-20, §39-4-21, §39-4-22, §39-4-23, §39-4-24, §39-4-25, §39-4-26, §39-4-27, §39-4-28, §39-4-29, §39-4-30, §39-4-31, §39-4-32, §39-4-33, §39-4-34, §39-4-35 and §39-4-36; to amend and reenact §57-4-2 of said code; to amend and reenact §57-5-9 of said code; and to amend and reenact §59-1-2 of said code, all relating to the Revised Uniform Law on Notarial Acts; establishing the effective date of the article; establishing an operative date of enactment and the effect on existing law; establishing the authority to perform notarial acts; establishing requirements for certain notarial acts; requiring a personal appearance and the identification of an individual; authorizing the right to refuse to perform a notarial act; establishing instructions for obtaining a signature if an individual is unable to sign; setting forth who may perform a notarial act in this state; establishing notarial reciprocity with other states, any federally recognized Indian tribe, the federal government, and foreign states; requiring a certificate for a notarial act; authorizing short form certificates; requiring an official stamp and the maintenance and disposition of a stamping device; authorizing notaries public the option of selecting a technology for use in notarial acts on electronic records; establishing minimum qualifications and authorizing the commissioning of notaries public; providing grounds to deny, refuse to renew, revoke, suspend, or condition commissions of notaries public; requiring Secretary of State to maintain a database of notaries public; prohibiting certain acts; authorizing the validity of notarial acts; authorizing the Secretary of State to promulgate rules; authorizing the continuation of a commission in effect on the effective date of the act; providing that any notarial act performed before the effective date of the act is not invalidated by the act; providing for the uniformity of the application and construction of the act; clarifying the relationship to the Electronic Signatures in Global and National Commerce Act; establishing maximum fees that may

be charged by a notary public; commissioning notaries public for state and local government; establishing civil liability and criminal penalties; authorizing injunctive relief; authorizing the Secretary of State to investigate complaints; requiring the Secretary of State to maintain certain records; establishing an application fee; providing for the disposition of fees; repealing statutes regulating notaries public and commissioners including the Uniform Notary Act; repealing the Uniform Recognition of Acknowledgments Act; and removing obsolete references.

Be it enacted by the Legislature of West Virginia:

That §29-4-3, §29-4-4, §29-4-5, §29-4-6, §29-4-7, §29-4-8, §29-4-12, §29-4-13, §29-4-14, §29-4-15 and §29-4-16 of the Code of West Virginia, 1931, as amended, be repealed; that §29C-1-101, §29C-1-102, §29C-1-103, §29C-1-104, §29C-1-105, §29C-1-106, §29C-1-107, §29C-2-201, §29C-2-202, §29C-2-203, §29C-2-204, §29C-2-205, §29C-2-206, §29C-2-207, §29C-2-208, §29C-2-301, §29C-3-101, §29C-3-102, §29C-4-101, §29C-4-102, §29C-4-103, §29C-4-104, §29C-4-201, §29C-4-202, §29C-4-203, §29C-4-301, §29C-4-401, §29C-4-402, §29C-4-403, §29C-4-404, §29C-4-405, §29C-5-101, §29C-5-102, §29C-5-103, §29C-5-104, §29C-6-101, §29C-6-102, §29C-6-103, §29C-6-201, §29C-6-202, §29C-6-203, §29C-6-204, §29C-7-101, §29C-7-201, §29C-7-202, §29C-8-101 and §29C-9-101 of said code be repealed; that §39-1A-1, §39-1A-2, §39-1A-3, §39-1A-4, §39-1A-5, §39-1A-6, §39-1A-7, §39-1A-8 and §39-1A-9 of said code be repealed; that §39-1-4 and §39-1-5 of said code be amended and reenacted; that said code be amended by adding thereto a new article, designated §39-4-1, §39-4-2, §39-4-3, §39-4-4, §39-4-5, §39-4-6, §39-4-7, §39-4-8, §39-4-9, §39-4-10, §39-4-11, §39-4-12, §39-4-13, §39-4-14, §39-4-15, §39-4-16, §39-4-17, §39-4-18, §39-4-19, §39-4-20, §39-4-21, §39-4-22, §39-4-23, §39-4-24, §39-4-25, §39-4-26, §39-4-27, §39-4-28, §39-4-29, §39-4-30, §39-4-31, §39-4-32, §39-4-33, §39-4-34, §39-4-35 and §39-4-36; that §57-4-2 of said code be amended and reenacted; that §57-5-9 of said code be amended and reenacted and that §59-1-2 of said code be amended and reenacted, all to read as follows:

CHAPTER 39. RECORDS AND PAPERS.

ARTICLE 1. AUTHENTICATION AND RECORD OF WRITINGS.

§39-1-4. Form of certificate of acknowledgment.

1 The certificate of acknowledgment mentioned in the
2 preceding section may be in form or effect as follows:

3 State (territory or district) of, county of
4, to wit:

5 I,, recorder of said municipality; or I,, a
6 notary public of said county; or I,, a clerk of the
7 court of said county; (or other officer or person
8 authorized to take acknowledgments by section three of this
9 article, as the case may be), do certify that,
10 whose name (or names) is (or are) signed to the writing above
11 (or hereto annexed) bearing date on the day of,
12 20, has (or have) this day acknowledged the same before
13 me, in my said

14 Given under my hand this day of, 20

§39-1-5. Acknowledgment by husband and wife.

1 When a husband and wife have signed a writing purporting
2 to sell or convey real estate, the wife may acknowledge the same
3 together with, or separately from her husband. Either the
4 husband or the wife may sign and acknowledge the writing
5 before the other has signed or acknowledged it. If both
6 acknowledge the writing at the same time, the certificate of the
7 acknowledgments may be in form or effect as follows:

8 State (territory or district) of county of, to wit:

9 I,, a notary public of the said county of; or I,
10, clerk of the court or county of; (or other
11 officer or person authorized to take acknowledgments by section

12 three of this article, as the case may be),* do certify and
13, his or her wife whose names are signed to the writing
14 above (or hereto annexed) bearing date the day of,
15 20....., have this day acknowledged the same before me in my
16 said

17 Given under my hand this day of, 20.....

18 If the husband or wife acknowledge a deed or other writing
19 separately from the other, the certificate of acknowledgment
20 after the star in the foregoing form shall be in form or effect as
21 follows: do certify that, the wife of, (or the
22 husband of, as the case may be), whose name is signed to
23 the writing above (or hereto annexed) bearing date the day
24 of, 20, has this day acknowledged the same before me
25 in my said

26 Given under my hand this day of, 20

ARTICLE 4. REVISED UNIFORM LAW ON NOTARIAL ACTS.

§39-4-1. Short title.

1 This article may be cited as the Revised Uniform Law on
2 Notarial Acts.

§39-4-2. Definitions.

1 In this article:

2 (1) "Acknowledgment" means a declaration by an individual
3 before a notarial officer that the individual has signed a record
4 for the purpose stated in the record and, if the record is signed in
5 a representative capacity, that the individual signed the record
6 with proper authority and signed it as the act of the individual or
7 entity identified in the record.

8 (2) "Electronic" means relating to technology having
9 electrical, digital, magnetic, wireless, optical, electromagnetic or
10 similar capabilities.

11 (3) "Electronic signature" means an electronic symbol,
12 sound or process attached to or logically associated with a record
13 and executed or adopted by an individual with the intent to sign
14 the record.

