

MISSISSIPPI CODE OF 1972

**TITLE 25. PUBLIC OFFICERS ANDEMPLOYEES; PUBLIC RECORDS
CHAPTER 33. NOTARIES PUBLIC**

As Amended.

SEC. 25-33-1. Appointment, bond and oath.

The Governor may appoint notaries public who may serve in any or all counties of this state. A notary public shall hold office for a term of four (4) years. Notaries public who are appointed and commissioned after July 1, 1988, shall give bond, with sufficient sureties, licensed by the Department of Insurance, in the penalty sum of Five Thousand Dollars (\$5,000.00). All such bonds shall be conditioned and approved by the Secretary of State. Notaries public shall not otherwise be considered as state officers. Each notary public shall take the oath of office prescribed by Section 268 of the Constitution. A notary public shall qualify by filing the oath and bond in the office of the Secretary of State.

The bond requirements, unexpired appointments and commissions of notaries public issued prior to July 1, 1988, shall be sufficient, regardless of any jurisdictional limitations, to authorize notaries public appointed and commissioned prior to July 1, 1988, to serve any or all counties of this state. Any notary public commission containing language limiting the jurisdiction of a notary public may be returned to the Secretary of State. The Secretary of State shall then issue a new certificate indicating that such notary public may serve in any and all counties of this state.

The Secretary of State shall issue notary public commissions on behalf of the Governor to all qualified applicants. A notary public shall be at least eighteen (18) years of age, a citizen or legal resident of the United States, shall have resided in this state for a period of not less than thirty (30) days immediately preceding the date of the application, and shall meet such other requirements as the Secretary of State may establish by rule.
SOURCES: Codes, 1880, Sec. 426; 1892, Sec. 3040; 1906, Sec. 3447; Hemingway's 1917, Sec. 2780; 1930, Sec. 2858; 1942, Sec. 4016; Laws, 1904, ch. 159; 1926, ch. 190; 1981, ch. 426, Sec. 1; 1988, ch. 456, Sec. 1, eff from and after July 1, 1988; 2007, ch. 427, Sec. 1.

SEC. 25-33-3. To procure seals.

Every notary public appointed and commissioned shall, at his own expense, procure a suitable notarial seal. Each seal shall have the name of the county of the notary's residence with that of the state and his own name on the margin thereof, and the words "notary public" across the center; and his official acts shall be attested by his seal of office. The failure of such seal to conform to the provisions of this section shall not invalidate any official act or certificate of such notary public.

It shall be the duty of the Secretary of State to have printed a suitable number of copies of this section and to deliver to each notary public hereafter appointed a copy at the time of the issuance of his commission.

SOURCES: Codes, 1892, Sec. 3041; 1906, Sec. 3448; Hemingway's 1917, Sec. 2781; 1930, Sec. 2859; 1942, Sec. 4017; Laws, 1928, ch. 24; 1981, ch. 426, Sec. 2; 1988, ch. 456, Sec. 2, eff from and after July 1, 1988.

SEC. 25-33-5. Register of official acts.

Every notary public shall keep a fair register of all his official acts, and shall give a certified copy of his record, or any part thereof, to any person applying for it and paying the legal fees therefor.

SOURCES: Codes, 1880, Sec. 429; 1892, Sec. 3042; 1906, Sec. 3449; Hemingway's 1917, Sec. 2782; 1930, Sec. 2860; 1942, Sec. 4018.

SEC. 25-33-7. Disposal of register and papers.

In the case of the death, resignation, disqualification or expiration of the term of office of any notary public, his registers and other public papers shall, within thirty (30) days, be lodged in the office of the clerk of the circuit court of the county of his residence; and the clerk of that county may maintain an action for them.

SOURCES: Codes, 1880, § 430; 1892, § 3043; Laws, 1906, § 3450; Hemingway's 1917, § 2783; Laws, 1930, § 2861; Laws, 1942, § 4019; Laws, 1981, ch. 426, § 3; Laws, 1988, ch. 456, § 3, eff from and after July 1, 1988.

SEC. 25-33-9. Administering oaths and affirmations.

Every notary public shall have the power of administering oaths and affirmations in all matters incident to his notarial office, and he shall be further qualified and empowered to administer oaths and affirmations for the purpose of taking oral testimony under oath or affirmation within the state at large. If an attestation of a notary public is questioned as to its authenticity or correctness of language, the notary public may file an affidavit regarding the truth of the attestation in question along with any corrected language and may file such with the land records in the office of the Chancery Clerk where such land is located, properly indexed, if such authenticity or correctness of language affects real property. Such affidavit shall be a rebuttable presumption that the attestation is true and correct.

SOURCES: Codes, 1880, § 427; 1892, § 3044; Laws, 1906, § 3451; Hemingway's 1917, § 2784; Laws, 1930, § 2862; Laws, 1942, § 4020; Laws, 1974, ch. 387; Laws, 2002, ch. 354, § 1, eff from and after July 1, 2002.

SEC. 25-33-11. Powers and duties.

Every notary public shall have power to receive the proof or acknowledgment of all instruments of writing relating to commerce or navigation, such as bills of sale, bottomries, mortgages, and hypothecations of ships, vessels or boats, charter parties of affreightment, letters of attorney, and such other writings as are commonly proved or acknowledged before notaries; and to perform all other duties required of notaries by commercial usage, and also to make declarations, including the filing of an affidavit as provided in Section 25-33-9, and certify the truth thereof, under his seal of office, concerning all matters done by him in virtue of his office.

SOURCES: Codes, 1880, § 428; 1892, § 3045; Laws, 1906, § 3452; Hemingway's 1917, § 2785; Laws, 1930, § 2863; Laws, 1942, § 4021; Laws, 1981, ch. 426, § 4; Laws, 1988, ch. 456, § 4; Laws, 2002, ch. 354, § 2, eff from and after July 1, 2002.

SEC. 25-33-13. Affixation of expiration date of commission.

Every notary public, holding commission as such through appointment by the governor, shall be required to affix to any written or printed certificate of acknowledgment by him, in addition to his official seal and signature, a written or printed recital of the date at which his commission expires. The failure of such notary public to affix such recital of

date at which his commission expires shall not invalidate the acknowledgment of such instrument or such certificate of acknowledgment, or otherwise affect the validity or recording of any instrument.

In case of the failure hereafter on the part of any notary public, so holding commission, to comply with the requirement of this section, his commission may be revoked by the governor.

SOURCES: Codes, 1942, § 4021-01; Laws, 1944, ch. 325, §§ 1, 2, eff May 1, 1944.

SEC. 25-33-15. Record of protest of bill or note.

When any notary public, justice of the peace, or clerk shall protest any bill of exchange or promissory note, he shall make a full and true record in his register or book kept for that purpose of all his proceedings in relation thereto, and shall note thereon whether demand of the sum of money therein mentioned was made, of whom, when, and where; whether he presented such bill or note; whether notices were given, to whom, and in what manner; where the same was mailed, and when and to whom and where directed; and of every other fact touching the same.

SOURCES: Codes, 1880, § 431; 1892, § 3046; Laws, 1906, § 3453; Hemingway's 1917, § 2786; Laws, 1930, § 2864; Laws, 1942, § 4022.

SEC. 25-33-17. Ex officio notaries public.

All justice court judges and clerks, clerks of the circuit and chancery courts and assistant secretaries of state are notaries public by virtue of their office, and shall possess all the powers and discharge all the duties belonging to the office of notary public, and may authenticate all their acts, instruments and attestations by the common seal of office; and all acts done by them of a notarial character shall receive the same credit and legal effect as are attached to the acts of notaries public.

