

1 **ENROLLED**

2 **COMMITTEE SUBSTITUTE**

3 **FOR**

4 **H. B. 4012**

5
6 (By Delegates P. Smith, R. Phillips, Ellington,
7 Ferro, Reynolds, Skinner and Storch)

8 [Passed March 6, 2014; in effect July 1, 2014.]
9

10 AN ACT to repeal §29-4-3, §29-4-4, §29-4-5, §29-4-6, §29-4-7,
11 §29-4-8, §29-4-12, §29-4-13, §29-4-14, §29-4-15 and §29-4-16
12 of the Code of West Virginia, 1931, as amended; to repeal
13 §29C-1-101, §29C-1-102, §29C-1-103, §29C-1-104, §29C-1-105,
14 §29C-1-106, §29C-1-107, §29C-2-201, §29C-2-202, §29C-2-203,
15 §29C-2-204, §29C-2-205, §29C-2-206, §29C-2-207, §29C-2-208,
16 §29C-2-301, §29C-3-101, §29C-3-102, §29C-4-101, §29C-4-102,
17 §29C-4-103, §29C-4-104, §29C-4-201, §29C-4-202, §29C-4-203,
18 §29C-4-301, §29C-4-401, §29C-4-402, §29C-4-403, §29C-4-404,
19 §29C-4-405, §29C-5-101, §29C-5-102, §29C-5-103, §29C-5-104,
20 §29C-6-101, §29C-6-102, §29C-6-103, §29C-6-201, §29C-6-202,
21 §29C-6-203, §29C-6-204, §29C-7-101, §29C-7-201, §29C-7-202,
22 §29C-8-101 and §29C-9-101 of said code; to repeal §39-1A-1,
23 §39-1A-2, §39-1A-3, §39-1A-4, §39-1A-5, §39-1A-6, §39-1A-7,
24 §39-1A-8 and §39-1A-9, of said code; to amend and reenact
25 §39-1-4 and §39-1-5 of said code; to amend said code by adding

1 thereto a new article, designated §39-4-1, §39-4-2, §39-4-3,
2 §39-4-4, §39-4-5, §39-4-6, §39-4-7, §39-4-8, §39-4-9,
3 §39-4-10, §39-4-11, §39-4-12, §39-4-13, §39-4-14, §39-4-15,
4 §39-4-16, §39-4-17, §39-4-18, §39-4-19, §39-4-20, §39-4-21,
5 §39-4-22, §39-4-23, §39-4-24, §39-4-25, §39-4-26, §39-4-27,
6 §39-4-28, §39-4-29, §39-4-30, §39-4-31, §39-4-32, §39-4-33,
7 §39-4-34, §39-4-35 and §39-4-36; to amend and reenact §57-4-2
8 of said code; to amend and reenact §57-5-9 of said code; and
9 to amend and reenact §59-1-2 of said code, all relating to the
10 Revised Uniform Law on Notarial Acts; establishing the
11 effective date of the article; establishing an operative date
12 of enactment and the effect on existing law; establishing the
13 authority to perform notarial acts; establishing requirements
14 for certain notarial acts; requiring a personal appearance and
15 the identification of an individual; authorizing the right to
16 refuse to perform a notarial act; establishing instructions
17 for obtaining a signature if an individual is unable to sign;
18 setting forth who may perform a notarial act in this state;
19 establishing notarial reciprocity with other states, any
20 federally recognized Indian tribe, the federal government, and
21 foreign states; requiring a certificate for a notarial act;
22 authorizing short form certificates; requiring an official
23 stamp and the maintenance and disposition of a stamping
24 device; authorizing notaries public the option of selecting a