15 (4) "In a representative capacity" means acting as:

16 (A) An authorized officer, agent, partner, trustee or other
17 representative for a person other than an individual;

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

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

21 (D) An authorized representative of another in any other
22 capacity.

23 (5) "Notarial act" means an act, whether performed with
24 respect to a tangible or electronic record, that a notarial officer
25 may perform under the law of this state. The term includes
26 taking an acknowledgment, administering an oath or affirmation,
27 taking a verification on oath or affirmation, witnessing or
28 attesting a signature, certifying or attesting a copy, and noting a
29 protest of a negotiable instrument.

30 (6) "Notarial officer" means a notary public or other
31 individual authorized to perform a notarial act.

32 (7) "Notary public" means an individual commissioned to
33 perform a notarial act by the West Virginia Secretary of State.

34 (8) "Official stamp" means a physical image affixed to or
35 embossed on a tangible record or an electronic image attached to
36 or logically associated with an electronic record.

37 (9) "Person" means an individual, corporation, business
38 trust, statutory trust, estate, trust, partnership, limited liability

39 company, association, joint venture, public corporation,
40 government or governmental subdivision, agency or
41 instrumentality, or any other legal or commercial entity.

42 (10) "Record" means information that is inscribed on a
43 tangible medium or that is stored in an electronic or other
44 medium and is retrievable in perceivable form.

45 (11) "Sign" means, with present intent to authenticate or
46 adopt a record:

47 (A) To execute or adopt a tangible symbol; or

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

50 (12) "Signature" means a tangible symbol or an electronic
51 signature that evidences the signing of a record.

52 (13) "Stamping device" means:

53 (A) A physical device capable of affixing to or embossing on
54 a tangible record an official stamp; or

55 (B) An electronic device or process capable of attaching to
56 or logically associating with an electronic record an official
57 stamp.

58 (14) "State" means a state of the United States, the District
59 of Columbia, Puerto Rico, the United States Virgin Islands or
60 any territory or insular possession subject to the jurisdiction of
61 the United States.

62 (15) "Verification on oath or affirmation" means a
63 declaration, made by an individual on oath or affirmation before
64 a notarial officer, that a statement in a record is true.

§39-4-3. Applicability; operative date of enactment; effect on existing law.

1 (a) This article applies to a notarial act performed on or after
2 July 1, 2014.

3 (b) The repeal of chapter twenty-nine-c of this code and the
4 repeal of articles four, chapter twenty-nine and one-a, chapter
5 thirty-nine of this code and the amendment and reenactment of
6 section two, article one, chapter fifty-nine of this code, pursuant
7 to the provisions of Enrolled House Bill No. 4012, as enacted by
8 the Legislature during the regular session, 2014, are operative on
9 June 30, 2014. The prior enactments of chapter twenty-nine-c;
10 articles four, chapter twenty-nine and one-a, chapter thirty-nine;
11 and section two, article one, chapter fifty-nine of this code,
12 whether amended and reenacted or repealed by the passage of
13 Enrolled House Bill No. 4012, have full force and effect until the
14 provisions of Enrolled House Bill No. 4012, are operative on
15 June 30, 2014, unless after the effective date of Enrolled House
16 Bill No. 4012, and prior to the operative date of June 30, 2014,
17 the provisions of Enrolled House Bill No. 4012, are otherwise
18 repealed or amended and reenacted.

§39-4-4. Authority to perform notarial act.

1 (a) A notarial officer may perform a notarial act authorized
2 by this article or by law of this state other than this article.

3 (b) A notarial officer may not perform a notarial act with
4 respect to a record to which the officer or the officer's spouse is
5 a party, or in which either of them has a direct beneficial interest,
6 financial or otherwise. A notarial act performed in violation of
7 this subsection is voidable.

§39-4-5. Requirements for certain notarial acts.

1 (a) A notarial officer who takes an acknowledgment of a
2 record shall determine, from personal knowledge or satisfactory
3 evidence of the identity of the individual, that the individual

4 appearing before the officer and making the acknowledgment
5 has the identity claimed and that the signature on the record is
6 the signature of the individual.

7 (b) A notarial officer who takes a verification of a statement
8 on oath or affirmation shall determine, from personal knowledge
9 or satisfactory evidence of the identity of the individual, that the
10 individual appearing before the officer and making the
11 verification has the identity claimed and that the signature on the
12 statement verified is the signature of the individual.

13 (c) A notarial officer who witnesses or attests to a signature
14 shall determine, from personal knowledge or satisfactory
15 evidence of the identity of the individual, that the individual
16 appearing before the officer and signing the record has the
17 identity claimed.

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

22 (e) A notarial officer who makes or notes a protest of a
23 negotiable instrument shall determine the matters set forth in
24 subsection (b), section five hundred five, article three, chapter
25 forty-six of this code.

§39-4-6. Personal appearance required.

1 If a notarial act relates to a statement made in or a signature
2 executed on a record, the individual making the statement or
3 executing the signature shall appear personally before the
4 notarial officer. An individual making the statement or executing
5 the signature does not appear personally if the appearance is by
6 video or audio technology, even if the video is synchronous.

§39-4-7. Identification of individual.

1 (a) A notarial officer has personal knowledge of the identity
2 of an individual appearing before the officer if the individual is

3 personally known to the officer through dealings sufficient to
4 provide reasonable certainty that the individual has the identity
5 claimed.

6 (b) A notarial officer has satisfactory evidence of the identity
7 of an individual appearing before the officer if the officer can
8 identify the individual:

9 (1) By means of:

10 (A) A passport, driver's license or government issued
11 nondriver identification card, which is current or expired not
12 more than three years before performance of the notarial act; or

13 (B) Another form of government identification issued to an
14 individual, which is current or expired not more than three years
15 before performance of the notarial act, contains the signature or
16 a photograph of the individual and is satisfactory to the officer;
17 or

18 (2) By a verification on oath or affirmation of a credible
19 witness personally appearing before the officer and known to the
20 officer or whom the officer can identify on the basis of a
21 passport, driver's license or government issued nondriver
22 identification card, which is current or expired not more than
23 three years before performance of the notarial act.

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

§39-4-8. Authority to refuse to perform notarial act.

1 (a) A notarial officer may refuse to perform a notarial act if
2 the officer is not satisfied that:

3 (1) The individual executing the record is competent or has
4 the capacity to execute the record; or

5 (2) The individual's signature is knowingly and voluntarily
6 made.

7 (b) A notarial officer may refuse to perform a notarial act
8 unless refusal is prohibited by law other than this article.

§39-4-9. Signature if individual is unable to sign.

1 If an individual is physically unable to sign a record, the
2 individual may direct an individual other than the notarial officer
3 to sign the individual's name on the record. The notarial officer
4 shall insert "Signature affixed by (name of other individual) at
5 the direction of (name of individual)" or words of similar import.

§39-4-10. Notarial act in this state.

1 (a) A notarial act may be performed in this state by:

2 (1) A notary public of this state;

3 (2) A judge, clerk or deputy clerk of a court of this state; or

4 (3) Any other individual authorized to perform the specific
5 act by the law of this state.

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

10 (c) The signature and title of a notarial officer described in
11 subdivision (1) or (2), subsection (a) of this section, conclusively
12 establish the authority of the officer to perform the notarial act.