SOURCES: Codes, 1880, § 425; 1892, § 3047; Laws, 1906, § 3454; Hemingway's 1917, § 2787; Laws, 1930, § 2865; Laws, 1942, § 4023; Laws, 1981, ch. 426, § 5; Laws, 1988, ch. 456, § 5, eff from and after July 1, 1988.

SEC. 25-33-19. Common seal of such officers.

The board of supervisors of every county shall provide a notarial seal, with the inscription "notary public" around the margin and the image of an eagle in the center, which seal shall be kept in the office of the clerk of the circuit court; and all ex-officio notaries public may at all times have access to and use such seal for the authentication of any notarial act necessary to be so authenticated.

SOURCES: Codes, 1880, § 432; 1892, § 3048; Laws, 1906, § 3455; Hemingway's 1917, § 2788; Laws, 1930, § 2866; Laws, 1942, § 4024; Laws, 1988, ch. 456, § 6, eff from and after July 1, 1988.

SEC. 25-33-21. Acknowledgment by notary public as stockholder.

It shall be lawful for any notary public who is a stockholder, director, officer, or employee of a bank or other corporation to take the acknowledgment of any party to any written instrument to or by such corporation, or to administer an oath to any other stockholder, director, officer, employee, or agent of such corporation, or to protest for nonacceptance or nonpayment bills of exchange, drafts, checks, notes, and other negotiable instruments which may be owned or held for collection by such corporation; provided, it shall be unlawful for any notary public to take the acknowledgment of an instrument by or to a bank or other corporation of which he is a stockholder, director, officer, or employee,

where such notary is a party to such instrument, either individually or as a representative of such corporation, or to protest any negotiable instrument owned or held for collection by such corporation, where such notary is individually a party to such instrument.

SOURCES: Codes, Hemingway's 1921 Supp. § 2788a; Laws, 1930, § 2867; Laws, 1942, § 4025; Laws, 1918, ch. 227.

SEC. 25-33-23. Notarial acts of commissioned officers of United States armed forces.

In addition to the acknowledgment of instruments and the performance of other notarial acts in the manner and form and as otherwise authorized by law, instruments may be acknowledged, documents attested, oaths and affirmations administered, depositions and affidavits executed, and other notarial acts performed before or by any commissioned officer in active service of the armed forces of the United States with the rank of second lieutenant or higher in the army or marine corps, or with the rank of ensign or higher in the navy or coast guard, or with equivalent rank in any other component part of the armed forces of the United States, by any person who either (a) is a member of the armed forces of the United States or the husband or wife of a member of the armed forces of the United States; or (b) is serving as a merchant seaman outside the limits of the United States included within the 48 states and the District of Columbia; or (c) is outside said limits by permission, assignment, or direction of any department or official of the United States government, in connection with any activity pertaining to the prosecution of any war in which the United States is then engaged.

Such acknowledgments of instruments, attestation of documents, administration of oaths and affirmations, executions of depositions and affidavits, and performance of other notarial acts, heretofore or hereafter made or taken, are hereby declared legal, valid, and binding, and instruments and documents so acknowledged, authenticated, or sworn to shall be admissible in evidence and eligible to record in this state under the same circumstances and with the same force and effect as if such acknowledgment, attestation, oath, affirmation, deposition, affidavit, or other notarial act had been made or taken within this state before or by a duly qualified officer or official as otherwise provided by law.

In the taking of acknowledgments and the performing of other notarial acts requiring certification, a certificate endorsed upon or attached to the instrument or documents, which shows the date of the notarial act and which states, in substance, that the person appearing before the officer acknowledged the instrument as his act or made or signed the instrument or document under oath, shall be sufficient for all intents and purposes. The instrument or document shall not be rendered invalid by the failure to state the place of execution or acknowledgment.

If the signature, rank, and branch of service or subdivision thereof, of any such commissioned officer appear upon such instrument or document or certificate, no further proof of the authority of such officer so to act shall be required, and such action by such commissioned officer shall be prima facie evidence that the person making such oath or acknowledgment is within the purview of this section.

SOURCES: Codes, 1942, § 4025-01; Laws, 1946, ch. 308; Laws, 1954, ch. 247.

SEC. 25-33-25. Notice that a Notary Public is not an Attorney.

A notary public who is not an attorney licensed to practice law in this state and, who advertises in any language the person's services as a notary public by radio, television, signs, pamphlets, newspapers, telephone directory or other written or oral

communication, or in any other advertisement, shall include with such advertisement the notice set forth in this section in English and/or in any other languages used in the advertisement. The notice shall be of conspicuous size and shall state: "I AM NOT AN ATTORNEY LICENSED TO PRACTICE LAW IN THE STATE OF MISSISSIPPI, AND I MAY NOT GIVE LEGAL ADVICE OR ACCEPT FEES FOR LEGAL ADVICE."

An advertisement on radio or television must include substantially the same message.
SOURCES: Laws, 2004, ch. 464, § 1, eff from and after July 1, 2004.

SEC. 25-33-27. Prohibited Representations or Advertising.

A notary public who is not an attorney licensed to practice law is prohibited from representing or advertising that the notary public is an immigration consultant, immigration paralegal or expert on immigration matters unless the notary public is an accredited representative of an organization recognized by the board of immigration appeals pursuant to 8 CFR Section 292.2(a-e) or any subsequent federal law.

SOURCES: Laws, 2004, ch. 464, § 2, eff from and after July 1, 2004.

SEC. 25-33-29. Exceptions.

The provisions of Sections 25-33-25 through 25-33-31 shall not apply to:

(a) Notary services offered by a state or national bank, trust company, savings and loan association, savings bank or by any affiliate or subsidiary of such state or national bank, trust company, savings and loan association or savings bank or any agent or employee thereof; or

(b) Any offering of notary services or listing of fees for notary services as a part of the closing of any loan transaction, extension of credit, security instrument or transfer of title.

SOURCES: Laws, 2004, ch. 464, § 3, eff from and after July 1, 2004.

SEC. 25-33-31. Compliance.

(1) Failure to comply with the provisions of Sections 25-33-25 through 25-33-29 constitutes an unfair or deceptive act as provided in Section 75-24-5.

(2) Any person who knowingly and willfully violates any provision of Sections 25-33-25 through 25-33-29 shall be guilty of a misdemeanor, and upon conviction shall be fined in an amount not to exceed One Thousand Dollars (\$1,000.00).

(3) Upon a second conviction of any person under Sections 25-33-25 through 25-33-29, the offenses being committed within a period of five (5) years, the person shall be guilty of a misdemeanor, and upon conviction shall be punished by imprisonment in the county jail for a period not to exceed one (1) year or a fine not to exceed One Thousand Dollars (\$1,000.00), or both.

(4) Upon a third or subsequent conviction of any person for a violation of Sections 25-33-25 through 25-33-29, the offenses being committed within a period of five (5) years, the person shall be guilty of a felony, and upon conviction shall be punished by confinement in the custody of the Department of Corrections for a period not to exceed five (5) years, or fined in an amount not to exceed Five Thousand Dollars (\$5,000.00), or both.

(5) Criminal convictions in other jurisdictions for violations of substantially similar provisions to those contained in Sections 25-33-25 through 25-33-29 shall be counted in computing whether a violation under Sections 25-33-25 through 25-33-29 is a first, second, third or subsequent offense.

