

CODE OF ALABAMA 1975

TITLE 8. COMMERCIAL LAW AND CONSUMER PROTECTION CHAPTER 1A. UNIFORM ELECTRONIC TRANSACTIONS ACT

§ 8-1A-11. Notarization and acknowledgement.

If a law requires a signature or record to be notarized, acknowledged, verified, or made under oath, the requirement is satisfied if the electronic signature of the person authorized to perform those acts, together with all other information required to be included by other applicable law, is attached to or logically associated with the signature or record.

(Act 2001-458, p. 597, §1.)

TITLE 13A. CRIMINAL CODE CHAPTER 10. OFFENSES AGAINST PUBLIC ADMINISTRATION ARTICLE 6 OFFENSES RELATING TO JUDICIAL AND OTHER PROCEEDINGS

§ 13A-10-132. Crimes in connection with sham legal process, etc.

(e) It shall be unlawful for a person to knowingly act, without authority under state law, as any judge, magistrate, hearing officer, juror, a clerk of court, a commissioned notary public, or any other official authorized to determine a controversy or adjudicate the rights or interests of others, or to sign a document as if authorized by state law. A person violating this subsection is guilty of a Class A misdemeanor.

(Act 2012-382, p. 1009, §1.)

TITLE 35. PROPERTY CHAPTER 4 CONVEYANCES AND CREATION OF ESTATES

§ 35-4-20. Conveyance required to be in writing; signature; attestation by witnesses.

Conveyances for the alienation of lands must be written or printed, or partly written and partly printed, on parchment or paper, and must be signed at their foot by the contracting party or his agent having a written authority; or, if he is not able to sign his name, then his name must be written for him, with the words "his mark" written against the same, or over it; the execution of such conveyance must be attested by one witness or, where the party cannot write, by two witnesses who are able to write and who must write their names as witnesses; or, if he can write his name but does not do so and his name is written for him by another, then the execution must be attested by two witnesses who can and do write their names.

(Code 1852, §1266; Code 1867, §1535; Code 1876, §2145; Code 1886, §1789; Code 1896, §982; Code 1907, §3335; Code 1923, §6838; Code 1940, T. 47, §22.)

§ 35-4-21. Seal unnecessary.

A seal is not necessary to convey the legal title to land to enable the grantee to bring a civil action. Any instrument in writing, signed by the grantor or his agent having a written authority, is effectual to transfer the legal title to the grantee, if such was the intention of the grantor, to be collected from the entire instrument.

(Code 1852, §2198; Code 1867, §2599; Code 1876, §2948; Code 1886, §2694; Code 1896, §983; Code 1907, §3356; Code 1923, §6839; Code 1940, T. 47, §23.)

§ 35-4-22. Effect of writings importing to be under seal.

All writings which import on their face to be under seal are to be taken as sealed instruments and have the same effect as if the seal of the parties was affixed thereto. (Code 1852, §1315; Code 1867, §1585; Code 1876, §2194; Code 1886, §1840; Code 1896, §1036; Code 1907, §3363; Code 1923, §6847; Code 1940, T. 47, §32.)

§ 35-4-23. Acknowledgment — Operates as compliance with witness requirements.

The acknowledgment provided for in this article operates as a compliance with the requisitions of section 35-4-20 upon the subject of witnesses. (Code 1852, §1267; Code 1867, §1536; Code 1876, §2146; Code 1886, §1790; Code 1896, §984; Code 1907, §3357; Code 1923, §6840; Code 1940, T. 47, §24.)

§ 35-4-24. Acknowledgment — Officers authorized to take in this state.

Acknowledgments and proofs of conveyances may be taken by the following officers within this state: Judges of the supreme court, the court of civil appeals, the court of criminal appeals, circuit courts and district courts, and the clerks of such courts; registers of the circuit court, judges of the court of probate, and notaries public. (Code 1852, §1276; Code 1867, §1545; Code 1876, §2155; Code 1886, §1799; Code 1896, §993; Code 1907, §3358; Code 1923, §6841; Code 1940, T. 47, §25.)

§ 35-4-25. Acknowledgment — Officers holding stock in certain corporations.