§39-4-11. Notarial act in another state.

1 (a) A notarial act performed in another state has the same
2 effect under the law of this state as if performed by a notarial
3 officer of this state, if the act performed in that state is
4 performed by:

5 (1) A notary public of that state;

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

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

9 (b) The signature and title of an individual performing a
10 notarial act in another state are prima facie evidence that the
11 signature is genuine and that the individual holds the designated
12 title.

13 (c) The signature and title of a notarial officer described in
14 subdivision (1) or (2), subsection (a) of this section, conclusively
15 establish the authority of the officer to perform the notarial act.

**§39-4-12. Notarial act under authority of federally recognized
Indian tribe.**

1 (a) A notarial act performed under the authority and in the
2 jurisdiction of a federally recognized Indian tribe has the same
3 effect as if performed by a notarial officer of this state, if the act
4 performed in the jurisdiction of the tribe is performed by:

5 (1) A notary public of the tribe;

6 (2) A judge, clerk or deputy clerk of a court of the tribe; or

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

9 (b) The signature and title of an individual performing a
10 notarial act under the authority of and in the jurisdiction of a
11 federally recognized Indian tribe are prima facie evidence that
12 the signature is genuine and that the individual holds the
13 designated title.

14 (c) The signature and title of a notarial officer described in
15 subdivision (1) or (2), subsection (a) of this section, conclusively
16 establish the authority of the officer to perform the notarial act.

§39-4-13. Notarial act under federal authority.

1 (a) A notarial act performed under federal law has the same
2 effect under the law of this state as if performed by a notarial
3 officer of this state, if the act performed under federal law is
4 performed by:

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

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

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

12 (4) Any other individual authorized by federal law to
13 perform the notarial act.

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

18 (c) The signature and title of an officer described in
19 subdivision (1), (2) or (3), subsection (a) of this section,
20 conclusively establish the authority of the officer to perform the
21 notarial act.

§39-4-14. Foreign notarial act.

1 (a) In this section, "foreign state" means a government other
2 than the United States, a state or a federally recognized Indian
3 tribe.

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

6 state or is performed under the authority of a multinational or
7 international governmental organization, the act has the same
8 effect under the law of this state as if performed by a notarial
9 officer of this state.

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

15 (d) The signature and official stamp of an individual holding
16 an office described in subsection (c) of this section are prima
17 facie evidence that the signature is genuine and the individual
18 holds the designated title.

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

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

§39-4-15. Certificate of notarial act.

1 (a) A notarial act must be evidenced by a certificate. The
2 certificate must:

3 (1) Be executed contemporaneously with the performance of
4 the notarial act;

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

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

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

11 (5) If the notarial officer is a notary public, indicate the date
12 of expiration, if any, of the officer's commission.

13 (b) If a notarial act regarding a tangible record is performed
14 by a notary public, an official stamp must be affixed to the
15 certificate. If a notarial act is performed regarding a tangible
16 record by a notarial officer other than a notary public and the
17 certificate contains the information specified in subdivisions (2),
18 (3) and (4), subsection (a) of this section, an official stamp may
19 be affixed to the certificate. If a notarial act regarding an
20 electronic record is performed by a notarial officer and the
21 certificate contains the information specified in said
22 subdivisions, an official stamp may be attached to or logically
23 associated with the certificate.

24 (c) A certificate of a notarial act is sufficient if it meets the
25 requirements of subsections (a) and (b) and:

26 (1) Is in a short form set forth in section sixteen of this
27 article;

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

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

31 (4) Sets forth the actions of the notarial officer and the
32 actions are sufficient to meet the requirements of the notarial act
33 as provided in sections five, six and seven of this article or law
34 of this state other than this article.

35 (d) By executing a certificate of a notarial act, a notarial
36 officer certifies that the officer has complied with the
37 requirements and made the determinations specified in sections
38 four, five and six of this article.

39 (e) A notarial officer may not affix the officer's signature to,
40 or logically associate it with, a certificate until the notarial act
41 has been performed.

42 (f) If a notarial act is performed regarding a tangible record,
43 a certificate must be part of, or securely attached to, the record.
44 If a notarial act is performed regarding an electronic record, the
45 certificate must be affixed to or logically associated with, the
46 electronic record. If the Secretary of State has established
47 standards pursuant to section twenty-five of this article, for
48 attaching, affixing, or logically associating the certificate, the
49 process must conform to the standards.

§39-4-16. Short form certificates.

1 The following short form certificates of notarial acts are
2 sufficient for the purposes indicated, if completed with the
3 information required by subsections (a) and (b), section fifteen
4 of this article:

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

6 State of

7 County of

8 This record was acknowledged before me on [Date] by
9 [Name(s) of individual(s)]

10

11 Signature of notarial officer

12 Stamp

13

14 Title of office

15 My commission expires:

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

17 State of

18 County of

19 This record was acknowledged before me on [Date] by
20 [Name(s) of individual(s)] as
21 [Type of authority, such as officer or trustee]
22 of [Name of party on behalf of whom record
23 was executed].

24

25 Signature of notarial officer

26 Stamp

27

28 Title of office

29 My commission expires:

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

31 State of

32 County of

33 Signed and sworn to (or affirmed) before me on (Date)
34 by [Name(s) of individual(s)]
35 making statement]

36

37 Signature of notarial officer

38 Stamp

39

40 Title of office

41 My commission expires:

42 (4) For witnessing or attesting a signature:

43 State of

44 County of

45 Signed or attested before me on [Date] by

46 [Name(s) of individual(s) making

47 statement]

48

49 Signature of notarial officer

50 Stamp

51

52 Title of office

53 My commission expires:

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

55 State of

56 County of

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

59 Dated

60

61 Signature of notarial officer

62 Stamp

63

64 Title of office

65 My commission expires:

§39-4-17. Official stamp.

1 The official stamp of a notary public must:

2 (1) Include the notary public's name, address, jurisdiction,
3 commission expiration date and other information required by
4 the Secretary of State; and

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

§39-4-18. Stamping device.

1 (a) A notary public is responsible for the security of the
2 notary public's stamping device and may not allow another
3 individual to use the device to perform a notarial act. On
4 resignation from, or the revocation or expiration of, the notary
5 public's commission, or on the expiration of the date set forth in
6 the stamping device, the notary public shall disable the stamping
7 device by destroying, defacing, damaging, erasing or securing it
8 against use in a manner that renders it unusable. On the death or

9 adjudication of incompetency of a notary public, the notary
10 public's personal representative or guardian or any other person
11 knowingly in possession of the stamping device shall render it
12 unusable by destroying, defacing, damaging, erasing or securing
13 it against use in a manner that renders it unusable.

14 (b) If a notary public's stamping device is lost or stolen, the
15 notary public or the notary public's personal representative or
16 guardian shall notify promptly the Secretary of State on
17 discovering that the device is lost or stolen.

**§39-4-19. Notification regarding performance of notarial act on
electronic record, selection of technology.**

1 (a) A notary public may select one or more tamper-evident
2 technologies to perform notarial acts with respect to electronic
3 records. A person may not require a notary public to perform a
4 notarial act with respect to an electronic record with a
5 technology that the notary public has not selected.