SOURCES: Laws, 2004, ch. 464, § 4, eff from and after July 1, 2004.

SEC. 25-33-33. The Secretary of State may prescribe forms and establish fees for services not otherwise provided by law. Pursuant to the Administrative Procedures Law, the Secretary of State shall issue rules to implement this chapter including regulations providing for the suspension or revocation of a notary commission for misfeasance or malfeasance in office.

SOURCES: Laws, 2007, ch. 427, § 1, eff from and after July 1, 2007.

TITLE 25. PUBLIC OFFICERS ANDEMPLOYEES; PUBLIC RECORDS CHAPTER 7. FEES

SEC. 25-7-29. Notaries public.

Notaries public may charge a fee in an amount of not less than Two Dollars (\$2.00) nor more than Five Dollars (\$5.00) for services rendered, including the performance of any of the following duties: (a) Protesting bill or note for nonacceptance or nonpayment, and giving notice;

SOURCES: Codes, 1880, § 451; 1892, § 2007; Laws, 1906, § 2183; Hemingway's 1917, § 1864; Laws, 1930, § 1794; Laws, 1942, § 3942; Laws, 1996, ch. 432, § 1; Laws, 1998, ch. 411, § 1, eff from and after July 1, 1998.

TITLE 89. REAL AND PERSONAL PROPERTY CHAPTER 3. ACKNOWLEDGMENTS

As Amended

SEC. 89-3-1. Acknowledgment or proof necessary to recording.

Except in cases governed by the Uniform Commercial Code or otherwise specially provided for by law, a written instrument of or concerning the sale of lands, whether the same be made for passing an estate of freehold or inheritance, or for a term of years, or for any other purpose, or any writing conveying personal estate, shall not be admitted to record in the clerk's office unless the execution thereof be first acknowledged or proved, and the acknowledgment or proof duly certified by an officer competent to take the same in the manner directed by this chapter; and any such instrument which is admitted to record without such acknowledgment or proof shall not be notice to creditors or subsequent purchasers for valuable consideration.

SOURCES: Codes, Hutchinson's 1848, ch. 42, art. 1 (7); 1857, ch. 36, art. 25; 1871, § 2308; 1880, § 1215; 1892, § 2460; Laws, 1906, § 2793; Hemingway's 1917, § 2294; Laws, 1930, § 2135; Laws, 1942, § 856; Laws, 1966, ch. 316, § 10-105, eff from and after March 31, 1968.

SEC. 89-3-3. Acknowledgment and proof.

Every conveyance, contract or agreement proper to be recorded, may be acknowledged or proved before any judge of a United States court, any judge of the supreme court, any judge of the circuit court, or any chancellor, or any judge of the county court, or before any clerk of a court of record or notary public, who shall certify such acknowledgment or proof under the seal of his office, or before any justice of the peace, or police justice, or mayor of any city, town, or village, or clerk of a municipality, or member of the board of supervisors, whether the property conveyed be within his county or not.

SOURCES: Codes, Hutchinson's 1848, ch. 42, arts. 1 (1), 5 (3), 6 (1); 1857, ch. 36, art. 28; 1871, § 2310; 1880, § 1217; 1892, § 2464; Laws, 1906, § 2798; Hemingway's 1917, § 2299; Laws, 1930, § 2136; Laws, 1942, § 857; Laws, 1988, ch. 347, § 2, eff from and after July 1, 1988.

SEC. 89-3-5. Acknowledgments before commissioned officers of United States armed forces.

In all cases where a conveyance, contract, agreement or other instrument of writing has heretofore been acknowledged or proved before any commissioned officer in the services of the United States armed forces, such acknowledgment or affidavit is hereby declared to be good, valid and binding to the same extent and with like effect as though such conveyance, contract, agreement, or other instrument of writing had been acknowledged or proved before any officer authorized by law to take acknowledgments in the State of Mississippi.

SOURCES: Codes, 1942, § 857-01; Laws, 1946, ch. 285, § 1.

SEC. 89-3-7. Forms of acknowledgment.

The following forms of acknowledgment may be used in the case of conveyances or other written instruments affecting real estate or personal property; and any acknowledgment so taken and certified shall be sufficient to satisfy all requirements of law:

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

“STATE OF _____
COUNTY OF _____

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

(NOTARY PUBLIC)
My commission expires: _____”
(Affix official seal, if applicable)

(b) In the case of corporations:

“STATE OF _____
COUNTY OF _____

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

(NOTARY PUBLIC)
My commission expires: _____”
(Affix official seal, if applicable)

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

“STATE OF _____
COUNTY OF _____

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

(NOTARY PUBLIC)
My commission expires: _____”
(Affix official seal, if applicable)

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

“STATE OF _____
COUNTY OF _____

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

(NOTARY PUBLIC)
My commission expires: _____”
(Affix official seal, if applicable)

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

“STATE OF _____

COUNTY OF _____

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

(NOTARY PUBLIC)

My commission expires: _____”

(Affix official seal, if applicable)

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

“STATE OF _____
COUNTY OF _____

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

(NOTARY PUBLIC)

My commission expires: _____”

(Affix official seal, if applicable)

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

“STATE OF _____
COUNTY OF _____

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

name as witness thereto in the presence of AB.

(CD)

(NOTARY PUBLIC)

My commission expires: _____”

(Affix official seal, if applicable)

SOURCES: Codes, 1892, § 2465; 1906, Sec. 2799; Hemingway’s 1917, § 2300; 1930, § 2137; 1942, § 858; Laws, 1988, ch. 475, § 1, eff from and after July 1, 1988. Laws, 1992, ch. 354 § 1, eff from and after passage (approved April 20, 1992). Amended by Laws 2000, Ch. 446, § 1, eff July 1, 2000.

SEC. 89-3-9. Acknowledgment or proof in another state.

If the party who shall execute any conveyance of lands or personal property situated in this state, or if the witnesses thereto reside or be in some other state, territory in the Union, the District of Columbia, or in any possession of the United States, or land over which the United States has sovereign power, then the acknowledgment or proof may be made before and certified by the chief justice of the United States, or an associate justice of the Supreme Court of the United States, or a circuit or district judge of the United States, or any other United States judge, or any judge or justice of the supreme or superior court of any such state, territory, District of Columbia, or possession of the United States, or land over which the United States has sovereign power, or any justice of the peace of such state, territory, District of Columbia, possession, or land over which the United States has sovereign power, whose official character shall be certified under the seal of some court of record in his country, parish or other named official jurisdiction, or before any commissioner residing in such state, territory, District of Columbia, possession, or land over which the United States has sovereign power, who may be appointed by the governor of this state to take acknowledgments and proof of conveyances, or any notary public or a clerk of a court of record having a seal of office in said state, territory, District of Columbia, possession, or land over which the United States has sovereign power, and shall be as good and effectual as if the certificate of acknowledgment or proof had been made by a competent officer in this state.

SOURCES: Codes, Hutchinson’s 1848, ch. 42, arts. 1 (13), 6 (1); 1857, ch. 36, art. 29; 1871, § 2312; 1880, § 1219; 1892, § 2466; 1906, § 2800; Hemingway’s 1917, § 2301; 1930, § 2138; 1942, § 859; Laws, 1948, ch. 227, § 1.

SEC. 89-3-11. Acknowledgment or proof in another state; construction and application as to prior acknowledgments.