1 technology for use in notarial acts on electronic records;
2 establishing minimum qualifications and authorizing the
3 commissioning of notaries public; providing grounds to deny,
4 refuse to renew, revoke, suspend, or condition commissions of
5 notaries public; requiring Secretary of State to maintain a
6 database of notaries public; prohibiting certain acts;
7 authorizing the validity of notarial acts; authorizing the
8 Secretary of State to promulgate rules; authorizing the
9 continuation of a commission in effect on the effective date
10 of the act; providing that any notarial act performed before
11 the effective date of the act is not invalidated by the act;
12 providing for the uniformity of the application and
13 construction of the act; clarifying the relationship to the
14 Electronic Signatures in Global and National Commerce Act;
15 establishing maximum fees that may be charged by a notary
16 public; commissioning notaries public for state and local
17 government; establishing civil liability and criminal
18 penalties; authorizing injunctive relief; authorizing the
19 Secretary of State to investigate complaints; requiring the
20 Secretary of State to maintain certain records; establishing
21 an application fee; providing for the disposition of fees;
22 repealing statutes regulating notaries public and
23 commissioners including the Uniform Notary Act; repealing the
24 Uniform Recognition of Acknowledgments Act; and removing

1 obsolete references.

2 *Be it enacted by the Legislature of West Virginia:*

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

1 §39-4-35 and §39-4-36; that §57-4-2 of said code be amended and
2 reenacted; that §57-5-9 of said code be amended and reenacted and
3 that §59-1-2 of said code be amended and reenacted, all to read as
4 follows:

5 **CHAPTER 39. RECORDS AND PAPERS.**

6 **ARTICLE 1. AUTHENTICATION AND RECORD OF WRITINGS.**

7 **§39-1-4. Form of certificate of acknowledgment.**

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

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

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

22 Given under my hand this day of, 20

23 **§39-1-5. Acknowledgment by husband and wife.**

24 When a husband and wife have signed a writing purporting to

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

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

9 I,, a notary public of the said county of
10; or I,, clerk of the court or
11 county of; (or other officer or person authorized to take
12 acknowledgments by section three of this article, as the case may
13 be),* do certify and, his or her wife whose
14 names are signed to the writing above (or hereto annexed) bearing
15 date the day of, 20....., have this day
16 acknowledged the same before me in my 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 after
20 the star in the foregoing form shall be in form or effect as
21 follows: do certify that, the wife of, (or
22 the husband of, as the case may be), whose name is
23 signed to the writing above (or hereto annexed) bearing date the
24 day of, 20, has this day acknowledged

1 the same before me in my said

2 Given under my hand this day of, 20

3

4 **ARTICLE 4. REVISED UNIFORM LAW ON NOTARIAL ACTS.**

5 **§39-4-1. Short title.**

6 This article may be cited as the Revised Uniform Law on
7 Notarial Acts.

8 **§39-4-2. Definitions.**

9 In this article:

10 (1) "Acknowledgment" means a declaration by an individual
11 before a notarial officer that the individual has signed a record
12 for the purpose stated in the record and, if the record is signed
13 in a representative capacity, that the individual signed the record
14 with proper authority and signed it as the act of the individual or
15 entity identified in the record.

16 (2) "Electronic" means relating to technology having
17 electrical, digital, magnetic, wireless, optical, electromagnetic
18 or similar capabilities.

19 (3) "Electronic signature" means an electronic symbol, sound
20 or process attached to or logically associated with a record and
21 executed or adopted by an individual with the intent to sign the
22 record.

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

24 (A) An authorized officer, agent, partner, trustee or other

1 representative for a person other than an individual;

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

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

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

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

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

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

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

21 (9) "Person" means an individual, corporation, business trust,
22 statutory trust, estate, trust, partnership, limited liability
23 company, association, joint venture, public corporation, government
24 or governmental subdivision, agency or instrumentality, or any

1 other legal or commercial entity.

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

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

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

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

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

12 (13) "Stamping device" means:

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

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

17 (14) "State" means a state of the United States, the District
18 of Columbia, Puerto Rico, the United States Virgin Islands or any
19 territory or insular possession subject to the jurisdiction of the
20 United States.

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

24 **§39-4-3. Applicability; operative date of enactment; effect on**

1 **existing law.**

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

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

20 **§39-4-4. Authority to perform notarial act.**

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

23 (b) A notarial officer may not perform a notarial act with
24 respect to a record to which the officer or the officer's spouse is

1 a party, or in which either of them has a direct beneficial
2 interest, financial or otherwise. A notarial act performed in
3 violation of this subsection is voidable.