An acknowledgment or proof of any deed, mortgage or other conveyance to or by a corporation, national banking association, building and loan association or savings and loan association at any time heretofore or hereafter taken by an officer authorized by law to take acknowledgments and proofs of conveyances and at that time owning or holding not more than one percent of the total issued and outstanding capital stock of such corporation, national banking association, building and loan association or savings and loan association, and not then holding any office in said corporation, national banking association or building and loan association shall have the same effect as if such officer did not hold or own any of such stock. (Acts 1931, No. 593, p. 675; Code 1940, T. 47, §26; Act 2024-314, §2.)

§ 35-4-26. Acknowledgment — Officers authorized to take outside Alabama; validity; certification.

(a) Acknowledgments, proofs of conveyances, and affidavits may be taken within the United States and beyond the State of Alabama, by judges and clerks of any federal court, judges and clerks of any state court of record in any state, notaries public, commissioners appointed by the Governor of this state, the commissioner of deeds for the state wherein the acknowledgment is taken, or by any commissioned officer of any of the Armed Forces of the United States. Beyond the limits of the United States, the acknowledgments, proofs, and affidavits may be taken by the judges of any court of record, mayor or chief magistrate of any city, town, borough, or county, by any diplomatic, consular, or commercial agent of the United States, notaries public, or by any commissioned officer of any of the Armed Forces of the United States.

(b) Notwithstanding any provision of this chapter, the acknowledgment of any instrument executed outside the State of Alabama which is in compliance with the manner and form prescribed by the laws of the place of its execution, is executed in a state, territory, or insular possession of the United States or the District of Columbia, and is verified by the official seal of the officer before whom it is acknowledged, shall have the same effect as an acknowledgment in the manner and form prescribed by the laws of

this state for instruments executed within the state.

(c) All deeds, conveyances, deeds of trust, mortgages, mineral leases, marriage contracts, and other instruments in writing, affecting or purporting to affect title to any real estate or personal property situated in this state, which have been recorded or executed prior to August 1, 2004, and which may be defective or ineffectual because of the failure to have the form of acknowledgment as required by Section 35-4-29, shall be binding and effectual as though the instruments contained the required form of acknowledgment.

(d) In addition to the acknowledgment of instruments in the manner and form provided by this chapter, persons serving in or with the Armed Forces of the United States or their dependents may acknowledge the same wherever located before any commissioned officer of any of the Armed Forces of the United States. The instrument may not be rendered invalid by the failure to state therein the place of execution or acknowledgment, but shall include the state in which the acknowledgment occurred. No authentication of the certificate of acknowledgment of the officer shall be required, but the officer taking the acknowledgment shall endorse thereon or attach thereto a certificate substantially in the following form:

“On this day of,, before me,, the undersigned officer, personally appeared (Serial No.) known to me or satisfactorily proven to be (serving in or with the Armed Forces of the United States) (a dependent of, Serial No., a person serving in or with the Armed Forces of the United States) and to be the person whose name is subscribed to the within instrument, and acknowledgment before me on this day that, being informed of the contents of this instrument, he or she executed the same voluntarily on the day the same bears date. The undersigned does further certify that he or she is at the date of this certificate a commissioned officer of the rank stated below and is in the active service of the Armed Forces of the United States. (Code 1852, §1277; Code 1867, §1546; Code 1876, §2156; Code 1886, §1800; Code 1896, §994; Code 1907, §3359; Code 1923, §6842; Code 1940, T. 47, §27; Acts 1943, No. 240, p. 195; Acts 1947, No. 47, p. 15; Act 2004-555, p. 1194, §1.)

§ 35-4-27. Acknowledgment — Proof of official seal.

All deeds, powers of attorney and other instruments of conveyance, affidavits or contracts purporting to be acknowledged, proved or verified as prescribed by law, and which have been recorded or may hereafter be recorded in the office of the judge of probate of the proper county in this state, and transcripts thereof from such record shall be prima facie evidence that the seal of such officer acknowledging or attesting such instrument was his official seal and that it was affixed by him in his official capacity; and all such instruments and certified copies thereof shall have the same force and effect and shall be received in evidence in any court in this state without further proof of the due execution of such instrument or proof of the seal of any officer so certifying or attesting and that the same was affixed by him as his official seal, in his official capacity, whether he be an officer of this state or of any other state, territory or district of the United States. (Acts 1920, No. 82, p. 135; Code 1923, §6843; Code 1940, T. 47, §28.)