6 (b) Before a notary public performs the notary public's
7 initial notarial act with respect to an electronic record, a notary
8 public shall notify the Secretary of State that the notary public
9 will be performing notarial acts with respect to electronic
10 records and identify the technology the notary public intends to
11 use. If the Secretary of State has established standards for
12 approval of technology pursuant to section twenty-five of this
13 article, the technology must conform to the standards. If the
14 technology conforms to the standards, the Secretary of State
15 shall approve the use of the technology.

**§39-4-20. Commission as notary public; qualifications; no
immunity or benefit; disposition of fees.**

1 (a) An individual qualified under subsection (b) of this
2 section may apply to the Secretary of State for a commission as
3 a notary public. The applicant shall comply with and provide the

4 information required by rules promulgated by the Secretary of
5 State and pay any application fee.

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

7 (1) Be at least eighteen years of age;

8 (2) Be a citizen or permanent legal resident of the United
9 States;

10 (3) Be a resident of or have a place of employment or
11 practice in this state:

12 (4) Be able to read and write English;

13 (5) Have a high school diploma or its equivalent; and

14 (6) Not be disqualified to receive a commission under
15 section twenty-three of this article.

16 (c) Before issuance of a commission as a notary public, an
17 applicant for the commission shall execute an oath of office and
18 submit it to the Secretary of State.

19 (d) Before issuance of a commission as a notary public, the
20 applicant for a commission shall submit to the Secretary of State
21 an assurance in the form of: (1) A surety bond or its functional
22 equivalent in the amount of \$1,000; or (2) certification that the
23 applicant is covered under a: (A) Professional liability insurance
24 policy; (B) an errors and omission insurance policy; (C) a
25 commercial general liability insurance policy; or (D) their
26 equivalent, in the amount of \$1,000. The assurance must be
27 issued by a surety or other entity licensed or authorized to do
28 business in this state. The assurance must cover acts performed
29 during the term of the notary public's commission and must be
30 in the form prescribed by the Secretary of State. If a notary
31 public violates law with respect to notaries public in this state,
32 the surety or issuing entity is liable under the assurance. The

33 notary public shall give thirty days' notice to the Secretary of
34 State before canceling any assurance or loss of insurance
35 coverage. The surety or issuing entity shall notify the Secretary
36 of State not later than thirty days after making a payment to a
37 claimant under the assurance. A notary public may perform
38 notarial acts in this state only during the period that a valid
39 assurance is on file with the Secretary of State.

40 (e) On compliance with this section, the Secretary of State
41 shall issue a commission as a notary public to an applicant for a
42 term of five years.

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

**§39-4-21. Grounds to deny, refuse to renew, revoke, suspend, or
condition commission of notary public.**

1 (a) The Secretary of State may deny, refuse to renew,
2 revoke, suspend or impose a condition on a commission as
3 notary public for any act or omission that demonstrates the
4 individual lacks the honesty, integrity, competence, or reliability
5 to act as a notary public, including:

6 (1) Failure to comply with this article;

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

10 (3) A conviction of the applicant or notary public of any
11 felony or a crime involving fraud, dishonesty or deceit;

12 (4) A finding against, or admission of liability by, the
13 applicant or notary public in any legal proceeding or disciplinary

14 action based on the applicant's or notary public's fraud,
15 dishonesty or deceit;

16 (5) Failure by the notary public to discharge any duty
17 required of a notary public, whether by this article, rules
18 promulgated by the Secretary of State, or any federal or state
19 law;

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

23 (7) Violation by the notary public of a rule of the Secretary
24 of State regarding a notary public;

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

27 (9) Failure of the notary public to maintain an assurance as
28 provided in subsection (d), section twenty of this article;

29 (10) Charging more than the maximum fees specified in
30 section thirty of this article; and

31 (11) Failure to notify the Secretary of State of an address or
32 name change pursuant to subsection (b), section twenty-two of
33 this article.

34 (b) If the Secretary of State denies, refuses to renew,
35 revokes, suspends or imposes conditions on a commission as a
36 notary public, the applicant or notary public is entitled to timely
37 notice and hearing in accordance with article five, chapter
38 twenty-nine-a of this code.

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

§39-4-22. Database of notaries public.

1 (a) The Secretary of State shall maintain an electronic
2 database of notaries public:

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

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

8 (b) Not later than thirty days after a notary public either:

9 (1) Changes the address of his or her business or residence;
10 or

11 (2) Changes his or her name, the notary public shall notify
12 the Secretary of State of the address or name change.

§39-4-23. Prohibited acts.

1 (a) A commission as a notary public does not authorize an
2 individual to:

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

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

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

10 (4) Receive compensation for performing any of the
11 activities listed in this subsection.

12 (b) A notary public may not engage in false or deceptive
13 advertising.

14 (c) A notary public, other than an attorney licensed to
15 practice law in this state, may not use the term “notario” or
16 “notario publico”.

17 (d) A notary public, other than an attorney licensed to
18 practice law in this state, may not advertise or represent that the
19 notary public may assist persons in drafting legal records, give
20 legal advice, or otherwise practice law. If a notary public who
21 is not an attorney licensed to practice law in this state in any
22 manner advertises or represents that the notary public offers
23 notarial services, whether orally or in a record, including
24 broadcast media, print media and the internet, the notary public
25 shall include the following statement, or an alternate statement
26 authorized or required by the Secretary of State, in the
27 advertisement or representation, prominently and in each
28 language used in the advertisement or representation: “I am not
29 an attorney licensed to practice law in this state. I am not
30 allowed to draft legal records, give advice on legal matters,
31 including immigration, or charge a fee for those activities”. If
32 the form of advertisement or representation is not broadcast
33 media, print media or the internet and does not permit inclusion
34 of the statement required by this subsection because of size, it
35 must be displayed prominently or provided at the place of
36 performance of the notarial act before the notarial act is
37 performed.

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

§39-4-24. Validity of notarial acts.

1 Except as otherwise provided in subsection (b), section four
2 of this article, the failure of a notarial officer to perform a duty
3 or meet a requirement specified in this article does not invalidate
4 a notarial act performed by the notarial officer. The validity of
5 a notarial act under this article does not prevent an aggrieved

6 person from seeking to invalidate the record or transaction that
7 is the subject of the notarial act or from seeking other remedies
8 based on law of this state other than this article or law of the
9 United States. This section does not validate a purported notarial
10 act performed by an individual who does not have the authority
11 to perform notarial acts.

§39-4-25. Rules.

1 (a) The Secretary of State may promulgate rules, in
2 accordance with the provisions of chapter twenty-nine-a of this
3 code, to implement this article. Rules promulgated regarding the
4 performance of notarial acts with respect to electronic records
5 may not require, or accord greater legal status or effect to, the
6 implementation or application of a specific technology or
7 technical specification. The rules may:

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

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

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

16 (4) Prescribe the process of granting, renewing,
17 conditioning, denying, suspending or revoking a notary public
18 commission and assuring the trustworthiness of an individual
19 holding a commission as notary public;

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

22 (6) Establish the process for approving and accepting surety
23 bonds and other forms of assurance under subsection (d), section
24 twenty of this article; and

25 (7) Establish fees, with legislative approval in accordance
26 with the provisions of article three, chapter twenty-nine-a of this
27 code. Fees collected by the Secretary of State pursuant to section
28 two, article one, chapter fifty-nine of this code shall be deposited
29 by the Secretary of State as follows: One-half shall be deposited
30 in the state general revenue fund and one-half shall be deposited
31 in the service fees and collections account established by section
32 two, article one, chapter fifty-nine of this code for the operation
33 of the office of the Secretary of State. The Secretary of State
34 shall dedicate sufficient resources from that fund or other funds
35 to provide the services required by the provisions of article four,
36 chapter thirty-nine of this code.