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

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

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

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

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

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

5 **§39-4-6. Personal appearance required.**

6 If a notarial act relates to a statement made in or a
7 signature executed on a record, the individual making the statement
8 or executing the signature shall appear personally before the
9 notarial officer. An individual making the statement or executing
10 the signature does not appear personally if the appearance is by
11 video or audio technology, even if the video is synchronous.

12 **§39-4-7. Identification of individual.**

13 (a) A notarial officer has personal knowledge of the identity
14 of an individual appearing before the officer if the individual is
15 personally known to the officer through dealings sufficient to
16 provide reasonable certainty that the individual has the identity
17 claimed.

18 (b) A notarial officer has satisfactory evidence of the
19 identity of an individual appearing before the officer if the
20 officer can identify the individual:

21 (1) By means of:

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

1 (B) Another form of government identification issued to an
2 individual, which is current or expired not more than three years
3 before performance of the notarial act, contains the signature or
4 a photograph of the individual and is satisfactory to the officer;
5 or

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

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

15 **§39-4-8. Authority to refuse to perform notarial act.**

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

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

20 (2) The individual's signature is knowingly and voluntarily
21 made.

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

24 **§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.

6 **§39-4-10. Notarial act in this state.**

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

8 (1) A notary public of this state;

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

10 or

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

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

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

21 **§39-4-11. Notarial act in another state.**

22 (a) A notarial act performed in another state has the same
23 effect under the law of this state as if performed by a notarial
24 officer of this state, if the act performed in that state is

1 performed by:

2 (1) A notary public of that state;

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

4 or

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

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

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

15 **§39-4-12. Notarial act under authority of federally recognized**
16 **Indian tribe.**

17 (a) A notarial act performed under the authority and in the
18 jurisdiction of a federally recognized Indian tribe has the same
19 effect as if performed by a notarial officer of this state, if the
20 act performed in the jurisdiction of the tribe is performed by:

21 (1) A notary public of the tribe;

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

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

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

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

10 **§39-4-13. Notarial act under federal authority.**

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

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

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

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

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

24 (b) The signature and title of an individual acting under

1 federal authority and performing a notarial act are prima facie
2 evidence that the signature is genuine and that the individual
3 holds the designated title.

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

8 **§39-4-14. Foreign notarial act.**

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

12 (b) If a notarial act is performed under authority and in the
13 jurisdiction of a foreign state or constituent unit of the foreign
14 state or is performed under the authority of a multinational or
15 international governmental organization, the act has the same
16 effect under the law of this state as if performed by a notarial
17 officer of this state.

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

23 (d) The signature and official stamp of an individual holding
24 an office described in subsection (c) of this section are prima

1 facie evidence that the signature is genuine and the individual
2 holds the designated title.

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

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

14 **§39-4-15. Certificate of notarial act.**

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

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

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

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

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

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

3 (b) If a notarial act regarding a tangible record is performed
4 by a notary public, an official stamp must be affixed to the
5 certificate. If a notarial act is performed regarding a tangible
6 record by a notarial officer other than a notary public and the
7 certificate contains the information specified in subdivisions (2),
8 (3) and (4), subsection (a) of this section, an official stamp may
9 be affixed to the certificate. If a notarial act regarding an
10 electronic record is performed by a notarial officer and the
11 certificate contains the information specified in said
12 subdivisions, an official stamp may be attached to or logically
13 associated with the certificate.

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

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

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

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

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

1 (d) By executing a certificate of a notarial act, a notarial
2 officer certifies that the officer has complied with the
3 requirements and made the determinations specified in sections
4 four, five and six of this article.

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

8 (f) If a notarial act is performed regarding a tangible
9 record, a certificate must be part of, or securely attached to, the
10 record. If a notarial act is performed regarding an electronic
11 record, the certificate must be affixed to or logically associated
12 with, the electronic record. If the Secretary of State has
13 established standards pursuant to section twenty-five of this
14 article, for attaching, affixing, or logically associating the
15 certificate, the process must conform to the standards.