In the construction of this section and section 89-3-9, the adoption of such sections shall not be construed as meaning that the word “territory” as used in section 89-3-9 did not include prior to the adoption of these sections the possessions of the United States, or land over which the United States has sovereign power. And any acknowledgment heretofore taken in any possession of the United States, or any land over which the United States has sovereign power, by any of the officials thereof named above in section 89-3-9 shall be as good and effectual as if made after the adoption of these sections.

SOURCES: Codes, 1942, § 859.5; Laws, 1948, ch. 227, § 2.

SEC. 89-3-13. Acknowledgment or proof in foreign country.

If the party who shall execute any conveyance of lands or personal property situated in this state, or if the witnesses thereto, reside or be in a foreign country, the acknowledgment or proof of the execution of such conveyance may be made before any court of record, or the mayor or chief magistrate of any city, borough, or corporation of such foreign country in which the party or witness resides or may be; or before any commissioner residing in such country who may be appointed by the Governor, or before any ambassador, foreign minister, secretary of legation, or consul of the United States to the foreign country in which the party or witness may reside or be; or before any notary public commissioned by the government of the foreign country or any other person authorized by said government to take oaths or acknowledgments; but the certificate shall show that the party, or the party and witness, were identified before the officer, and that the party acknowledged the execution of the instrument, or that the execution was duly proved by the witness, and it shall be as good and effectual as if made and certified by a competent officer of this state.

SOURCES: Codes, Hutchinson's 1848, ch. 42, art. 1 (14); 1857, ch. 36, art. 30; 1871, § 2313; 1880, § 1220; 1892, § 2467; 1906, Sec. 2801; Hemingway's 1917, § 2302; 1930, § 2139; 1942, § 860; Laws, 1988, ch. 399, eff from and after July 1, 1988.

SEC. 89-3-15. Grantor and witness dead or absent, how proved.

If the grantor and witness or witnesses of any instrument of writing be dead or absent, so that the personal attendance of neither can be had, it may be established by the oath of any person who, on examination before an officer competent to take acknowledgments, can prove the handwriting of the deceased or absent witness or witnesses; or when such proof cannot be had, then the handwriting of the grantor may be proved, and the officer before whom such proof is made shall certify accordingly, and such certificate shall be deemed equivalent to an acknowledgment by the grantor or proof by a subscribing witness, and entitle the instrument to be recorded.

SOURCES: Codes, Hutchinson's 1848, ch. 42, art. 1 (16); 1857, ch. 36, art. 31; 1871, § 2314; 1880, § 1221; 1892, § 2468; 1906, § 2802; Hemingway's 1917, § 2303; 1930, § 2140; 1942, § 861.

MISSISSIPPI ADMINISTRATIVE CODE

TITLE 01

PART III SECRETARY OF STATE OF MISSISSIPPI

CHAPTER 14 NOTARIES PUBLIC

Purpose of this Chapter

100. The Secretary of State is required to issue rules to implement the Mississippi Notary Law, in accordance with Senate Bill 2647 of the 2007 Session of the Mississippi Legislature, Section 25-33-1 et seq. Mississippi Code of 1972 as amended, effective July 1, 2007. The purpose of this chapter is to implement the Mississippi Notary Law, clarify and establish qualifications for the office of Notary Public, to provide written guidelines on notary practice, to provide for the revocation or suspension of a notary commission for official misconduct, misfeasance or malfeasance in office and to prescribe required forms and establish certain fees.

101. Definitions. The following terms shall have the respective meanings provided in these rules.

101.01. Acknowledgment. “Acknowledgment” means a notarial act in which an individual at a single time and place:

- (1) appears in person before the notary and presents a document;
- (2) is personally known to the notary or identified by the notary through satisfactory evidence; and
- (3) indicates to the notary that the signature on the document was voluntarily affixed by the individual for the purposes stated within the document and, if applicable, that the individual had due authority to sign in a particular representative capacity.

101.02. Affirmation.

“Affirmation” means a notarial act, or part thereof, which is legally equivalent to an oath and in which an individual at a single time and place:

- (1) appears in person before the notary;
- (2) is personally known to the notary or identified by the notary through satisfactory evidence; and
- (3) makes a vow of truthfulness or fidelity on penalty of perjury, based on personal honor and without invoking God or using any form of the word “swear.”

101.03. Appears in person before the notary. “Appears in person before the notary” means that the principal and the notary are physically close enough to see, hear, communicate with, and give identification documents to each other.

101.04. Commission. “Commission” means both to empower to perform notarial acts and the written evidence of authority to perform those acts.

101.05. Credible witness. “Credible witness” means an honest, reliable, and impartial person who personally knows an individual appearing before a notary and takes an oath or affirmation from the notary to vouch for that individual’s identity.

101.06. Felony or disqualifying felony. “Felony” or “disqualifying felony” means the conviction of any of the crimes below under the laws of this state or any other state or country:

- (1) Murder, rape, bribery, theft, arson, obtaining money or goods under false pretenses, perjury, forgery, embezzlement or bigamy,
- (2) “Theft” in subsection (1) includes the following offenses: larceny, taking unlawful possession of a motor vehicle, armed robbery, robbery, receiving stolen property, extortion, felony shoplifting and timber larceny.
- (3) You may, however, apply for the office of Notary Public if you have been convicted of a disqualifying felony if:
 - a. You have received a full and complete pardon from the Governor for your crime(s) or if the Mississippi Legislature has restored your right to suffrage (right to vote), and
 - b. Disclose your conviction(s) in your application and provide copies of the conviction order(s) and supply a copy of the Pardon from the Governor or Act of the

Legislature restoring your rights.

101.07. Journal of notarial acts and journal. “Journal of notarial acts” and “journal” mean a device for creating and preserving a chronological record of notarizations performed by a notary.

101.08 Jurat. “Jurat” means a notarial act in which an individual at a single time and place:

- (1) appears in person before the notary and presents a document;
- (2) is personally known to the notary or identified by the notary through satisfactory evidence;
- (3) signs the document in the presence of the notary; and
- (4) takes an oath or affirmation from the notary vouching for the truthfulness or accuracy of the signed document.

101.09. Legal resident or other legal resident of the United States. “Legal resident” or “other legal resident of the United States” means that you must have been granted permanent resident status in the United States by the United States Immigration and Naturalization Service. You must possess a Resident Alien Identification Card (Green Card) issued directly to you by the Immigration and Naturalization Service.

101.10. Notarial act and notarization. “Notarial act” and “notarization” mean any act that a notary is empowered to perform under law or regulation.

101.11. Notarial certificate and certificate. “Notarial certificate” and “certificate” mean the part of, or attachment to, a notarized document that is completed by the notary, bears the notary’s signature and seal, and states the facts attested by the notary in a particular notarization.

101.12. Notary public and notary. “Notary public” and “notary” mean any person commissioned to perform official acts under the laws of this state.

101.13. Oath. “Oath” means a notarial act, or part thereof, which is legally equivalent to an affirmation and in which an individual at a single time and place:

- (1) appears in person before the notary;
- (2) is personally known to the notary or identified by the notary through satisfactory evidence; and
- (3) makes a vow of truthfulness or fidelity on penalty of perjury while invoking God or using any form of the word “swear.”

101.14. Official Misconduct, Misfeasance and Malfeasance. “Official misconduct,” “Misfeasance” and “Malfeasance” mean:

- (1) a notary’s performance of any act prohibited, or failure to perform any act mandated, by the Mississippi Notary Law or any other law and/or regulation in connection with a notarial act by the notary; or
- (2) a notary’s performance of an official act in a manner found by the Secretary of

State to be negligent or against the public interest.