§ 35-4-28. Acknowledgment — Powers of attorney, etc.

Powers of attorney or other instruments conferring authority to convey property or to enter satisfaction of mortgages or other liens may be proved or acknowledged and recorded in the same manner and must be received as evidence to the same extent as conveyances.

(Code 1852, §1278; Code 1867, §1547; Code 1876, §2157; Code 1886, §1801; Code 1896, §995; Code 1907, §3360; Code 1923, §6844; Code 1940, T. 47, §29.)

§ 35-4-29. Form of acknowledgment.

The following are substantially the forms of acknowledgment to be used in this state, on conveyances and instruments of every description admitted to record:

ACKNOWLEDGMENT FOR INDIVIDUAL

The State of }.

..... County }

I (name and style of officer) hereby certify that whose name is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, he executed the same voluntarily on the day the same bears date. Given under my hand this day of, A. D. 20....

A. B. Judge, etc. (or as the case may be)

ACKNOWLEDGMENT FOR CORPORATION

The State of }.

..... County }

I,, a in and for said County in said State, hereby certify that whose name as of the, a corporation, is signed to the foregoing conveyance and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

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

.....

(Style of Officer)

ACKNOWLEDGMENT FOR AN OFFICIAL OR OTHER PERSON IN REPRESENTATIVE CAPACITY

The State of..... }.

..... County }

I,, a, in and for said County in said State, hereby certify that, whose name as (here state representative capacity) is signed to the foregoing conveyance and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, he, in his capacity as such, executed the same voluntarily on the day the same bears date.

Given under my hand this the day of, 20

.....

(Style of Officer)

ACKNOWLEDGMENT FOR CORPORATION, IN REPRESENTATIVE CAPACITY

The State of }.

..... County }

I,, a in and for said County, in said State, hereby certify that whose name asof, a corporation as of the estate of (or as the case may be) is signed to the foregoing, and who is known to me, acknowledged before me on this day, that being informed of the contents of said, he, as such officer, and with full authority, executed the same voluntarily for and as the act of said corporation, acting in its capacity as as aforesaid.

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

.....

(Style of Officer)

(Code 1852, §1279; Code 1867, §1548; Code 1876, §2158; Code 1886, §1802; Code 1896, §996; Code 1907, §3361; Code 1923, §6845; Code 1940, T. 47, §30; Acts 1951, No. 85, p. 301.)

§ 35-4-30. Form of probate of conveyance.

The form of a probate of a conveyance or other instrument is as follows:

The State of }.

..... County. }

I, (name and style of the officer), hereby certify that, a subscribing witness to the foregoing conveyance, known to me, appeared before me on this day, and being sworn, stated that, the grantor, voluntarily executed the same in his presence, and in the presence of the other subscribing witness, on the day the same bears date; that he attested the same in the presence of the grantor, and of the other witness, and that such other witness subscribed his name as a witness in his presence.

Given under my hand, this day of, A. D.

A. B., Judge, etc. (or as the case may be).

(Code 1852, §1280; Code 1867, §1549; Code 1876, §2159; Code 1886, §1803; Code 1896, §997; Code 1907, §3362; Code 1923, §6846; Code 1940, T. 47, §31.)

ARTICLE 3. RECORDATION AND REGISTRATION IN GENERAL DIVISION 4. ALABAMA UNIFORM REAL PROPERTY ELECTRONIC RECORDING ACT

§ 35-4-122. Validity of electronic documents.

(a) If a law requires, as a condition for recording, that a document be an original, be on paper or another tangible medium, or be in writing, the requirement is satisfied by an electronic document satisfying this act.

(b) If a law requires, as a condition for recording, that a document be signed, the requirement is satisfied by an electronic signature.

(c) A requirement that a document or a signature associated with a document be notarized, acknowledged, verified, witnessed, or made under oath is satisfied if the electronic signature of the person authorized to perform that act, and all other information required to be included, is attached to or logically associated with the document or signature. A physical or electronic image of a stamp, impression, or seal need not accompany an electronic signature.

(Act 2009-510, p. 954, §3.)

TITLE 36. PUBLIC OFFICERS AND EMPLOYEES CHAPTER 20. NOTARIES PUBLIC

ARTICLE 1. GENERALLY

§ 36-20-1. Appointment and commissioning; term of office; fee of probate judge for issuance of notary commissions; report to secretary of state by probate judges as to notaries appointed and commissioned. (Repealed.)