16 **§39-4-16. Short form certificates.**

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

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

22 State of

23 County of

24 This record was acknowledged before me on [Date] by

1 [Name(s) of individual(s)]

2

3 Signature of notarial officer

4 Stamp

5

6 Title of office

7 My commission expires:

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

9 State of

10 County of

11 This record was acknowledged before me on [Date] by

12 [Name(s) of

13 individual(s)] as [Type of authority,

14 such as officer or trustee] of [Name of

15 party on behalf of whom record was executed].

16

17 Signature of notarial officer

18 Stamp

19

20 Title of office

21 My commission expires:

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

23 State of

24 County of

1 Signed and sworn to (or affirmed) before me on (Date)

2 by [Name(s) of

3 individual(s) making statement]

4

5 Signature of notarial officer

6 Stamp

7

8 Title of office

9 My commission expires:

10 (4) For witnessing or attesting a signature:

11 State of

12 County of

13 Signed or attested before me on [Date] by

14 [Name(s) of individual(s)

15 making statement]

16

17 Signature of notarial officer

18 Stamp

19

20 Title of office

21 My commission expires:

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

23 State of

24 County of

1 I certify that this is a true and correct copy of a record in the
2 possession of

3 Dated

4

5 Signature of notarial officer

6 Stamp

7

8 Title of office

9 My commission expires:

10 **§39-4-17. Official stamp.**

11 The official stamp of a notary public must:

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

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

18 **§39-4-18. Stamping device.**

19 (a) A notary public is responsible for the security of the
20 notary public's stamping device and may not allow another
21 individual to use the device to perform a notarial act. On
22 resignation from, or the revocation or expiration of, the notary
23 public's commission, or on the expiration of the date set forth in
24 the stamping device, the notary public shall disable the stamping

1 device by destroying, defacing, damaging, erasing or securing it
2 against use in a manner that renders it unusable. On the death or
3 adjudication of incompetency of a notary public, the notary
4 public's personal representative or guardian or any other person
5 knowingly in possession of the stamping device shall render it
6 unusable by destroying, defacing, damaging, erasing or securing it
7 against use in a manner that renders it unusable.

8 (b) If a notary public's stamping device is lost or stolen,
9 the notary public or the notary public's personal representative or
10 guardian shall notify promptly the Secretary of State on
11 discovering that the device is lost or stolen.

12 **§39-4-19. Notification regarding performance of notarial act on**
13 **electronic record, selection of technology.**

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

19 (b) Before a notary public performs the notary public's
20 initial notarial act with respect to an electronic record, a notary
21 public shall notify the Secretary of State that the notary public
22 will be performing notarial acts with respect to electronic records
23 and identify the technology the notary public intends to use. If
24 the Secretary of State has established standards for approval of

1 technology pursuant to section twenty-five of this article, the
2 technology must conform to the standards. If the technology
3 conforms to the standards, the Secretary of State shall approve the
4 use of the technology.

5 **§39-4-20. Commission as notary public; qualifications; no immunity**
6 **or benefit; disposition of fees.**

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

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

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

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

16 (3) Be a resident of or have a place of employment or practice
17 in this state;

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

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

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

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

1 (d) Before issuance of a commission as a notary public, the
2 applicant for a commission shall submit to the Secretary of State
3 an assurance in the form of: (1) A surety bond or its functional
4 equivalent in the amount of \$1,000; or (2) certification that the
5 applicant is covered under a: (A) Professional liability insurance
6 policy; (B) an errors and omission insurance policy; (C) a
7 commercial general liability insurance policy; or (D) their
8 equivalent, in the amount of \$1,000. The assurance must be issued
9 by a surety or other entity licensed or authorized to do business
10 in this state. The assurance must cover acts performed during the
11 term of the notary public's commission and must be in the form
12 prescribed by the Secretary of State. If a notary public violates
13 law with respect to notaries public in this state, the surety or
14 issuing entity is liable under the assurance. The notary public
15 shall give thirty days' notice to the Secretary of State before
16 canceling any assurance or loss of insurance coverage. The surety
17 or issuing entity shall notify the Secretary of State not later
18 than thirty days after making a payment to a claimant under the
19 assurance. A notary public may perform notarial acts in this state
20 only during the period that a valid assurance is on file with the
21 Secretary of State.