101.15. Resident of the State of Mississippi. “Resident of the State of Mississippi” means:

- (1) you maintain a permanent residential street address in the State of Mississippi, and state, and
- (2) you do not maintain a permanent residence in another state or country,
- (3) you do not claim homestead exemption or similar benefit in another state or country,
- (4) you are not registered to vote in another state or country,]
- (5) you do not have a driver’s license issued by another state or country,
- (6) you do not own automobiles registered in another state or country, or
- (7) you do not claim or maintain any other status that indicates that you are a resident of another state or country.

101.16. Personal knowledge of identity. “Personal knowledge of identity” and “personally knows” mean familiarity with an individual resulting from interactions with that individual over a period of time sufficient to dispel any reasonable uncertainty that the individual has the identity claimed.

101.17. Principal. “Principal” means:

- (1) a person whose signature is notarized; or
- (2) a person, other than a credible witness, taking an oath or affirmation from the notary.

101.18 Regular place of work or business. “Regular place of work or business” means a stationary office or workspace where one spends all or some of one’s working or business hours.

101.19 Satisfactory evidence of identity. “Satisfactory evidence of identity” means identification of an individual based on:

- (1) at least one current document issued by a federal, state, or tribal government agency bearing the photographic image of the individual’s face and signature and a physical description of the individual, though a properly stamped passport without a physical description is acceptable; or
- (2) the oath or affirmation of one credible witness unaffected by the document or transaction who is personally known to the notary and who personally knows the individual, or of 2 credible witnesses unaffected by the document or transaction who each personally knows the individual and shows to the notary documentary identification as described in Subparagraph (1) of this section.

101.20 Seal. “Seal” means a device for affixing on a paper document an image containing a notary’s name, jurisdiction, commission expiration date, and other information related to the notary’s commission.

101.21. Signature witnessing. “Signature witnessing” means a notarial act in which an

individual at a single time and place:

- (1) appears in person before the notary and presents a document;
- (2) is personally known to the notary or identified by the notary through satisfactory evidence; and
- (3) signs the document in the presence of the notary.

102. Qualifications for Notary Public.

(1) Except as provided in Subsection (3), the Secretary of State shall issue on behalf of the Governor a notary commission to any qualified person who submits an application to the Secretary of State in accordance with this Chapter.

(2) A person qualified for a notary commission shall:

- (a) be at least 18 years of age;
- (b) a resident of the State of Mississippi and have resided in the county of residence for least thirty (30) days prior to the submission of the application;
- (c) a citizen or legal resident of the United States;
- (d) read and write English; and
- (e) not be convicted of a felony.

(3) The Secretary of State may deny an application based on:

- (a) failure of the applicant to meet any requirements of the Mississippi Notary Law or this Chapter;
- (b) failure of the applicant to complete and submit the proper Application Form, Bond and Oath;
- (c) submission of an official application containing material misstatement or omission of fact;
- (d) the applicant is currently incarcerated, on probation or parole, or
- (e) revocation, suspension, restriction, or denial of a notarial commission or an official finding that the applicant had engaged in official misconduct, misfeasance or malfeasance as defined in this Chapter, whether or not disciplinary action resulted in this state or any other state or nation.

(4) Denial of an application may be appealed by filing in proper form with the Secretary of State within forty-five (45) days after denial, except that an applicant may not appeal when the Secretary of State within 5 years prior to the application has:

- (a) denied or revoked for disciplinary reasons any previous application, commission, or license of the applicant; or
- (b) made a finding under this Chapter that grounds for revocation of the applicant's commission existed.

103. Application for Notary Public Commission.

Every application for a notary commission shall be made on SOS Form NP 001, Application for Notary Public Commission, and include:

- (1) a statement of the applicant's personal qualifications, as described in this Chapter;
- (2) the required surety bond in the amount of five thousand dollars (\$5,000.00) from a surety licensed by the Mississippi Department of Insurance;
- (3) the official oath of office;
- (4) such other information as the Secretary of State may deem appropriate; and
- (5) the application fee.

104. Statement of Personal Qualifications.

The application for a notary commission shall be notarized and state or include, at least:

- (1) the applicant's date of birth;
- (2) the applicant's physical residence address and telephone number;
- (3) the applicant's business address and telephone number, the business mailing address, if different, and the name of the applicant's employer, if any;
- (4) a declaration that the applicant is a citizen of the United States or the applicant's status as a permanent legal resident of the United States (green card);
- (5) a declaration that the applicant can read and write English;
- (6) a declaration that the applicant has never had a denial, revocation, suspension, restriction, and or resignation of a notarial commission in this state or any other state or nation;
- (7) a declaration that the applicant has not been convicted of a disqualifying felony in this state or other state nation and is not presently incarcerated or on parole.

105. Application Fee.

Every applicant for a notary commission shall pay to this State a nonrefundable application fee as set forth in Section 904 of this Chapter.

106. Bond.

(1) A notary commission shall not become effective until an oath of office and a five thousand dollar (\$5,000.00) bond have been filed with the Secretary of State. The bond shall be issued and executed by a surety licensed by the Mississippi Department of Insurance, for a term of four (4) years commencing on the commission's effective date and terminating on its expiration date, with payment of bond funds to any person conditioned upon the notary's misconduct, misfeasance or malfeasance as defined in this Chapter.

(2) The bond must be on SOS Form NP 002, Official Notary Public Bond, or a bond substantially in the form prescribed for public official bonds in Section 25-1-15 of the Mississippi Code of 1972.

(3) If a notary bond has been exhausted by claims paid out by the surety, the Secretary of State may suspend the notary's commission until:

- (a) a new bond is obtained by the notary; and
- (b) the notary's fitness to serve the remainder of the commission term is determined by the Secretary of State.

107. Oath of Office.

Every applicant for a notary commission shall take the Oath of Office prescribed by Section 268 of the Mississippi Constitution in the presence of a notary of the State of Mississippi. The oath shall be taken before a Mississippi Notary Public and submitted on SOS Form NP 003, Oath of Office.

108. Commissioning Documents.

108.01. Upon issuing a notary commission, the Secretary of State shall provide to the notary a written commission including the Notary Identification Number and starting and ending date.

108.02. Where an application is submitted without a bond, the Secretary of State shall provide the applicant a pre-commission document indicating the starting and ending for use in purchasing a bond.

109. Jurisdiction and Term.

A person commissioned as a notary may perform notarial acts in any part of this State for a term of four (4) years from the date of the commission, unless the commission is earlier suspended, revoked or resigned pursuant to this Chapter. The date of the commission shall be the date the completed application was received by the Secretary of State; however, an applicant may not perform notarial acts prior to the actual issuance of the notary commission.

110. Recommissioning.

A current or former notary applying for a new notary commission shall submit a new completed application and comply with all the provisions of the Mississippi Notary Law and this Chapter. A current notary may submit an application to be recommissioned ninety (90) days prior to the expiration of an existing commission. The date of the new commission shall be the date immediately after the expiration date of the current commission.

201. Powers and Limitations of Notary Public

(1) A notary is empowered to perform the following notarial acts:

- (a) acknowledgments;
- (b) oaths and affirmations;
- (c) jurats;
- (d) signature witnessings; and
- (e) any other acts so authorized by the law of this State.