37 (b) In promulgating, amending or repealing rules about
38 notarial acts with respect to electronic records, the Secretary of
39 State shall consider, so far as is consistent with this article:

40 (1) The most recent standards regarding electronic records
41 promulgated by national bodies, such as the National
42 Association of Secretaries of State;

43 (2) Standards, practices and customs of other jurisdictions
44 that substantially enact this article; and

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

§39-4-26. Notary public commission and commissioner appointment in effect.

1 (a) A commission as a notary public in effect on June 30,
2 2014, continues until its date of expiration. A notary public who
3 applies for a commission as a notary public on or after July 1,
4 2014, is subject to and shall comply with this article. A notary
5 public, in performing notarial acts on or after July 1, 2014, shall
6 comply with this article.

7 (b) An appointment as commissioner under the repealed
8 provisions of article four, chapter twenty-nine of this code, in

9 effect on June 30, 2014, continues until its date of expiration. A
10 commissioner, in performing notarial acts on or after July 1,
11 2014, shall comply with this article: *Provided*, That a person
12 holding a commission pursuant to the provisions of article four,
13 chapter twenty-nine of this code, on June 30, 2014, is not
14 required to obtain or use a stamp required by section seventeen
15 of this article. prior to the expiration of that commission.

§39-4-27. Savings clause.

1 This article does not affect the validity or effect of a notarial
2 act performed before July 1, 2014.

§39-4-28. Uniformity of application and construction.

1 In applying and construing this uniform act, consideration
2 must be given to the need to promote uniformity of the law with
3 respect to its subject matter among states that enact it.

§39-4-29. Relation to Electronic Signatures in Global and National Commerce Act.

1 This article modifies, limits, and supersedes the Electronic
2 Signatures in Global and National Commerce Act, 15 U. S. C.
3 Section 7001 *et seq.*, but does not modify, limit, or supersede
4 Section 101(c) of that act, 15 U. S. C. Section 7001(c), or
5 authorize electronic delivery of any of the notices described in
6 Section 103(b) of that act, 15 U. S. C. Section 7003(b).

§39-4-30. Maximum fees.

1 (a) The maximum fee in this state for notarization of each
2 signature and the proper recordation thereof in the journal of
3 notarial acts is \$5.00 for each signature notarized.

4 (b) The maximum fee in this state for certification of a
5 facsimile of a document, retaining a facsimile in the notary's
6 file, and the proper recordation thereof in the journal of notarial

7 acts is \$5.00 for each eight and one-half by eleven inch page
8 retained in the notary's file.

9 (c) The maximum fee in this state is \$5.00 for any other
10 notarial act performed.

§39-4-31. Government notaries public.

1 (a) State and local government employees may be
2 commissioned as government notaries public to act for and in
3 behalf of their respective state and local government offices.

4 (b) A state or local government employee commissioned
5 under this section shall meet the requirements for qualification
6 and appointment prescribed in this article except that the head of
7 the state or local government office where the applicant is
8 employed, or his or her designee, shall execute a certificate that
9 the application is made for the purposes of the office and in the
10 public interest and submit it to the Secretary of State together
11 with the application for appointment as a notary public.

12 (c) The costs of application and all notary supplies for a
13 commissioned state or local government employee shall be paid
14 from funds available to the office in which he or she is
15 employed.

16 (d) All fees received for notarial services by a government
17 notary public appointed for and in behalf of a state or local
18 government office shall be remitted by him or her to the state or
19 local government office in which he or she is employed.

20 (e) A government notary public must comply with all
21 provisions of this article in the performance of notarial acts.

22 (f) A government notary public may acknowledge any
23 document required to be acknowledged by a notary public:
24 *Provided*, That a government notary public may not operate
25 privately.

§39-4-32. Liability of notary and of an employer of notary.

1 (a) A notary public is liable to the persons involved for all
2 damages proximately caused by the notary's official misconduct.

3 (b) The employer of a notary public is also liable to the
4 persons involved for all damages proximately caused by the
5 notary's official misconduct, if:

6 (1) The notary public was acting within the scope of his or
7 her employment at the time he or she engaged in the official
8 misconduct; and

9 (2) The employer consented to the notary public's official
10 misconduct.

11 (c) It is not essential to a recovery of damages that a notary's
12 official misconduct be the only proximate cause of the damages.

13 (d) For the purposes of this section, the term "official
14 misconduct" means any act or conduct that:

15 (1) May result in the denial, refusal to renew, revocation,
16 suspension or condition commission of a notary public pursuant
17 to section twenty-one of this article; or

18 (2) Is prohibited by section twenty-three of this article.

§39-4-33. Criminal penalties.

1 (a) A notary public who knowingly and willfully commits
2 any official misconduct is guilty of a misdemeanor and, upon
3 conviction, shall be fined not more than \$5,000 or confined in
4 jail not more than one year, or both fined and confined.

5 (b) A notary public who recklessly or negligently commits
6 any official misconduct is guilty of a misdemeanor and, upon
7 conviction, shall be fined not more than \$1,000.

8 (c) Any person who acts as, or otherwise willfully
9 impersonates, a notary public while not lawfully appointed and

10 commissioned to perform notarial acts is guilty of a
11 misdemeanor and, upon conviction, shall be fined not more than
12 \$5,000 or confined in jail not more than one year, or both fined
13 and confined.

14 (d) Any person who unlawfully possesses a notary's official
15 seal or any papers or copies relating to notarial acts, is guilty of
16 a misdemeanor and, upon conviction, shall be fined not more
17 than \$1,000.

18 (e) For the purposes of this section, the term "official
19 misconduct" means any act or conduct that:

20 (1) May result in the denial, refusal to renew, revocation,
21 suspension or condition commission of a notary public pursuant
22 to section twenty-one of this article; or

23 (2) Is prohibited by section twenty-three of this article.

§39-4-34. Action for injunction; unauthorized practice of law.

1 Upon his or her own information or upon complaint of any
2 person, the Attorney General, or his or her designee, may
3 maintain an action for injunctive relief in circuit court against
4 any notary public who renders, offers to render or holds himself
5 or herself out as rendering any service constituting the
6 unauthorized practice of the law. Any organized bar association
7 in this state may intervene in the action, at any stage of the
8 proceeding, for good cause shown. The action may also be
9 maintained by an organized bar association in this state or by the
10 Secretary of State.

§39-4-35. Administrative complaints and investigations.

1 (a) In addition to the powers and duties contained in this
2 article, the Secretary of State may:

3 (1) Investigate, upon complaint or on his or her own
4 initiative, any alleged violations or irregularities of this article.

5 (2) Administer oaths and affirmations, issue subpoenas for
6 the attendance of witnesses, issue subpoenas duces tecum to
7 compel the production of books, papers, records and all other
8 evidence necessary to any investigation.

9 (3) Involve the aid of any circuit court in the execution of its
10 subpoena power.

11 (4) Report any alleged violations of this article to the
12 appropriate prosecuting attorney having jurisdiction, which
13 prosecuting attorney shall present to the grand jury the alleged
14 violations, together with all evidence relating thereto, no later
15 than the next term of court after receiving the report.