Repealed by Act 2011-295, p. 544, §2, effective January 1, 2012.

(Code 1852, §854; Code 1867, §1080; Code 1876, §1325; Code 1886, §1102; Code 1896, §3021; Code 1907, §5162; Code 1923, §9328; Code 1940, T. 40, §1; Acts 1963, No. 150, p. 525, §1; Acts 1976, No. 694, p. 961, §1.)

§ 36-20-2. Vacation of office by removal from county. (Repealed)

Repealed by Act 2011-295, p. 544, §2, effective January 1, 2012.

(Code 1852, §855; Code 1867, §1081; Code 1876, §§1326, 1327; Code 1886, §1103; Code 1896, §3023; Code 1907, §5164; Code 1923, §9240; Code 1940, T. 40, §3.)

§ 36-20-3. Bond. (Repealed)

Repealed by Act 2011-295, p. 544, §2, effective January 1, 2012.

(Code 1852, §856; Code 1867, §1082; Code 1876, §1328; Code 1886, §1104; Code 1896, §3024; Code 1907, §5165; Code 1923, §9241; Code 1940, T. 40, §4; Acts 1987, No. 87-361, p. 523, §1.)

§ 36-20-4. Seal. (Repealed)

Repealed by Act 2011-295, p. 544, §2, effective January 1, 2012.

(Code 1852, §858; Code 1867, §1084; Code 1876, §1330; Code 1886, §1106; Code 1896, §3026; Code 1907, §5167; Code 1923, §9243; Code 1940, T. 40, §6.)

§ 36-20-5. Powers. (Repealed)

Repealed by Act 2011-295, p. 544, §2, effective January 1, 2012.

(Code 1852, §857; Code 1867, §1083; Code 1876, §1329; Code 1886, §1105; Code 1896, §3025; Code 1907, §5166; Code 1923, §9242; Code 1940, T. 40, §5.)

§ 36-20-6. Fees. (Repealed)

Repealed by Act 2011-295, p. 544, §2, effective January 1, 2012.

(Code 1852, §863; Code 1867, §1090; Code 1876, §5065; Code 1886, §1113; Code 1896, §3033; Code 1907, §5174; Code 1923, §9250; Code 1940, T. 40, §14.)

§ 36-20-7. Notary public to maintain register of official acts; provision of certified copies from register generally. (Repealed)

Repealed by Act 2011-295, p. 544, §2, effective January 1, 2012.

(Code 1852, §859; Code 1867, §1085; Code 1876, §1332; Code 1886, §1107; Code 1896, §3027; Code 1907, §5168; Code 1923, §9244; Code 1940, T. 40, §7.)

§ 36-20-8. Register to be delivered to probate judge upon death, resignation, etc., of notary; liability of person failing to deliver notary's register to probate judge on demand generally. (Repealed)

Repealed by Act 2011-295, p. 544, §2, effective January 1, 2012.

(Code 1852, §860; Code 1867, §1086; Code 1876, §1333; Code 1886, §1108; Code 1896, §3028; Code 1907, §5169; Code 1923, §9245; Code 1940, T. 40, §8.)

§ 36-20-9. Penalty for failure to deliver notary's register to probate judge on demand. (Repealed)

Repealed by Act 2011-295, p. 544, §2, effective January 1, 2012.

(Code 1852, §860; Code 1867, §1086; Code 1876, §1333; Code 1886, §3964; Code 1896, §5137; Code 1907, §7489; Code 1923, §5082; Code 1940, T. 40, §9.)

§ 36-20-10. Probate judge may deliver register to another notary; provision of certified copies from register. (Repealed)

Repealed by Act 2011-295, p. 544, §2, effective January 1, 2012.

(Code 1852, §§861, 862; Code 1867, §§1087, 1088; Code 1876, §§1334, 1335; Code 1886, §1109; Code 1896, §3029; Code 1907, §5170; Code 1923, §9246; Code 1940, T. 40, §10.)

§ 36-20-11. Performance or assumption of authority to perform notarial act without commission. (Repealed)

Repealed by Act 2011-295, p. 544, §2, effective January 1, 2012.

(Acts 1949, No. 586, p. 913, § 1.)

