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

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

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

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.
(3) "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.

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

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

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

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

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

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

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

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

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

(9) "Person" means an individual, corporation, business trust, statutory trust, estate, trust, partnership, limited liability
company, association, joint venture, public corporation, government or governmental subdivision, agency or instrumentality, or any other legal or commercial entity.

(10) "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.

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

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

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

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

(13) "Stamping device" means:

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

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

(14) "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.

(15) "Verification on oath or affirmation" means a declaration, made by an individual on oath or affirmation before a notarial officer, that a statement in a record is true.
§39-4-3. Applicability; operative date of enactment; effect on existing law.

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

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

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

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

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

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

(a) A notarial officer who takes an acknowledgment of a record shall determine, from personal knowledge or satisfactory evidence of the identity of the individual, that the individual
appearing before the officer and making the acknowledgment has the identity claimed and that the signature on the record is the signature of the individual.

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

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

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

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

§39-4-6. Personal appearance required.

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 shall appear personally before the notarial officer. An individual making the statement or executing the signature does not appear personally if the appearance is by video or audio technology, even if the video is synchronous.

§39-4-7. Identification of individual.

(a) A notarial officer has personal knowledge of the identity 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
(2) The individual’s signature is knowingly and voluntarily
made.

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

§39-4-9. Signature if individual is 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.

§39-4-10. Notarial act in this state.

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

(1) A notary public of this state;

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

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

(b) 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.

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

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

(a) 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:
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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
to perform the notarial act.

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

13 (c) The signature and title of a notarial officer described in
subdivision (1) or (2), subsection (a) of this section, conclusively
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
jurisdiction of a federally recognized Indian tribe has the same
effect as if performed by a notarial officer of this state, if the act
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
perform the notarial act.

9 (b) 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 are prima facie evidence that
the signature is genuine and that the individual holds the
designated title.

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

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

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

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

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

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

6. (b) 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.

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

§39-4-14. Foreign notarial act.

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

2. (b) 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 if performed by a notarial
officer of this state.

(c) 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
conclusively established.

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

(e) 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.

(f) 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.


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

(1) Be executed contemporaneously with the performance of
the notarial act;
(2) 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;

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

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

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

(b) If a notarial act regarding a tangible record is performed by a notary public, an official stamp 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 subdivisions (2), (3) and (4), subsection (a) of this section, an official stamp 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 said subdivisions, an official stamp may be attached to or logically associated with the certificate.

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

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

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

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

(4) 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 five, six and seven of this article or law of this state other than this article.
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(d) 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 four, five and six of this article.

(e) 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.

(f) 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 pursuant to section twenty-five of this article, for attaching, affixing, or logically associating the certificate, the process must conform to the standards.

§39-4-16. Short form certificates.

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

1 (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 ..............................
§39-4-17. Official stamp.

The official stamp of a notary public must:

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

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

§39-4-18. Stamping device.

(a) 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, the notary public shall 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

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

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

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

(a) An individual qualified under subsection (b) of this section may apply to the Secretary of State for a commission as a notary public. The applicant shall comply with and provide the
information required by rules promulgated by the Secretary of
State and pay any application fee.

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

(1) Be at least eighteen years of age;

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

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

(4) Be able to read and write English;

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

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

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

(d) Before issuance of a commission as a notary public, the
applicant for a commission shall submit to the Secretary of State
an assurance in the form of: (1) A surety bond or its functional
equivalent in the amount of $1,000; or (2) certification that the
applicant is covered under a: (A) Professional liability insurance
policy; (B) an errors and omission insurance policy; (C) a
commercial general liability insurance policy; or (D) their
equivalent, in the amount of $1,000. The assurance must be
issued by a surety or other entity licensed or authorized to do
business in this state. 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 law with respect to notaries public in this state,
the surety or issuing entity is liable under the assurance. The
notary public shall give thirty days’ notice to the Secretary of 
State before canceling any assurance or loss of insurance 
coverage. The surety or issuing entity shall notify the Secretary 
of State not later than thirty 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.

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

(f) 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 
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.