(2) A notary shall not perform a notarial act if the principal:

- (a) is not in the notary's presence at the time of notarization;
 - (b) is not personally known to the notary or identified by the notary through satisfactory evidence;
 - (c) shows a demeanor which causes the notary to have a compelling doubt about whether the principal knows the consequences of the transaction requiring a notarial act;
- or

(d) in the notary's judgment, is not acting of his or her own free will.

(3) A notary may certify the affixation of a signature by mark on a document presented for notarization if:

- (a) the mark is affixed in the presence of the notary and of 2 witnesses unaffected by the document;
- (b) both witnesses sign their own names beside the mark;
- (c) the notary writes below the mark: "Mark affixed by (name of signer by mark) in presence of (names and addresses of witnesses) and undersigned notary under Section 504; and
- (d) the notary notarizes the signature by mark through an acknowledgment, jurat, or signature witnessing.

202. Disqualifications.

A notary is disqualified from performing a notarial act if the notary:

- (1) is a party to or named in the document that is to be notarized;
- (2) is a spouse, ancestor, descendant, or sibling of the principal, including in-law, step, or half relatives and other persons residing in the same household
- (3) will receive as a direct or indirect result any commission, fee, advantage, right, title, interest, cash, property, or other consideration exceeding in value the fees specified in this Chapter;
 - (a) an employee notary is not disqualified from performing a notarial act solely by virtue the employee/employer relationship, participation in an employee stock ownership plan (ESOP), or a qualified retirement plan.
 - (b) an attorney notary is not disqualified from performing a notarial act solely by virtue of the attorney client relationship.
 - (c) a shareholder notary is not disqualified solely by virtue of a corporation/ shareholder relationship.

203. Refusal to Notarize.

- (1) A notary shall not refuse to perform a notarial act based on the principal's race, advanced age, gender, religion, national origin, health or disability.
- (2) A notary shall perform any notarial act described in this Chapter for any person requesting such an act who tenders the appropriate fee, unless:
 - (a) the notary knows or has good reason to believe that the notarial act or the associated transaction is unlawful;
 - (b) the act is prohibited under this Chapter;
 - (c) the number of notarial acts requested practicably precludes completion of all acts at once, in which case the notary shall arrange for later completion of the remaining acts;or
- (3) A notary may but is not required to perform a notarial act outside the notary's regular workplace or business hours.

204. Avoidance of Influence.

- (1) A notary shall not influence a person either to enter into or avoid a transaction involving a notarial act by the notary, except that the notary may advise against a transaction if Section 201(2)(c) or (d) of this Chapter applies.
- (2) A notary has neither the duty nor the authority to investigate, ascertain, or attest the lawfulness, propriety, accuracy, or truthfulness of a document or transaction involving a notarial act.

205. False Certificate.

- (1) A notary shall not execute a certificate containing information known or believed by the notary to be false.
- (2) A notary shall not affix an official signature or seal on a notarial certificate that is incomplete.
- (3) A notary shall not provide or send a signed or sealed notarial certificate to another person with the understanding that it will be completed or attached to a document outside of the notary's presence.

206. Improper Documents.

(1) A notary shall not notarize a signature:

- (a) on a blank or incomplete document; or
- (b) on a document without notarial certificate wording.

(2) A notary shall neither certify nor authenticate a photograph.

(3) A notary who is not an employee of the issuing government agency shall neither certify nor authenticate a copy of any official government document including but not limited to the following:

- (a) Birth Certificate
- (b) Death Certificate
- (c) Drivers License
- (d) Passport
- (e) Social Security Card
- (f) Any official government issued identity card

Nothing in this section shall prohibit a Notary from notarizing a signature on a document which has a copy of an official government document embedded or attached as an exhibit.

207. Intent to Deceive.

A notary shall not perform any official action with the intent to deceive or defraud.

208. Testimonials.

A notary shall not use the official notary title or seal to endorse, promote, denounce, or oppose any product, service, contest, candidate, or other offering.

209. Unauthorized Practice of Law.

(1) If notarial certificate wording is not provided or indicated for a document, a non-attorney notary shall not determine the type of notarial act or certificate to be used.

(2) A non-attorney notary shall not assist another person in drafting, completing, selecting, or understanding a document or transaction requiring a notarial act.

(3) This section does not preclude a notary who is duly qualified, trained, or experienced in a particular industry or professional field from selecting, drafting, completing, or advising on a document or certificate related to a matter within that industry or field.

(4) A notary shall not claim to have powers, qualifications, rights, or privileges that the office of notary does not provide, including the power to counsel on immigration matters.

(5) A non-attorney notary who advertises notarial services in a language other than English shall include in the advertisement, notice, letterhead, or sign the following, prominently displayed in the same language:

(a) the statement: "I am not an attorney and have no authority to give advice on immigration or other legal matters"; and

(b) the fees for notarial acts specified in Section 302.

(6) A notary may not use the term "notario publico" or any equivalent non-English term in any business card, advertisement, notice, or sign.

300. Fees of Notary Public.

301. Imposition and Waiver of Fees.

(1) For performing a notarial act, a notary may charge the maximum fee specified in Section 302, charge less than the maximum fee, or waive the fee.

(2) A notary shall not discriminatorily condition the fee for a notarial act on the attributes of the principal as delineated in Section 203, though a notary may waive or reduce fees for humanitarian or charitable reasons.

302. Fees for Notarial Acts.

(1) The maximum fees that may be charged by a notary for notarial acts are:

(a) for acknowledgments, five dollars (\$5.00) per signature;

(b) for oaths or affirmations without a signature, five dollars (\$5.00) per person;

(c) for jurats, five dollars (\$5.00) per signature;

(d) for signature witnessings, five dollars (\$5.00) per signature;

(2) A notary may charge a travel fee when traveling to perform a notarial act if:

(a) the notary and the person requesting the notarial act agree upon the travel fee in advance of the travel; and

(b) the notary explains to the person requesting the notarial act that the travel fee is both separate from the notarial fee in Subsection (a) and neither specified nor mandated by law.

303. Payment Prior to Act.

(1) A notary may require payment of any fees specified in Section 302 prior to performance of a notarial act.

(2) Any fees paid to a notary prior to performance of a notarial act are non-refundable if:

(a) the act was completed; or

(b) in the case of travel fees paid in compliance with Section 302, the act was not completed for reasons stated in Sections 201--206 after the notary had traveled to meet the principal.

304. Fees of Employee Notary.

An employer may prohibit an employee who is a notary from charging for notarial acts performed on the employer's time.

305. Notice of Fees.

Notaries who charge for their notarial services shall conspicuously display in their places of business, or present to each principal outside their places of business, an English-language schedule of fees for notarial acts, as specified in this Section 302.

401.01. Journal of Notarial Acts.

(1) A notary shall keep, maintain, protect, and provide for lawful inspection a chronological official journal of notarial acts a permanently bound book with numbered pages;

(2) A notary shall keep no more than one active journal at the same time.

401.02. Entries.

(1) For every notarial act, the notary shall record in the journal at the time of notarization at least the following:

- (a) the date and time of day of the notarial act;
- (b) the type of notarial act;
- (c) the type, title, or a description of the document or proceeding;
- (d) the printed name and address of each principal;
- (e) the fee, if any, charged for the notarial act;
- (f) the address where the notarization was performed if not the notary's business address; and

(g) if the principle is not personally known to the notary may require, the signature of the principal and the evidence of identity of each principal, in the form of either: a notation of the type of identification document, its issuing agency, its serial or identification number, and its date of issuance or expiration;

(2) A notary shall not record a Social Security or credit card number in the journal.