ARTICLE 2. NOTARIES PUBLIC FOR STATE AT LARGE

§ 36-20-30. Appointment and commissioning; term of office; powers, duties and territorial jurisdiction; fee of probate judge for issuance of notary commissions; report to secretary of state by probate judges as to notaries appointed and commissioned. (Repealed.)

Repealed by Act 2011-295, p. 544, §2, effective January 1, 2012.

(Acts 1943, No. 431, p. 400, §1; Acts 1963, No. 151, p. 525, §1; Acts 1976, No. 694, p. 961, §2.)

§ 36-20-31. Bond. (Repealed)

Repealed by Act 2011-295, p. 544, §2, effective January 1, 2012.

(Acts 1943, No. 431, p. 400, §2; Acts 1987, No. 87-361, p. 523, §1.)

§ 36-20-32. Seal. (Repealed)

Repealed by Act 2011-295, p. 544, §2, effective January 1, 2012.

(Acts 1943, No. 431, p. 400, §3.)

ARTICLE 3. INTERNATIONAL NOTARIES PUBLIC

§ 36-20-50. Definitions.

For purposes of this article, the following terms shall have the following meanings:

(1) **AUTHENTICATION ACT.** — An instrument executed by a civil law notary referencing this article, which includes the particulars and capacities to act of transacting parties, a confirmation of the full text of any necessary instrument, the signatures or their legal equivalent thereof of any transacting parties, the signature and seal of a civil notary, and such other information prescribed by the Secretary of State.

(2) **BREVET.** — A private document in which the civil law notary attests to the authenticity of the signature or signatures, a fact or a contract. Brevets may be used, among other things, to certify signatures, prescribe oaths, certify a translation or a copy of a document that is not part of the civil law notaries protocol, or certify the identity of any object or thing.

(3) **CIVIL LAW NOTARY.** — A person who is admitted to the practice of law in this state, who has practiced law in a United States jurisdiction for at least five years, and who is appointed by the Secretary of State as a civil law notary.

(4) **MINUTE.** — An authentic act written by a civil law notary which contains the exact narration of a finding of fact or facts influencing the rights of private parties of which the civil law notary has personal knowledge and that due to the nature of the authentic act does not constitute a contract or judicial business. The types of minutes include, but may not be limited to, the following:

a. General Minutes. A minute providing a certification of general facts known to the civil law notary.

b. Minutes of Notoriety. A minute providing a certification that a fact is generally known by the people who have a direct or close relationship with the factual situation or its consequences, or who belong to the social or economic environment of the person affected by a particular fact.

c. Minutes of Correction. A minute for the purpose of rectifying minor errors in form or omissions made by the civil law notary in prior authentic acts.

d. Minutes of Addition. A minute for the purpose of including a document in the civil law notary's protocol in order to provide for preservation of the document; limited memorialization of domestic private documents and/or execution of foreign legal documents.

(5) NOTARIAL DEED. — An authentic act in which contains a contract, transaction or other juridical act and which may also include the certification of facts. Notarial deeds may involve either a single party, as in the case of a will, or multiple parties, as with a contract.

(Act 99-449, p. 1041, §1; Act 2001-967, 3rd Sp. Sess., p. 861, §1.)

§ 36-20-51. Civil law notaries.

(a) The Secretary of State shall have the power to appoint civil law notaries and administer this article.

(b) A civil law notary is authorized to issue brevets, minutes, and notarial deeds and thereby may authenticate or certify any document, transaction, event, condition or occurrence. A civil law notary may also administer oaths and make certificates thereof when necessary for execution of any writing or document to be attested, protested, or published under the seal of a notary public. A civil law notary may also take acknowledgments of deeds and other instruments of writing for record.

(c) The authentic acts, and oaths and acknowledgments of a civil law notary shall be chronologically recorded in the civil law notary's protocol in a manner prescribed by the Secretary of State.

(d) The civil law notary may, without prejudice to his or her duty to ensure professional confidentiality, issue certified copies of authentic acts to individuals who, in his or her opinion, have a legitimate interest in the contents of an authentic act. Certified copies of authentic acts shall have the same legal force and effect as the original.

(e) A civil law notary is obligated to do the following:

(1) Draw up authentic acts in accordance with their knowledge and comprehension and such documents shall clearly reflect the wishes of the contracting parties duly adopted to legal requirements necessary for the documents to have full legal force and effect.