(a) 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:

(1) Failure to comply with this article;

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

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

(4) A finding against, or admission of liability by, the 
applicant or notary public in any legal proceeding or disciplinary
(5) Failure by the notary public to discharge any duty required of a notary public, whether by this article, rules promulgated by the Secretary of State, or any federal or state law;

(6) 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;

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

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

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

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

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

(b) 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 timely notice and hearing in accordance with article five, chapter twenty-nine-a of this code.

(c) 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.
§39-4-22. Database of notaries public.

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

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

5 (2) Which indicates whether a notary public has notified the Secretary of State that the notary public will be performing 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 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 individual to:

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

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

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

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

12 (b) A notary public may not engage in false or deceptive advertising.
(c) A notary public, other than an attorney licensed to practice law in this state, may not use the term “notario” or “notario publico”.

(d) A notary public, other than 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 shall 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.

(e) 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.


Except as otherwise provided in subsection (b), section four of this article, the failure of a notarial officer to perform a duty or meet a requirement specified in this article does not invalidate a notarial act performed by the notarial officer. The validity of a notarial act under this article 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 law of this state other than this article or law 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.

§39-4-25. Rules.

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

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

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

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

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

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

(6) Establish the process for approving and accepting surety
bonds and other forms of assurance under subsection (d), section
twenty of this article; and
(7) Establish fees, with legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code. Fees collected by the Secretary of State pursuant to section two, article one, chapter fifty-nine of this code shall be deposited by the Secretary of State as follows: One-half shall be deposited in the state general revenue fund and one-half shall be deposited in the service fees and collections account established by section two, article one, chapter fifty-nine of this code for the operation of the office of the Secretary of State. The Secretary of State shall dedicate sufficient resources from that fund or other funds to provide the services required by the provisions of article four, chapter thirty-nine of this code.

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

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

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

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

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

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

(b) An appointment as commissioner under the repealed provisions of article four, chapter twenty-nine of this code, in
effect on June 30, 2014, continues until its date of expiration. A commissioner, in performing notarial acts on or after July 1, 2014, shall comply with this article: Provided, That a person holding a commission pursuant to the provisions of article four, chapter twenty-nine of this code, on June 30, 2014, is not required to obtain or use a stamp required by section seventeen of this article, prior to the expiration of that commission.

§39-4-27. Savings clause.

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


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

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

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

§39-4-30. Maximum fees.

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

(b) The maximum fee in this state for certification of a facsimile of a document, retaining a facsimile in the notary’s file, and the proper recodation thereof in the journal of notarial
acts is $5.00 for each eight and one-half by eleven inch page
retained in the notary’s file.

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


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

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

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

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

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

(f) A government notary public may acknowledge any document required to be acknowledged by a notary public: Provided, That a government notary public may not operate 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 damages proximately caused by the notary's official misconduct.

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

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

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

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

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

15 (1) May result in the denial, refusal to renew, revocation, suspension or condition commission of a notary public pursuant 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 any official misconduct is guilty of a misdemeanor and, upon conviction, shall be fined not more than $5,000 or confined in jail not more than one year, or both fined and confined.

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

8 (c) Any person who acts as, or otherwise willfully impersonates, a notary public while not lawfully appointed and
commissioned to perform notarial acts is guilty of a
misdemeanor and, upon conviction, shall be fined not more than
$5,000 or confined in jail not more than one year, or both fined
and confined.

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

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

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

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

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

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

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

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

(1) Investigate, upon complaint or on his or her own
initiative, any alleged violations or irregularities of this article.
(2) Administer oaths and affirmations, issue subpoenas for the attendance of witnesses, issue subpoenas duces tecum to compel the production of books, papers, records and all other evidence necessary to any investigation.