16 (b) The Attorney General shall, when requested, provide
17 legal and investigative assistance to the Secretary of State.

§39-4-36. Secretary of State record retention.

1 (a) The provisions of subsection (c), section three, article
2 two, chapter five of this code notwithstanding, the Secretary of
3 State may destroy original records of appointment under this
4 article after expiration of the term of a notary public: *Provided*,
5 That the Secretary of State maintains an electronic copy of the
6 appointment for a minimum of ten years after the expiration of
7 the term of the notary public.

8 (b) The Secretary of State may destroy any original journals
9 of notarial acts in his or her possession: *Provided*, That an
10 electronic copy is maintained in accordance with the retention
11 rules of the Department of Administration.

CHAPTER 57. EVIDENCE AND WITNESSES.

ARTICLE 4. DEPOSITIONS AND PERPETUATION OF TESTIMONY.

**§57-4-2. Taking and certification of depositions — Out-of state
and in foreign countries.**

1 On affidavit that a witness resides out of this state, or is out
2 of it in the service thereof, or of the United States, or is out of

3 this state and for justifiable reasons will probably be out of this
4 state until after the trial of the case in which his or her testimony
5 is needed, his or her deposition may be taken by or before any
6 justice, notary public or other officer authorized to take
7 depositions in the state wherein the witness may be, or, if the
8 deposition is to be taken in a foreign country, by or before such
9 commissioner or commissioners as may be agreed upon by the
10 parties or appointed by the court, or, if there be none such, by or
11 before any American minister, plenipotentiary, charge d'affaires,
12 consul general, consul, vice consul, consular agent, vice deputy
13 consular agent, commercial agent or vice commercial agent,
14 appointed by the government of the United States, or by or
15 before the mayor or other chief magistrate of any city, town or
16 corporation in the country or any notary public therein. Any
17 person or persons taking the deposition may administer an oath
18 to the witness and take and certify the deposition with his or her
19 official seal annexed, and if he or she have none, the genuineness
20 of his or her signature shall be authenticated by some officer of
21 the same state or country, under his or her official seal.

ARTICLE 5. MISCELLANEOUS PROVISIONS.

**§57-5-9. Administration of oaths or taking of affidavits;
authentication of affidavit made in another state or
country; oaths and affidavits of persons in military
service.**

1 Any judge of this state may administer any oath that is or
2 may be lawful for any person to take, including oaths of office,
3 and also may swear any person to an affidavit, and administer an
4 oath to any person in any proceeding.

5 Any oath or affidavit required by law, which is not of such
6 a nature that it must be made otherwise or elsewhere may, unless
7 otherwise provided, be administered by, or made before, a
8 county commissioner, notary public, or by the clerk of any court,
9 or, in case of a survey directed by a court in a case therein

10 pending, by or before the surveyor directed to execute said order
11 of survey.

12 An affidavit may also be made before any officer of another
13 state or country authorized by its laws to administer an oath, and
14 shall be deemed duly authenticated if it be subscribed by the
15 officer, with his or her official seal annexed, and if he or she
16 have none, the genuineness of his or her signature, and his or her
17 authority to administer an oath, shall be authenticated by some
18 officer of the same state or country under his or her official seal.

19 Any oath or affidavit required of a person in the military
20 service of the United States (including the Women's Army
21 Corps, Women's Appointed Volunteers for Emergency Service,
22 Army Nurse Corps, Spars, Women's Reserve or similar
23 women's auxiliary unit officially connected with the military
24 service of the United States), may be administered by or made
25 before any commissioned officer of any branch of the military
26 service of the United States, or any auxiliary unit officially
27 connected with the military service. Such oath may be taken or
28 affidavit made at any place either within or outside the United
29 States of America, or any territory, possession or dependency
30 thereof. The jurat to the oath and certificate to the affidavit need
31 not state the place where the same is taken and shall require no
32 seal to be affixed thereto. The certificate of the officer before
33 whom the oath is taken or affidavit is made must state his or her
34 rank, branch of military service, and identification number, and
35 the certificate may be substantially in form and effect as follows:

36 IN THE MILITARY SERVICE OF THE UNITED STATES:

37 I,, being duly sworn on oath (affirmation), do
38 swear (affirm) that I am a member of the military service of the
39 United States (or of, an auxiliary to the military forces
40 of the United States); that ***, etc.

41

42 Taken, subscribed and sworn to before me,, a
43 commissioned officer in the service of the United
44 States, by, a member of the military service of the
45 United States (or of, an auxiliary to the military forces
46 of the United States), this the day of, 20.....

47

48 (Signature of officer)

49

50 (Rank) (Identification Number)

51 Any oath or affidavit heretofore taken or made by any
52 person in the military service in substantial compliance with this
53 section shall be valid.

**CHAPTER 59. FEES, ALLOWANCES AND COSTS;
NEWSPAPERS; LEGAL ADVERTISEMENTS.**

ARTICLE 1. FEES AND ALLOWANCES.

§59-1-2. Fees to be charged by Secretary of State.

1 (a) Except as may be otherwise provided in this code, the
2 Secretary of State shall charge for services rendered in his or her
3 office the following fees to be paid by the person to whom the
4 service is rendered at the time it is done:

5 (1) For filing, recording, indexing, preserving a record of
6 and issuing a certificate relating to the formation, amendment,
7 change of name, registration of trade name, merger,
8 consolidation, conversion, renewal, dissolution, termination,
9 cancellation, withdrawal revocation and reinstatement of
10 business entities organized within the state, as follows:

11 (A) Articles of incorporation of for-profit corporation
12 \$50.00

13	(B) Articles of incorporation of nonprofit corporation	
14	.....	25.00
15	(C) Articles of organization of limited liability company	
16	.....	100.00
17	(D) Agreement of a general partnership.	50.00
18	(E) Certificate of a limited partnership.	100.00
19	(F) Agreement of a voluntary association.	50.00
20	(G) Articles of organization of a business trust.	50.00
21	(H) Amendment or correction of articles of incorporation,	
22	including change of name or increase of capital stock, in addition	
23	to any applicable license tax.	25.00
24	(I) Amendment or correction, including change of name, of	
25	articles of organization of business trust, limited liability	
26	partnership, limited liability company or professional limited	
27	liability company or of certificate of limited partnership or	
28	agreement of voluntary association.	25.00
29	(J) Amendment and restatement of articles of incorporation,	
30	certificate of limited partnership, agreement of voluntary	
31	association or articles of organization of limited liability	
32	partnership, limited liability company or professional limited	
33	liability company or business trust.	25.00
34	(K) Registration of trade name, otherwise designated as a	
35	true name, fictitious name or D.B.A. (doing business as) name	
36	for any domestic business entity as permitted by law. . .	25.00
37	(L) Articles of merger of two corporations, limited	
38	partnerships, limited liability partnerships, limited liability	
39	companies or professional limited liability companies, voluntary	
40	associations or business trusts.	25.00