(2) Represent the transaction itself in the creation of the authentic act. For this purpose, the civil law notary acts as an intermediary where there are multiple parties to a transaction.

(3) Use his or her best efforts to advise all parties to the transaction equally, accurately, fully and impartially regarding the nature and legal consequences of the transaction.

(4) Refrain from representing any party in any matter arising from or related to the civil law notary's authentic act.

(Act 99-449, p. 1041, §2; Act 2001-967, 3rd Sp. Sess., p. 861, §1.)

§ 36-20-52. Rules of procedure.

The Secretary of State may adopt rules prescribing all of the following:

(1) The form and content of authentic acts, oaths, acknowledgments, and signatures and seals or their legal equivalents.

(2) Procedures for the permanent archiving of authentic acts, maintaining records of acknowledgments, and oaths, and procedures for the administration of oaths and taking of acknowledgments.

(3) The charging of reasonable fees to be retained by the Secretary of State for the purpose of administering this article.

(4) Educational requirements and procedures for testing applicants' knowledge of all matters relevant to the appointment, authority, duties or legal or ethical responsibilities of a civil law notary.

(5) Procedures for the disciplining of civil law notaries, including, but not limited to, the suspension and revocation of appointments for failure to comply with the requirements of this article or the rules of the Secretary of State, or for misrepresentation or fraud regarding the civil law notary's authority, the effect of the civil law notary's authentic acts, or the identities or acts of the parties to a transaction.

(6) Bonding or errors and omissions insurance requirements, or both, for civil law notaries.

(7) Other matters necessary for administering this article.

(Act 99-449, p. 1041, §3; Act 2001-967, 3rd Sp. Sess., p. 861, §1.)

§ 36-20-53. Discipline; etc., relating to practice of law. (Repealed)

(Act 99-449, p. 1041, §5; Act 2001-967, 3rd Sp. Sess., p. 861, §1.)

§ 36-20-54. Powers of civil law notaries; construction of article.

(a) The powers of civil law notaries include, but are not limited to, all of the powers of a notary public under the laws of this state.

(b) This article shall not be construed as abrogating the provisions of any other act relating to notaries public, attorneys, or the practice of law in this state.

History

Acts 1999, No. 99-449; Acts 2001, 3rd Sp. Sess., No. 01-967.

§ 36-20-55. Certification by secretary of state.

If certification of a civil law notary's authority is necessary for a particular document or transaction, it must be obtained from the Secretary of State. Upon receipt of a written request from a civil law notary and the fee prescribed by the Secretary of State, the Secretary of State shall issue a certification of the civil law notary's authority, in a form prescribed by the Secretary of State, which shall include a statement explaining the legal qualifications and authority of a civil law notary in this state. The fee prescribed for the issuance of the certification under this section or an apostille shall not exceed twenty dollars (\$20) per document. The Secretary of State may adopt rules to implement this section.

(Act 2001-967, 2001 3rd Sp. Sess., p. 861, §3.)

ARTICLE 4. EMPLOYMENT OF NOTARIES PUBLIC

§ 36-20-70. Appointment and commissioning; fees; grounds for denying application; duties and requiremenets.

(a) A competent number of notaries public for the state at large shall be appointed and commissioned by the judges of probate of the several counties of the state and shall hold office for four years from the date of their commission. Notaries public shall perform all the acts and exercise all authority under the general laws of the State of Alabama. The

jurisdiction of the notaries public shall not be limited to the counties of their residence and shall extend to any county of the state. The judges of probate shall collect a fee of twenty-five dollars (\$25) for each notary commission issued. The judges of probate shall also report to the Secretary of State the name, county of residence, date of issuance, and date of expiration of the commission of each notary public appointed and commissioned under this subsection.

(b) All existing notaries public functioning on September 1, 2023, shall continue to function pursuant to their existing authority for the remainder of their existing commission.

(c) Each applicant for notary public commission shall pay a ten dollar (\$10) application fee. A Judge of probate may accept or deny any application for notary public commission, as developed by the Alabama Probate Judges Association and the Alabama Law Institute, and shall deny an application for notary public commission on any of the following grounds:

(1) The applicant is not a resident of this state.

(2) The applicant makes the application to a judge who is not the judge of probate of the county of the applicant's residence.