(3) A notary shall record in the journal the circumstances for not completing a notarial act.

(4) As required in Section 401.03, a notary shall record in the journal the circumstances of any request to inspect or copy an entry in the journal, including the requester's name, address, signature, and evidence of identity. The reasons for refusal to allow inspection or copying of a journal entry shall also be recorded.

401.03. Inspection, Copying, and Disposal of Journal.

(1) In the notary's presence, any person may inspect an entry in the official journal of notarial acts during regular business hours, but only if:

- (a) the person's identity is personally known to the notary or proven through satisfactory evidence;
- (b) the person affixes a signature in the journal in a separate, dated entry;
- (c) the person specifies the month, year, type of document, and name of the principal for the notarial act or acts sought; and
- (d) the person is shown only the entry or entries specified.

(2) If the notary has a reasonable and explainable belief that a person bears a criminal or harmful intent in requesting information from the notary's journal, the notary may deny access to any entry or entries.

(3) The journal may be examined without restriction by a law enforcement officer in the course of an official investigation, subpoenaed by court order, or surrendered at the direction of the Secretary of State.

(4) Upon complying with a request under Subsection (a), the notary shall provide a copy of a specified entry or entries in the journal at a cost of not more than five dollars (\$5.00) per copy; other entries on the same page shall be masked.

(5) A notary shall safeguard the journal and all other notarial records and surrender or destroy them only by rule of law, by court order, or at the direction of the Secretary of State.

(6) When not in use, the journal shall be kept in a secure area under the exclusive control of the notary, and shall not be used by any other notary nor surrendered to an employer upon termination of employment.

(7) Within 10 days after the journal is stolen, lost, destroyed, damaged, or otherwise rendered unusable or unreadable as a record of notarial acts, the notary, after informing the appropriate law enforcement agency in the case of theft or vandalism, shall notify the Secretary of State by any means providing a tangible receipt or acknowledgment, including certified mail and electronic transmission, and also provide a copy or number of any pertinent police report.

(h) Upon resignation, revocation, or expiration of a notary commission, or death of the notary, the journal and notarial records shall be delivered to the Clerk of the Circuit Court of the County of residence of the notary in accordance with Section 25-33-7 of the Mississippi Code of 1972.

402. Official Signature.

In notarizing a paper document, a notary shall:

- (1) sign by hand on the notarial certificate exactly and only the name indicated on the notary's commission;
- (2) not sign using a facsimile stamp or an electronic or other printing method; and
- (3) affix the official signature only at the time the notarial act is performed.

403. Seal requirements.

403.01 Official Seal.

(1) A notary shall keep an official seal that is the exclusive property of the notary. The seal shall not be possessed or used by any other person, nor surrendered to an employer upon termination of employment.

(2) An image of the official seal shall be affixed by the notary on every paper document notarized.

(3) An image of the seal shall be affixed only at the time the notarial act is performed.

(4) When not in use, the seal shall be kept secure and accessible only to the notary.

(5) Within 10 days after the seal of a notary is stolen, after informing the appropriate law enforcement agency, or lost, the notary shall notify the Secretary of State by submitting an Application for Replacement Commission, SOS Form NP 006. The Notary shall also provide a copy or number of any pertinent police report. Upon receipt of such notice the Secretary of State shall issue to the notary a replacement commission with a new Notary Identification Number.

(6) As soon as reasonably practicable after resignation, revocation, or expiration of a notary commission or death of the notary, the seal shall be destroyed or defaced so that it may not be misused.

403.02. Seal Image.

(1) Near the notary's official signature on the notarial certificate of a paper document, the notary shall affix a sharp, legible, permanent, and photographically reproducible image of the official seal that shall include the following elements:

(a) the notary's name exactly as indicated on the commission (abbreviations beyond those already appearing on the commission are not permissible);

(b) the identification number of the notary's commission;

(c) the words "Notary Public" and "State of Mississippi [insert county of residence]"

County”;

(d) the words “Commission expires [insert expiration date]”;

(e) a border in a circular shape with a diameter no less than one and one-half inches and no larger than two and one-half inches, surrounding the required words.

(2) Illegible information within a seal impression may be typed or printed legibly by the notary adjacent to but not within the impression.

(3) An embossed seal impression that is not photographically reproducible may be used in addition to but not in lieu of the seal described in Subsection (1).

(4) The model seals contained in Section 902.07 of the Appendix of Forms meet the seal image requirements of Section 403.02(1). The model seals are merely examples of valid seal formats. Other seal formats that meet the requirements of Section 403.02(1) shall likewise be considered valid.

500. Certificates for Notarial Acts.

The party drafting a document for notarization is responsible for the form of the certificate, its wording and legal sufficiency. A notary public is not required to draft, edit or amend a certificate where the document presented does not contain an acceptable certificate; the notary shall instead, refuse to notarize the document pursuant to Rule 206.

501. Signer by Mark and Person Unable to Sign.

Certificates may be used for signers by mark or persons physically unable to sign or make a mark if:

(1) for a signer by mark, the notary and 2 witnesses unaffected by the document observe the affixation of the mark, both witnesses sign their own names beside the mark, and the notary writes below the mark: “Mark affixed by (name of signer by mark) in presence of (names and addresses of 2 witnesses) and undersigned notary ; or

(2) for a person physically unable to sign or make a mark, the person directs the notary to sign on his or her behalf in the presence of the person and 2 witnesses unaffected by the document, both witnesses sign their own names beside the signature, and the notary writes below the signature: “Signature affixed by notary in presence of (names and addresses of person and 2 witnesses).

601.01. Change of Address.

Within 30 days after the change of a notary’s residence, business, or mailing address, the notary shall send to the Secretary of State a signed notice of the change, giving both old and new addresses on SOS Form NP 004, Application for Change of Notary Address.

601.02 Change of Name.

(1) Within 30 days after the change of a notary’s name by court order or marriage, the notary shall send to the Secretary of State a signed notice of the change, giving both former and new names, with a copy of any official authorization for such change on SOS Form NP 005, Application for Change of Notary Name.

(2) A notary with a new name shall continue to use the former name in performing notarial acts until the following steps have been completed, at which point the notary shall use the new name:

(a) the notice described in Subsection (1) has been delivered or transmitted;

(b) a Confirmation of Notary's Name has been received from the Secretary of State; and a Replacement commission issued.

(c) a new seal bearing the new name exactly as in the Replacement Commission has been obtained; and

(d) the surety for the notary's bond has been informed in writing.

601.03. Resignation.

(1) A notary who resigns his or her commission shall send to the Secretary of State by a signed notice indicating the effective date of resignation on SOS Form NP 005, Notice of Notary Resignation or Death.

(2) Notaries who cease to reside in or to maintain a regular place of work or business in this State, or who become permanently unable to perform their notarial duties, shall resign their commissions.

602. Disposition of Seal and Journal.

(1) Except as provided in Subsection (2), when a notary commission expires or is resigned or revoked, the notary shall:

(a) as soon as reasonably practicable, destroy or deface all notary seals so that they may not be misused; and

(b) within 30 days after the effective date of resignation, revocation, or expiration, send to the Circuit Clerk of the County where the Notary the notarial journal and records.

(2) A former notary who intends to apply for a new commission and whose previous commission or application was not revoked or denied by this State, need not deliver the journal and records within 30 days after commission expiration, but must do so within 6 months after expiration unless recommissioned within that period.