41	(M) Plus for each additional party to the merger in excess of	
42	two.	15.00
43	(N) Statement of conversion, when permitted, from one	
44	business entity into another business entity, in addition to the	
45	cost of filing the appropriate documents to organize the	
46	surviving entity.	25.00
47	(O) Articles of dissolution of a corporation, voluntary	
48	association or business trust, or statement of dissolution of a	
49	general partnership.....	25.00
50	(P) Revocation of voluntary dissolution of a corporation,	
51	voluntary association or business trust.	15.00
52	(Q) Articles of termination of a limited liability company,	
53	cancellation of a limited partnership or statement of withdrawal	
54	of limited liability partnership.....	25.00
55	(R) Reinstatement of a limited liability company or	
56	professional limited liability company after administrative	
57	dissolution.	25.00
58	(2) For filing, recording, indexing, preserving a record of	
59	and issuing a certificate relating to the registration, amendment,	
60	change of name, merger, consolidation, conversion, renewal,	
61	withdrawal or termination within this state of business entities	
62	organized in other states or countries, as follows:	
63	(A) Certificate of authority of for-profit corporation	
64	.....	\$100.00
65	(B) Certificate of authority of nonprofit corporation	
66	.....	50.00
67	(C) Certificate of authority of foreign limited liability	
68	companies.....	150.00

69	(D) Certificate of exemption from certificate of	
70	authority	25.00
71	(E) Registration of a general partnership.	50.00
72	(F) Registration of a limited partnership.....	150.00
73	(G) Registration of a limited liability partnership for	
74	two-year term.....	500.00
75	(H) Registration of a voluntary association.....	50.00
76	(I) Registration of a trust or business trust.	50.00
77	(J) Amendment or correction of certificate of authority of a	
78	foreign corporation, including change of name or increase of	
79	capital stock, in addition to any applicable license tax. .	25.00
80	(K) Amendment or correction of certificate of limited	
81	partnership, limited liability partnership, limited liability	
82	company or professional limited liability company, voluntary	
83	association or business trust.....	25.00
84	(L) Registration of trade name, otherwise designated as a	
85	true name, fictitious name or D.B.A. (doing business as) name	
86	for any foreign business entity as permitted by law. ...	25.00
87	(M) Amendment and restatement of certificate of authority	
88	or of registration of a corporation, limited partnership, limited	
89	liability partnership, limited liability company or professional	
90	limited liability company, voluntary association or business trust	
91	.....	25.00
92	(N) Articles of merger of two corporations, limited	
93	partnerships, limited liability partnerships, limited liability	
94	companies or professional limited liability companies, voluntary	
95	associations or business trusts.	25.00

96 (O) Plus for each additional party to the merger in excess
97 of two. 5.00

98 (P) Statement of conversion, when permitted, from one
99 business entity into another business entity, in addition to the
100 cost of filing the appropriate articles or certificate to organize the
101 surviving entity. 25.00

102 (Q) Certificate of withdrawal or cancellation of a
103 corporation, limited partnership, limited liability partnership,
104 limited liability company, voluntary association or business trust
105 25.00

106 Notwithstanding any other provision of this section to the
107 contrary, after June 30, 2008, the fees described in this
108 subdivision that are collected for the issuance of a certificate
109 relating to the initial registration of a corporation, limited
110 partnership, domestic limited liability company or foreign
111 limited liability company shall be deposited in the general
112 administrative fees account established by this section.

113 (3) For receiving, filing and recording a change of the
114 principal or designated office, change of the agent of process
115 and/or change of officers, directors, partners, members or
116 managers, as the case may be, of a corporation, limited
117 partnership, limited liability partnership, limited liability
118 company or other business entity as provided by law. . \$15.00

119 (4) For receiving, filing and preserving a reservation of a
120 name for each one hundred twenty days or for any other period
121 in excess of seven days prescribed by law for a corporation,
122 limited partnership, limited liability partnership or limited
123 liability company. \$15.00

124 (5) For issuing a certificate relating to a corporation or other
125 business entity, as follows:

126 (A) Certificate of good standing of a domestic or foreign
127 corporation. \$10.00

128 (B) Certificate of existence of a domestic limited liability
129 company, and certificate of authorization foreign limited liability
130 company..... 10.00

131 (C) Certificate of existence of any business entity, trademark
132 or service mark registered with the Secretary of State .. 10.00

133 (D) Certified copy of corporate charter or comparable
134 organizing documents for other business entities. 15.00

135 (E) Plus, for each additional amendment, restatement or
136 other additional document. 5.00

137 (F) Certificate of registration of the name of a foreign
138 corporation, limited liability company, limited partnership or
139 limited liability partnership. 25.00

140 (G) And for the annual renewal of the name registration
141 10.00

142 (H) Any other certificate not specified in this subdivision
143 10.00

144 (6) For issuing a certificate other than those relating to
145 business entities, as provided in this subsection, as follows:

146 (A) Certificate or apostille relating to the authority of certain
147 public officers, including the membership of boards and
148 commissions..... \$10.00

149 (B) Plus, for each additional certificate pertaining to the
150 same transaction..... 5.00

151 (C) Any other certificate not specified in this
152 subdivision..... 10.00

153 (D) For acceptance, indexing and recordation of service of
154 process any corporation, limited partnership, limited liability
155 partnership, limited liability company, voluntary association,

156 business trust, insurance company, person or other entity as
157 permitted by law..... 15.00

158 (E) For shipping and handling expenses for execution of
159 service of process by certified mail upon any defendant within
160 the United States, which fee is to be deposited to the special
161 revenue account established in this section for the operation of
162 the office of the Secretary of State..... 5.00

163 (F) For shipping and handling expenses for execution of
164 service of process upon any defendant outside the United States
165 by registered mail, which fee is to be deposited to the special
166 revenue account established in this section for the operation of
167 the office of the Secretary of State..... 15.00

168 (7) For a search of records of the office conducted by
169 employees of or at the expense of the Secretary of State upon
170 request, as follows:

171 (A) For any search of archival records maintained at sites
172 other than the office of the Secretary of State no less than
173 \$10.00

174 (B) For searches of archival records maintained at sites other
175 than the office of the Secretary of State which require more than
176 one hour, for each hour or fraction of an hour consumed in
177 making a search. 10.00

178 (C) For any search of records maintained on site for the
179 purpose of obtaining copies of documents or printouts of data
180 5.00

181 (D) For any search of records maintained in electronic
182 format which requires special programming to be performed by
183 the state information services agency or other vendor any actual
184 cost, but not less than..... 25.00

185 (E) The cost of the search is in addition to the cost of any
186 copies or printouts prepared or any certificate issued pursuant to
187 or based on the search.

188 (F) For recording any paper for which no specific fee is
189 prescribed..... 5.00

190 (8) For producing and providing photocopies or printouts of
191 electronic data of specific records upon request, as follows:

192 (A) For a copy of any paper or printout of electronic data, if
193 one sheet..... \$1.00

194 (B) For each sheet after the first50

195 (C) For sending the copies or lists by fax transmission
196 5.00

197 (D) For producing and providing photocopies of lists,
198 reports, guidelines and other documents produced in multiple
199 copies for general public use, a publication price to be
200 established by the Secretary of State at a rate approximating 2.00
201 plus .10 per page and rounded to the nearest dollar.

202 (E) For electronic copies of records obtained in data format
203 on disk, the cost of the record in the least expensive available
204 printed format, plus, for each required disk, which shall be
205 provided by the Secretary of State..... 5.00

206 (b) The Secretary of State may propose legislative rules for
207 promulgation for charges for on-line electronic access to
208 database information or other information maintained by the
209 Secretary of State.