(3) The applicant has been convicted of a felony or crime of moral turpitude.

(4) The applicant is currently a debtor in a bankruptcy proceeding.

(5) The applicant is under a current order adjudicating him or her incapacitated.

(6) The applicant provides false information on the application.

(7) The applicant is unable or unwilling to successfully complete the training program required in subsection (e) within 30 days after submitting his or her application. This time frame may be extended by the judge of probate upon good cause shown.

(d) A notary public is not an insurer but is under a duty to act honestly, skillfully, and with reasonable diligence. A notary public shall not perform an acknowledgment in any transaction where he or she has a pecuniary interest.

(e) Before being commissioned, an applicant for a notary public commission shall successfully complete a training program prepared by the Alabama Probate Judges Association and the Alabama Law Institute that reinforces and updates the applicant's knowledge of all matters relevant to the appointment, authority, duties, and legal and ethical responsibilities of a notary public. An attorney who is commissioned as a notary public under this article is not required to complete the training requirement. A notary public who is commissioned as of September 1, 2023, shall be required to complete the training requirement upon submitting an application for the renewal of his or her expired commission. (Act 2011-295, p. 544, §1; Act 2023-548, §1.)

§ 36-20-70.1. Authorization for notarial acts in professional services.

(a) For purposes of this section, the term "professional service" means any service or occupation that may be lawfully performed only pursuant to a license issued by a state court, state regulatory licensing board, or other similar agency, and the term "professional" refers to an individual who holds the license.

(b) Notwithstanding Section 36-20-70, Code of Alabama 1975:

(1) A professional who is commissioned as a notary public, in the normal course of providing a professional service in exchange for a fee, commission, or other payment, may perform any acknowledgment or other notarial act that is required to provide the professional service; and

(2) An individual who is employed by a professional and who is commissioned as a notary public may perform any acknowledgment or other notarial act that is required in

the normal course of providing a professional service for which the employing professional receives a fee, commission, or other payment.
(Act 2024-314, §1.)

§ 36-20-71. Bond.

(a) Notaries public shall give bond with sureties, obtained from an Alabama licensed producer of such bonds, to be approved by the judge of probate of the county of their residence, in the sum of fifty thousand dollars (\$50,000), payable to the State of Alabama, and conditioned to faithfully discharge the duties of the office so long as they may continue therein or discharge any of the duties thereof. The bond shall be executed, approved, filed, and recorded in the office of the judge of probate of the county of their residence, before they enter on the duties of the office.

(b) All existing notaries public functioning on September 1, 2023, shall continue to function pursuant to their existing bond for the remainder of their existing commission.
(Act 2011-295, p. 544, §1; Act 2023-548, §1.)

§ 36-20-72. Seal; form and content of notarial acts.

(a) For the authentication of his or her official acts, each notary public shall provide a seal of office, which shall present, by its impression or stamp, the name, office, and the state for which he or she was appointed.

(b) The form and content of any notarial act on an instrument to be recorded in the public records, including the court system, shall include an oath, acknowledgment, and signature of each party to the document, or his or her mark, and the signature of the notary public and his or her seal of office by either ink stamp or embossed impression.
(Act 2011-295, p. 544, §1; Act 2023-548, §1.)

§ 36-20-73. Powers.

Notaries public may do all of the following:

(1) Administer oaths in all matters incident to the exercise of their office.

(2) Take the acknowledgment or proof of instruments of writing relating to commerce or navigation and certify the same and all other of their official acts under their seal of office.

(3) Demand acceptance and payment of bills of exchange, promissory notes, and all other writings which are governed by the commercial law as to days of grace, demand, and notice of nonpayment and protest the same for nonacceptance or nonpayment and to give notice thereof as required by law.

(4) Exercise such other powers, according to commercial usage or the laws of this state, as may belong to notaries public.
(Act 2011-295, p. 544, §1.)

§ 36-20-73.1. Attestations; remote notarization.

(a) Except as otherwise provided in this section, any signature acknowledged by a notary public shall be executed within this state and shall be executed in the physical presence of the notary public at the time of the acknowledgment, only after the notary public has positively identified the prospective signatory via personal knowledge of the prospective signatory or the examination of photo identification issued by a governmental entity or agency.

(b) For the purposes of this section, the following terms shall have the following meanings:

(1) ORIGINAL SIGNATURE. A signature signed directly onto a document in wet ink by an individual who is named on the document.