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

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

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

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

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

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

On affidavit that a witness resides out of this state, or is out of it in the service thereof, or of the United States, or is out of
this state and for justifiable reasons will probably be out of this
state until after the trial of the case in which his or her testimony
is needed, his or her deposition may be taken by or before any
justice, notary public or other officer authorized to take
depositions in the state wherein the witness may be, or, if the
deposition is to be taken in a foreign country, by or before such
commissioner or commissioners as may be agreed upon by the
parties or appointed by the court, or, if there be none such, by or
before any American minister, plenipotentiary, charge d’affaires,
consul general, consul, vice consul, consular agent, vice deputy
consular agent, commercial agent or vice commercial agent,
appointed by the government of the United States, or by or
before the mayor or other chief magistrate of any city, town or
corporation in the country or any notary public therein. Any
person or persons taking the deposition may administer an oath
to the witness and take and certify the deposition with his or her
official seal annexed, and if he or she have none, the genuineness
of his or her signature shall be authenticated by some officer of
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.

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

Any oath or affidavit required by law, which is not of such
a nature that it must be made otherwise or elsewhere may, unless
otherwise provided, be administered by, or made before, a
county commissioner, notary public, or by the clerk of any court,
or, in case of a survey directed by a court in a case therein
pending, by or before the surveyor directed to execute said order
of survey.

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

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

IN THE MILITARY SERVICE OF THE UNITED STATES:

I, .............., being duly sworn on oath (affirmation), do
swear (affirm) that I am a member of the military service of the
United States (or of .............., an auxiliary to the military forces
of the United States); that ***, etc.
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
52 Any oath or affidavit heretofore taken or made by any
53 person in the military service in substantial compliance with this
54 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
<table>
<thead>
<tr>
<th></th>
<th>Description</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>13</td>
<td>(B) Articles of incorporation of nonprofit corporation</td>
<td>25.00</td>
</tr>
<tr>
<td>15</td>
<td>(C) Articles of organization of limited liability company</td>
<td>100.00</td>
</tr>
<tr>
<td>17</td>
<td>(D) Agreement of a general partnership</td>
<td>50.00</td>
</tr>
<tr>
<td>18</td>
<td>(E) Certificate of a limited partnership</td>
<td>100.00</td>
</tr>
<tr>
<td>19</td>
<td>(F) Agreement of a voluntary association</td>
<td>50.00</td>
</tr>
<tr>
<td>20</td>
<td>(G) Articles of organization of a business trust</td>
<td>50.00</td>
</tr>
<tr>
<td>21</td>
<td>(H) Amendment or correction of articles of incorporation, including change of name or increase of capital stock, in addition to any applicable license tax.</td>
<td>25.00</td>
</tr>
<tr>
<td>24</td>
<td>(I) Amendment or correction, including change of name, of articles of organization of business trust, limited liability partnership, limited liability company or professional limited liability company or of certificate of limited partnership or agreement of voluntary association.</td>
<td>25.00</td>
</tr>
<tr>
<td>29</td>
<td>(J) Amendment and restatement of articles of incorporation, certificate of limited partnership, agreement of voluntary association or articles of organization of limited liability partnership, limited liability company or professional limited liability company or business trust.</td>
<td>25.00</td>
</tr>
<tr>
<td>34</td>
<td>(K) Registration of trade name, otherwise designated as a true name, fictitious name or D.B.A. (doing business as) name for any domestic business entity as permitted by law.</td>
<td>25.00</td>
</tr>
<tr>
<td>37</td>
<td>(L) Articles of merger of two corporations, limited partnerships, limited liability partnerships, limited liability companies or professional limited liability companies, voluntary associations or business trusts.</td>
<td>25.00</td>
</tr>
</tbody>
</table>
(M) Plus for each additional party to the merger in excess of two. ............................... 15.00

(N) Statement of conversion, when permitted, from one business entity into another business entity, in addition to the cost of filing the appropriate documents to organize the surviving entity. .................. 25.00

(O) Articles of dissolution of a corporation, voluntary association or business trust, or statement of dissolution of a general partnership.................................. 25.00

(P) Revocation of voluntary dissolution of a corporation, voluntary association or business trust. .............. 15.00

(Q) Articles of termination of a limited liability company, cancellation of a limited partnership or statement of withdrawal of limited liability partnership............................. 25.00

(R) Reinstatement of a limited liability company or professional limited liability company after administrative dissolution. ..................................................... 25.00

(2) For filing, recording, indexing, preserving a record of and issuing a certificate relating to the registration, amendment, change of name, merger, consolidation, conversion, renewal, withdrawal or termination within this state of business entities organized in other states or countries, as follows:

(A) Certificate of authority of for-profit corporation .......................... $100.00

(B) Certificate of authority of nonprofit corporation ............................... 50.00

(C) Certificate of authority of foreign limited liability companies............... 150.00
(D) Certificate of exemption from certificate of authority .................................................. 25.00
(E) Registration of a general partnership. ........ 50.00
(F) Registration of a limited partnership......... 150.00
(G) Registration of a limited liability partnership for two-year term.................................. 500.00
(H) Registration of a voluntary association..... 50.00
(I) Registration of a trust or business trust. .... 50.00
(J) Amendment or correction of certificate of authority of a foreign corporation, including change of name or increase of capital stock, in addition to any applicable license tax. . 25.00
(K) Amendment or correction of certificate of limited partnership, limited liability partnership, limited liability company or professional limited liability company, voluntary association or business trust.......................... 25.00
(L) Registration of trade name, otherwise designated as a true name, fictitious name or D.B.A. (doing business as) name for any foreign business entity as permitted by law. ... 25.00
(M) Amendment and restatement of certificate of authority or of registration of a corporation, limited partnership, limited liability partnership. limited liability company or professional limited liability company, voluntary association or business trust .................................................. 25.00
(N) Articles of merger of two corporations, limited partnerships, limited liability partnerships, limited liability companies or professional limited liability companies, voluntary associations or business trusts. ......................... 25.00
(O) Plus for each additional party to the merger in excess of two. ........................................... 5.00

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

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

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

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

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

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

(A) Certificate of good standing of a domestic or foreign corporation. ........................................... $10.00
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128 (B) Certificate of existence of a domestic limited liability
129 company, and certificate of authorization foreign limited liability
130 company............................................. 10.00

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

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

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

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

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

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

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

(D) For any search of records maintained in electronic
format which requires special programming to be performed by
the state information services agency or other vendor any actual
cost, but not less than.............................. 25.00
(E) The cost of the search is in addition to the cost of any copies or printouts prepared or any certificate issued pursuant to or based on the search.

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

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

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

(B) For each sheet after the first ....................... .50

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

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

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

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

(c) For any other work or service not enumerated in this subsection, the fee prescribed elsewhere in this code or a rule promulgated under the authority of this code.
(d) The records maintained by the Secretary of State are prepared and indexed at the expense of the state and those records shall not be obtained for commercial resale without the written agreement of the state to a contract including reimbursement to the state for each instance of resale.

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

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

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

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

(3) The registration fees, late fees and legal settlements charged for registration and enforcement of the charitable
organizations and professional solicitations established in sections five, nine and fifteen-b, article nineteen, chapter twenty-nine of this code;

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

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

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

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

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

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

(10) The filing fees for the registration and renewal of trademarks and service marks established in section seventeen, article two, chapter forty-seven of this code;
(11) All fees for services, the sale of photocopies and data maintained at the expense of the Secretary of State as provided in this section; and

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

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

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

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

(A) The annual report fees paid to the Secretary of State by corporations, limited partnerships, domestic limited liability companies and foreign limited liability companies;
(B) The fees for the issuance of a certificate relating to the initial registration of a corporation, limited partnership, domestic limited liability company or foreign limited liability company described in subdivision (2), subsection (a) of this section; and

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

(i) There is continued in the office of the Secretary of State a noninterest-bearing, escrow account to be known as the "prepaid fees and services account". This account shall be for the purpose of allowing customers of the Secretary of State to prepay for services, with payment to be held in escrow until services are rendered. Payments deposited in the account shall remain in the account until services are rendered by the Secretary of State and at that time the fees will be reallocated to the appropriate general or special revenue accounts. There shall be no fee charged by the Secretary of State to the customer for the use of this account and the customer may request the return of any moneys maintained in the account at any time without penalty. The assets of the prepaid fees and services account do not constitute public funds of the state and are available solely 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 was approved this the 28th day of March, 2014.

Governor
PRESENTED TO THE GOVERNOR

MAR 28 2014

Time 10:48 AM