210 (c) For any other work or service not enumerated in this
211 subsection, the fee prescribed elsewhere in this code or a rule
212 promulgated under the authority of this code.

213 (d) The records maintained by the Secretary of State are
214 prepared and indexed at the expense of the state and those
215 records shall not be obtained for commercial resale without the
216 written agreement of the state to a contract including
217 reimbursement to the state for each instance of resale.

218 (e) The Secretary of State may provide printed or electronic
219 information free of charge as he or she considers necessary and
220 efficient for the purpose of informing the general public or the
221 news media.

222 (f) There is hereby continued in the State Treasury a special
223 revenue account to be known as the "service fees and
224 collections" account. Expenditures from the account shall be
225 used for the operation of the office of the Secretary of State and
226 are not authorized from collections, but are to be made only in
227 accordance with appropriation by the Legislature and in
228 accordance with the provisions of article three, chapter twelve of
229 this code and upon the fulfillment of the provisions set forth in
230 article two, chapter five-a of this code. Notwithstanding any
231 other provision of this code to the contrary, except as provided
232 in subsection (h) of this section and section two-a of this article,
233 one half of all the fees and service charges established in the
234 following sections and for the following purposes shall be
235 deposited by the Secretary of State or other collecting agency to
236 that special revenue account and used for the operation of the
237 office of the Secretary of State:

238 (1) The annual attorney-in-fact fee for corporations and
239 limited partnerships established in section five, article twelve-c,
240 chapter eleven of this code;

241 (2) The fees received for the sale of the State Register, code
242 of state rules and other copies established by rule and authorized
243 by section seven, article two, chapter twenty-nine-a of this code;

244 (3) The registration fees, late fees and legal settlements
245 charged for registration and enforcement of the charitable

246 organizations and professional solicitations established in
247 sections five, nine and fifteen-b, article nineteen, chapter
248 twenty-nine of this code;

249 (4) The annual attorney-in-fact fee for limited liability
250 companies as designated in section one hundred eight, article
251 one, chapter thirty-one-b of this code and established in section
252 two hundred eleven, article two of said chapter: *Provided*, That
253 after June 30, 2008, the annual report fees designated in section
254 one hundred eight, article one, chapter thirty-one-b of this code
255 shall upon collection be deposited in the general administrative
256 fees account described in subsection (h) of this section;

257 (5) The filing fees and search and copying fees for uniform
258 commercial code transactions established by section five
259 hundred twenty-five, article nine, chapter forty-six of this code;

260 (6) The annual attorney-in-fact fee for licensed insurers
261 established in section twelve, article four, chapter thirty-three of
262 this code;

263 (7) The fees for the application and record maintenance of
264 all notaries public established by section twenty, article four,
265 chapter thirty-nine of this code.

266 (8) The fees for registering credit service organizations as
267 established by section five, article six-c, chapter forty-six-a of
268 this code;

269 (9) The fees for registering and renewing a West Virginia
270 limited liability partnership as established by section one, article
271 ten, chapter forty-seven-b of this code;

272 (10) The filing fees for the registration and renewal of
273 trademarks and service marks established in section seventeen,
274 article two, chapter forty-seven of this code;

275 (11) All fees for services, the sale of photocopies and data
276 maintained at the expense of the Secretary of State as provided
277 in this section; and

278 (12) All registration, license and other fees collected by the
279 Secretary of State not specified in this section.

280 (g) Any balance in the service fees and collections account
281 established by this section which exceeds five hundred thousand
282 dollars as of June 30, 2003, and each year thereafter, shall be
283 expired to the state fund, General Revenue Fund.

284 (h)(1) Effective July 1, 2008, there is hereby created in the
285 State Treasury a special revenue account to be known as the
286 general administrative fees account. Expenditures from the
287 account shall be used for the operation of the office of the
288 Secretary of State and are not authorized from collections, but
289 are to be made only in accordance with appropriation by the
290 Legislature and in accordance with the provisions of article
291 three, chapter twelve of this code and upon the fulfillment of the
292 provisions set forth in article two, chapter eleven-b of this code:
293 *Provided*, That for the fiscal year ending June 30, 2009,
294 expenditures are authorized from collections rather than pursuant
295 to an appropriation by the Legislature. Any balance in the
296 account at the end of each fiscal year shall not revert to the
297 General Revenue Fund but shall remain in the fund and be
298 expended as provided by this subsection.

299 (2) After June 30, 2008, all the fees and service charges
300 established in section two-a of this article for the following
301 purposes shall be collected and deposited by the Secretary of
302 State or other collecting agency in the general administrative
303 fees account and used for the operation of the office of the
304 Secretary of State:


305 (A) The annual report fees paid to the Secretary of State by
306 corporations, limited partnerships, domestic limited liability
307 companies and foreign limited liability companies;

308 (B) The fees for the issuance of a certificate relating to the
309 initial registration of a corporation, limited partnership, domestic
310 limited liability company or foreign limited liability company
311 described in subdivision (2), subsection (a) of this section; and

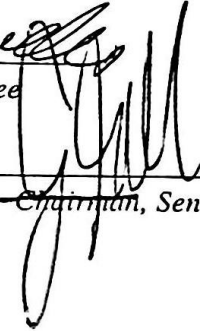
312 (C) The fees for the purchase of date and updates related to
313 the State's Business Organizations Database described in section
314 two-a of this article.

315 (i) There is continued in the office of the Secretary of State
316 a noninterest-bearing, escrow account to be known as the
317 "prepaid fees and services account". This account shall be for the
318 purpose of allowing customers of the Secretary of State to
319 prepay for services, with payment to be held in escrow until
320 services are rendered. Payments deposited in the account shall
321 remain in the account until services are rendered by the
322 Secretary of State and at that time the fees will be reallocated to
323 the appropriate general or special revenue accounts. There shall
324 be no fee charged by the Secretary of State to the customer for
325 the use of this account and the customer may request the return
326 of any moneys maintained in the account at any time without
327 penalty. The assets of the prepaid fees and services account do
328 not constitute public funds of the state and are available solely
329 for carrying out the purposes of this section.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.




Chairman, House Committee



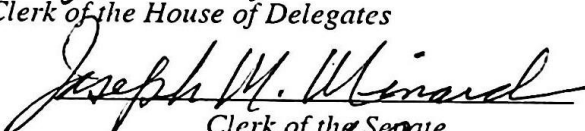
Member — Chairman, Senate Committee

Originating in the House.

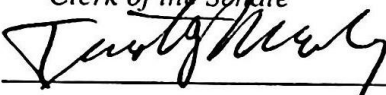
In effect July 1, 2014.



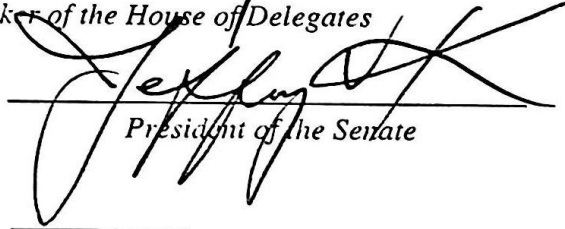
Clerk of the House of Delegates



Clerk of the Senate



Speaker of the House of Delegates



President of the Senate

The within is approved this the 28th
day of March, 2014.



Governor

PRESENTED TO THE GOVERNOR

MAR 28 2014

Time 10:45 Am