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

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

5 **§39-4-21. Grounds to deny, refuse to renew, revoke, suspend, or**
6 **condition commission of notary public.**

7 (a) The Secretary of State may deny, refuse to renew, revoke,
8 suspend or impose a condition on a commission as notary public for
9 any act or omission that demonstrates the individual lacks the
10 honesty, integrity, competence, or reliability to act as a notary
11 public, including:

12 (1) Failure to comply with this article;

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

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

18 (4) A finding against, or admission of liability by, the
19 applicant or notary public in any legal proceeding or disciplinary
20 action based on the applicant's or notary public's fraud,
21 dishonesty or deceit;

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

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

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

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

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

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

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

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

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

24 **§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.

13 **§39-4-23. Prohibited acts.**

14 (a) A commission as a notary public does not authorize an
15 individual to:

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

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

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

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

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

3 (c) A notary public, other than an attorney licensed to
4 practice law in this state, may not use the term "notario" or
5 "notario publico".

6 (d) A notary public, other than an attorney licensed to
7 practice law in this state, may not advertise or represent that the
8 notary public may assist persons in drafting legal records, give
9 legal advice, or otherwise practice law. If a notary public who is
10 not an attorney licensed to practice law in this state in any
11 manner advertises or represents that the notary public offers
12 notarial services, whether orally or in a record, including
13 broadcast media, print media and the internet, the notary public
14 shall include the following statement, or an alternate statement
15 authorized or required by the Secretary of State, in the
16 advertisement or representation, prominently and in each language
17 used in the advertisement or representation: "I am not an attorney
18 licensed to practice law in this state. I am not allowed to draft
19 legal records, give advice on legal matters, including immigration,
20 or charge a fee for those activities". If the form of
21 advertisement or representation is not broadcast media, print media
22 or the internet and does not permit inclusion of the statement
23 required by this subsection because of size, it must be displayed
24 prominently or provided at the place of performance of the notarial

1 act before the notarial act is performed.

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

6 **§39-4-24. Validity of notarial acts.**

7 Except as otherwise provided in subsection (b), section four
8 of this article, the failure of a notarial officer to perform a
9 duty or meet a requirement specified in this article does not
10 invalidate a notarial act performed by the notarial officer. The
11 validity of a notarial act under this article does not prevent an
12 aggrieved person from seeking to invalidate the record or
13 transaction that is the subject of the notarial act or from seeking
14 other remedies based on law of this state other than this article
15 or law of the United States. This section does not validate a
16 purported notarial act performed by an individual who does not have
17 the authority to perform notarial acts.

18 **§39-4-25. Rules.**

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

1 specification. The rules may:

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

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

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

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

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

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

19 (7) Establish fees, with legislative approval in accordance
20 with the provisions of article three, chapter twenty-nine-a of this
21 code. Fees collected by the Secretary of State pursuant to section
22 two, article one, chapter fifty-nine of this code shall be
23 deposited by the Secretary of State as follows: One-half shall be
24 deposited in the state general revenue fund and one-half shall be

1 deposited in the service fees and collections account established
2 by section two, article one, chapter fifty-nine of this code for
3 the operation of the office of the Secretary of State. The
4 Secretary of State shall dedicate sufficient resources from that
5 fund or other funds to provide the services required by the
6 provisions of article four, chapter thirty-nine of this code.

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

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

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

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

17 **§39-4-26. Notary public commission and commissioner appointment in**
18 **effect.**

19 (a) A commission as a notary public in effect on June 30,
20 2014, continues until its date of expiration. A notary public who
21 applies for a commission as a notary public on or after July 1,
22 2014, is subject to and shall comply with this article. A notary
23 public, in performing notarial acts on or after July 1, 2014, shall
24 comply with this article.