603. Death of Notary.

If a notary dies during the term of commission or before fulfilling the obligations stipulated in this Chapter, the notary's personal representative shall:

(1) notify the Secretary of State of the death in writing;

(2) as soon as reasonably practicable, destroy or deface all notary seals so that they may not be misused; and

(3) within 6 months after death, send to the Circuit Clerk of the County of residence of the Notary listed in the records of the Secretary of State's Office the notary's journal of notarial acts and any other notarial records.

700. Sanctions and Remedies for Improper Acts

701. Revocation.

(1) The Secretary of State may revoke a notary commission for any ground on which an application for a commission may be denied under this Chapter.

(2) The Secretary of State shall revoke the commission of any notary who fails:

(a) to maintain a residence in this State; and

(b) to maintain status as a legal resident of the United States.

(3) Prior to revocation of a notary commission, the Secretary of State shall inform the notary of the basis for the revocation and that the revocation takes effect on a particular

date unless a proper appeal is filed with the Secretary of State before that date.

(4) Resignation or expiration of a notary commission does not terminate or preclude an inquiry into the notary's conduct by the Secretary of State whereupon it shall be made a matter of public record whether or not the finding would have been grounds for revocation.

702. Suspension.

(1) The Secretary of State may suspend a notary commission for actions contrary to the Mississippi Notary Law, other laws and the requirements of this Chapter.

(2) Prior to suspension of a notary commission, the Secretary of State shall inform the notary of the basis for the suspension and that the suspension takes effect on a particular date unless a proper appeal is filed with the Secretary of State before that date.

(3) Resignation or expiration of a notary commission does not terminate or preclude an inquiry into the notary's conduct by the Secretary of State whereupon it shall be made a matter of public record whether or not the finding would have been grounds for suspension.

703. Other Remedial Actions for Misconduct.

(1) The Secretary of State may deliver a written Official Warning to Cease Misconduct, Misfeasance or Malfeasance to any notary whose actions are deemed to be in violation of this Chapter, the Mississippi Notary Law or other laws of the State of Mississippi.

(2) The Secretary of State may also seek any other remedies available under law or equity.

(3) The remedies and sanctions of this chapter do not preclude other remedies and sanctions provided by law.

704. Official Notice.

Official notice required by this Chapter shall be by Certified mail to the notary at the residence address shown on the records of the Secretary of State and/or such other address as the Secretary of State may deem necessary.

705. Publication of Sanctions and Remedial Actions.

The Secretary of State shall regularly publish a list of persons whose notary commissions have been suspended or revoked by the Secretary of State or a court.

706. Criminal Sanctions.

In addition to civil sanctions provided by this Chapter and the Mississippi Notary Law, there are criminal sanctions which may be applicable to a notary who violates state or federal criminal statutes.

707. Complaints.

(1) Complaints against a Mississippi notary public for violation of the requirements of this Chapter, the Mississippi Notary Law or any other law or regulation shall be made in writing and under oath to the Secretary of State.

(2) Complaints should state all pertinent facts and include a copy of the notarial

certificate in question and the status of any pending litigation.

(3) Complaints alleging violations of criminal statutes shall be made to the District Attorney for the county in which the violation occurred.

(4) Where civil or criminal litigation is pending or anticipated, the Secretary of State's Office may, in its sole discretion, defer action on the Compliant pending the outcome of the litigation.

707. Appeals.

(1) Appeals should be addressed to the Business Services Division of the Secretary of State's Office.

(a) The appeal shall be in writing and under oath.

(a) The written appeal shall include submission of copies of three pages from the Notary's Journal including the pages before and after the entry of information surrounding the certificate in question.

(2) Appeals will be on the record unless an oral hearing is requested.

(3) Oral hearings are in the sole discretion of the Secretary of State's Office.

(4) Where an oral hearing is granted, the hearing will be conducted informally with relaxed rules of evidence in accordance with Chapter 5 of these Regulations.

(5) The Notary Public shall bring the original journal to any oral hearing for review by the hearing officer.

801. Authentications

On a notarized document sent to another state or nation, evidence of the authenticity of the official seal and signature of a notary of this [State], if required, shall be in the form of:

(1) a certificate of authority from the Secretary of State and authenticated as necessary by additional certificates from United States and/or foreign government agencies; or

(2) in the case of a notarized document to be used in a nation that has signed and ratified the Hague Convention Abolishing the Requirement of Legalization for Foreign Public Documents of October 5, 1961, an Apostille from the Secretary of State in the form prescribed by the Convention, with no additional authenticating certificates required.

802. Certificate of Authority.

A certificate of authority evidencing the authenticity of the official seal and signature of a notary of this [State] shall be substantially in the following form:

Certificate of Authority for a Notarial Act

I, _____ (name, title, jurisdiction of authenticating official), certify that
_____ (name of notary), the person named in the seal and signature on the
attached document, was a
Notary Public for the [State] of _____ [name of jurisdiction] and authorized to
act as such at the time of the document's notarization. To verify this Certificate of
Authority for a Notarial Act, I have affixed below my signature and seal of office this

_____ day of _____, 20____.

(Signature and seal of commissioning official)

803. Apostille.

An Apostille prescribed by the Hague Convention, as cited in 28 U.S.C.A. in the annotations to Rule 44 of the Federal Rules of Civil Procedure, shall be in the form of a square with sides at least 9 centimeters long and contain exactly the following wording:

APOSTILLE

(Convention de La Haye du 5 octobre 1961)

1. Country: _____

This public document

2. has been signed by _____

3. acting in the capacity of _____

4. bears the seal/stamp of _____

CERTIFIED

5. at _____

6. the _____

7. by _____

8. Number _____

9. Seal/Stamp

10. Signature:

901. Notary Public Fees. The Secretary of State charges the following fees:

901.01. Application Fee	\$25.00
901.02. Notice of Address Change	20.00
901.03. Notice of Name Change	20.00
901.04. Application for Replacement Commission	20.00
901.05. Notice of Notary Resignation or Death	(no fee)
901.05. Other Forms	20.00
901.06. Issuing a certificate of authority	2.00

901.07. Issuing an Apostille **2.00**

902. Appendix of Forms.

902.01. Application for Notary Public Commission, SOS Form NP 001

902.02. Official Notary Public Bond and Notary Public Oath of Office, SOS Form NP 003

902.03. Application for Change of Notary Address, SOS Form NP 004

902.04. Application for Change of Notary Name, SOS Form NP 005

902.05. Application for Replacement Commission, SOS Form NP 006

902.06. Notice of Notary Resignation or Death, SOS Form NP 007.

902.07. Model Seals

999. Transition Rules

999.01. Acceptance of Application Forms in use prior to July 1, 2007

(1) The application forms in use immediately prior to the implementation of this chapter and SOS Form NP 001 shall continue to be accepted and processed by the Secretary of State if they are received prior to October 31, 2007.

(2) All applicants using said forms are still required to meet personal qualifications and requirements set forth in Sections 103 and 104 although they may be excused from having to affix written statements to that effect.

(3) All applications received after October 31, 2007 must be submitted on SOS Form NP 001.

999.02. Seal Requirements for Notaries Public Commissioned before July 1, 2007

(1) Notaries public commissioned prior to July 1, 2007 may use an official seal that does not comply with Section 403.02 provided that seal complies with Section 25-33-3 of the Mississippi Code Annotated, as amended.

(2) Notaries public commissioned prior to July 1, 2007 must obtain a seal that complies with Section 403.02 upon being recommissioned on or after July 1, 2007.