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

10 **§39-4-27. Savings clause.**

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

13 **§39-4-28. Uniformity of application and construction.**

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

17 **§39-4-29. Relation to Electronic Signatures in Global and National
18 Commerce Act.**

19 This article modifies, limits, and supersedes the Electronic
20 Signatures in Global and National Commerce Act, 15 U. S. C. Section
21 7001 *et seq.*, but does not modify, limit, or supersede Section
22 101(c) of that act, 15 U. S. C. Section 7001(c), or authorize
23 electronic delivery of any of the notices described in Section
24 103(b) of that act, 15 U. S. C. Section 7003(b).

1 **§39-4-30. Maximum fees.**

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

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

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

12 **§39-4-31. Government notaries public.**

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

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

24 (c) The costs of application and all notary supplies for a

1 commissioned state or local government employee shall be paid from
2 funds available to the office in which he or she is employed.

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

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

9 (f) A government notary public may acknowledge any document
10 required to be acknowledged by a notary public: *Provided*, That a
11 government notary public may not operate privately.

12 **§39-4-32. Liability of notary and of an employer of notary.**

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

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

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

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

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

1 damages.

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

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

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

8 **§39-4-33. Criminal penalties.**

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

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

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

22 (d) Any person who unlawfully possesses a notary's official
23 seal or any papers or copies relating to notarial acts, is guilty
24 of a misdemeanor and, upon conviction, shall be fined not more than

1 \$1,000.

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

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

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

8 **§39-4-34. Action for injunction; unauthorized practice of law.**

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

18 **§39-4-35. Administrative complaints and investigations.**

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

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

24 (2) Administer oaths and affirmations, issue subpoenas for the

1 attendance of witnesses, issue subpoenas duces tecum to compel the
2 production of books, papers, records and all other evidence
3 necessary to any investigation.

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

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

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

13 **§39-4-36. Secretary of State record retention.**

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

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

1 **CHAPTER 57. EVIDENCE AND WITNESSES.**

2 **ARTICLE 4. DEPOSITIONS AND PERPETUATION OF TESTIMONY.**

3 **§57-4-2. Taking and certification of depositions -- Out-of state**
4 **and in foreign countries.**

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

1 the same state or country, under his or her official seal.

2 **ARTICLE 5. MISCELLANEOUS PROVISIONS.**

3 **§57-5-9. Administration of oaths or taking of affidavits;**
4 **authentication of affidavit made in another state**
5 **or country; oaths and affidavits of persons in**
6 **military service.**

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

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

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

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

18 IN THE MILITARY SERVICE OF THE UNITED STATES:

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

23

24 Taken, subscribed and sworn to before me,, a

1 commissioned officer in the service of the United
2 States, by, a member of the military service of the
3 United States (or of, an auxiliary to the military
4 forces of the United States), this the day of
5, 20.....

6

7 (Signature of officer)

8

9 (Rank) (Identification Number)

10 Any oath or affidavit heretofore taken or made by any person
11 in the military service in substantial compliance with this section
12 shall be valid.

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

15 **ARTICLE 1. FEES AND ALLOWANCES.**

16 **§59-1-2. Fees to be charged by Secretary of State.**

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

21 (1) For filing, recording, indexing, preserving a record of
22 and issuing a certificate relating to the formation, amendment,
23 change of name, registration of trade name, merger, consolidation,
24 conversion, renewal, dissolution, termination, cancellation,

1 withdrawal revocation and reinstatement of business entities
2 organized within the state, as follows:

3 (A) Articles of incorporation of for-profit corporation
4 \$50.00

5 (B) Articles of incorporation of nonprofit corporation
6 25.00

7 (C) Articles of organization of limited liability company
8 100.00

9 (D) Agreement of a general partnership.. . . . 50.00

10 (E) Certificate of a limited partnership.. . . . 100.00

11 (F) Agreement of a voluntary association.. . . . 50.00

12 (G) Articles of organization of a business trust.. . . 50.00

13 (H) Amendment or correction of articles of incorporation,
14 including change of name or increase of capital stock, in addition
15 to any applicable license tax.. . . . 25.00

16 (I) Amendment or correction, including change of name, of
17 articles of organization of business trust, limited liability
18 partnership, limited liability company or professional limited
19 liability company or of certificate of limited partnership or
20 agreement of voluntary association. 25.00

21 (J) Amendment and restatement of articles of incorporation,
22 certificate of limited partnership, agreement of voluntary
23 association or articles of organization of limited liability
24 partnership, limited liability company or professional limited

1 liability company or business trust.. 25.00

2 (K) Registration of trade name, otherwise designated as a true
3 name, fictitious name or D.B.A. (doing business as) name for any
4 domestic business entity as permitted by law. 25.00

5 (L) Articles of merger of two corporations, limited
6 partnerships, limited liability partnerships, limited liability
7 companies or professional limited liability companies, voluntary
8 associations or business trusts.. 25.00

9 (M) Plus for each additional party to the merger in excess of
10 two.. 15.00

11 (N) Statement of conversion, when permitted, from one business
12 entity into another business entity, in addition to the cost of
13 filing the appropriate documents to organize the surviving entity
14 25.00

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

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

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

23 (R) Reinstatement of a limited liability company or
24 professional limited liability company after administrative

1 dissolution.. 25.00

2 (2) For filing, recording, indexing, preserving a record of

3 and issuing a certificate relating to the registration, amendment,

4 change of name, merger, consolidation, conversion, renewal,

5 withdrawal or termination within this state of business entities

6 organized in other states or countries, as follows:

7 (A) Certificate of authority of for-profit corporation

8 \$100.00

9 (B) Certificate of authority of nonprofit corporation

10 50.00

11 (C) Certificate of authority of foreign limited liability

12 companies.. 150.00

13 (D) Certificate of exemption from certificate of

14 authority 25.00

15 (E) Registration of a general partnership. 50.00

16 (F) Registration of a limited partnership. 150.00

17 (G) Registration of a limited liability partnership for

18 two-year term.. 500.00

19 (H) Registration of a voluntary association. 50.00

20 (I) Registration of a trust or business trust. 50.00

21 (J) Amendment or correction of certificate of authority of a

22 foreign corporation, including change of name or increase of

23 capital stock, in addition to any applicable license tax. . 25.00

24 (K) Amendment or correction of certificate of limited

1 partnership, limited liability partnership, limited liability
2 company or professional limited liability company, voluntary
3 association or business trust.. 25.00

4 (L) Registration of trade name, otherwise designated as a true
5 name, fictitious name or D.B.A. (doing business as) name for any
6 foreign business entity as permitted by law.. 25.00

7 (M) Amendment and restatement of certificate of authority or
8 of registration of a corporation, limited partnership, limited
9 liability partnership, limited liability company or professional
10 limited liability company, voluntary association or business trust
11 25.00

12 (N) Articles of merger of two corporations, limited
13 partnerships, limited liability partnerships, limited liability
14 companies or professional limited liability companies, voluntary
15 associations or business trusts.. 25.00

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

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

22 (Q) Certificate of withdrawal or cancellation of a
23 corporation, limited partnership, limited liability partnership,
24 limited liability company, voluntary association or business trust

1 25.00

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

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

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

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

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

24 (B) Certificate of existence of a domestic limited liability

1	company, and certificate of authorization foreign limited liability	
2	company..	10.00
3	(C) Certificate of existence of any business entity, trademark	
4	or service mark registered with the Secretary of State .. .	10.00
5	(D) Certified copy of corporate charter or comparable	
6	organizing documents for other business entities.	15.00
7	(E) Plus, for each additional amendment, restatement or other	
8	additional document..	5.00
9	(F) Certificate of registration of the name of a foreign	
10	corporation, limited liability company, limited partnership or	
11	limited liability partnership..	25.00
12	(G) And for the annual renewal of the name registration	
13	10.00
14	(H) Any other certificate not specified in this subdivision	
15	10.00
16	(6) For issuing a certificate other than those relating to	
17	business entities, as provided in this subsection, as follows:	
18	(A) Certificate or apostille relating to the authority of	
19	certain public officers, including the membership of boards and	
20	commissions..	\$10.00
21	(B) Plus, for each additional certificate pertaining to the	
22	same transaction.	5.00
23	(C) Any other certificate not specified in this	
24	subdivision..	10.00

1 (D) For acceptance, indexing and recordation of service of
2 process any corporation, limited partnership, limited liability
3 partnership, limited liability company, voluntary association,
4 business trust, insurance company, person or other entity as
5 permitted by law. 15.00

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

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

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

19 (A) For any search of archival records maintained at sites
20 other than the office of the Secretary of State no less than
21 \$10.00

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

1 a search. 10.00

2 (C) For any search of records maintained on site for the
3 purpose of obtaining copies of documents or printouts of data
4 5.00

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

9 (E) The cost of the search is in addition to the cost of any
10 copies or printouts prepared or any certificate issued pursuant to
11 or based on the search.

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

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

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

18 (B) For each sheet after the first50

19 (C) For sending the copies or lists by fax transmission
20 5.00

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

1 and rounded to the nearest dollar.

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

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

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

13 (d) The records maintained by the Secretary of State are
14 prepared and indexed at the expense of the state and those records
15 shall not be obtained for commercial resale without the written
16 agreement of the state to a contract including reimbursement to the
17 state for each instance of resale.

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

22 (f) There is hereby continued in the State Treasury a special
23 revenue account to be known as the "service fees and collections"
24 account. Expenditures from the account shall be used for the

1 operation of the office of the Secretary of State and are not
2 authorized from collections, but are to be made only in accordance
3 with appropriation by the Legislature and in accordance with the
4 provisions of article three, chapter twelve of this code and upon
5 the fulfillment of the provisions set forth in article two, chapter
6 five-a of this code. Notwithstanding any other provision of this
7 code to the contrary, except as provided in subsection (h) of this
8 section and section two-a of this article, one half of all the fees
9 and service charges established in the following sections and for
10 the following purposes shall be deposited by the Secretary of State
11 or other collecting agency to that special revenue account and used
12 for the operation of the office of the Secretary of State:

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

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

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

24 (4) The annual attorney-in-fact fee for limited liability

1 companies as designated in section one hundred eight, article one,
2 chapter thirty-one-b of this code and established in section two
3 hundred eleven, article two of said chapter: *Provided*, That after
4 June 30, 2008, the annual report fees designated in section one
5 hundred eight, article one, chapter thirty-one-b of this code shall
6 upon collection be deposited in the general administrative fees
7 account described in subsection (h) of this section;

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

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

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

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

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

24 (10) The filing fees for the registration and renewal of

1 trademarks and service marks established in section seventeen,
2 article two, chapter forty-seven of this code;

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

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

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

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

1 in the fund and be expended as provided by this subsection.

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

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

11 (B) The fees for the issuance of a certificate relating to the
12 initial registration of a corporation, limited partnership,
13 domestic limited liability company or foreign limited liability
14 company described in subdivision (2), subsection (a) of this
15 section; and

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

19 (i) There is continued in the office of the Secretary of State
20 a noninterest-bearing, escrow account to be known as the "prepaid
21 fees and services account". This account shall be for the purpose
22 of allowing customers of the Secretary of State to prepay for
23 services, with payment to be held in escrow until services are
24 rendered. Payments deposited in the account shall remain in the
25 account until services are rendered by the Secretary of State and

1 at that time the fees will be reallocated to the appropriate
2 general or special revenue accounts. There shall be no fee charged
3 by the Secretary of State to the customer for the use of this
4 account and the customer may request the return of any moneys
5 maintained in the account at any time without penalty. The assets
6 of the prepaid fees and services account do not constitute public
7 funds of the state and are available solely for carrying out the
8 purposes of this section.

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