(2) SIGNATORY. The individual who is named on the document and is to sign the document.

(c) Unless otherwise provided by law, the powers and functions of a notary public require his or her original signature.

(d) For purposes of this article, and subject to subsections (e) to (g), inclusive, an individual may personally appear before an acknowledging notary by either of the following:

(1) Physically appearing before the notary as provided in subsection (a).

(2) Appearing through the use of two-way audio-video communication technology that allows a notary public and a remotely located signatory to communicate with each other simultaneously by sight and sound, provided that the notary public is physically located in this state and the two-way audio-video communication is recorded and maintained for a period of seven years by the notary public.

(e) If appearing through the use of two-way audio-video communication, the identity of the signatory shall be verified by the notary public using either of the following methods:

(1) The personal knowledge of the notary public of the identity of the signatory.

(2)

a. The presentation of two valid forms of government issued identification, one of which shall include the face and signature of the signatory; and

b. A process by which the notary public verifies the identity of the signatory through a review of public or private data sources.

(f) The two-way audio-video communication recording shall contain all of the following:

(1) The date and time of the remote notarial act.

(2) A description of the documents to which the remote notarial act relates.

(3) An attestation by the notary public of being physically located in this state.

(4) A description of how the identification of the signatory was verified.

(5) A clear image of any government issued identification, if applicable.

(6) A clear image of the act of signing observed by the notary public.

(g) The official date and time of the notarization is the date and time the notary public witnessed the signature, including the date and time the signature was witnessed via two-way audio-video communication technology. All documents used during the two-way audio-video communication, shall be provided to the notary public for his or her authentication and original signature.

(h) Any action taken before July 1, 2021, allowing for the remote notarization of signatures under the Emergency Management Act of 1955, Article 1 of Chapter 9 of Title 31, is ratified and confirmed.

(i) Remote notarization may not be used to notarize an absentee ballot application or an absentee ballot affidavit, or for any purpose related to voting.

(Act 2021-319, §1; Act 2023-548, §1.)

§ 36-20-74. Fees.

A notary public commissioned pursuant to this article is permitted a reasonable fee, not to exceed ten dollars (\$10), for each notarial act performed. No fee may be charged by a state, county, or municipal employee for a notarial act performed during, and as a part of, his or her public service, unless otherwise provided by law.

(Act 2011-295, p. 544, §1; Act 2023-548, §1.)

§ 36-20-75. Violations; enforcement.

(a) The commissioning judge of probate, or his or her successor in office, may issue a warning to a notary public or restrict, suspend, or revoke a notarial commission for a violation of this article and on any ground for which an application for a commission may be denied under this article. A period of restriction, suspension, or revocation does not extend the expiration date of a commission.

(b) Except as otherwise permitted by law, an individual who commits any of the following acts is guilty of a Class C misdemeanor:

(1) Holding one's self out to the public as a notary public without being commissioned.

(2) Performing a notarial act with an expired, suspended, or restricted commission.

(3) Performing a notarial act before taking an oath of office.

(4) Charging a fee for a notarial act in excess of the maximum fee allowed by this article.

(5) Taking an acknowledgment or administering an oath or affirmation without the principal appearing in person before the notary public or following the procedures for remote notarization set out in this article.

(6) Taking an acknowledgment or administering an oath or affirmation without personal knowledge or satisfactory evidence of the identity of the principal.

(7) Taking a verification or proof without personal knowledge or satisfactory evidence of the identity of the subscribing witness.

(c) A notary public is guilty of a Class D felony if he or she does any of the following with the intent to commit fraud or to intentionally assist in the commission of a fraudulent act:

(1) Takes an acknowledgment, or a verification or proof, or administers an oath or affirmation he or she knows or reasonably believes to be false.

(2) Takes an acknowledgment or administers an oath or affirmation without the principal appearing in person before the notary public, or without following the procedures for remote notarization set out in this article.

(3) Takes a verification or proof without the subscribing witness appearing in person before the notary public, or without following the procedures for remote notarization set out in this article.

(4) Performs notarial acts in this state with the knowledge that he or she is not properly commissioned under this chapter.

(d) For purposes of enforcing this chapter, all of the following are applicable:

(1) Any party to a transaction requiring a notarial certificate for verification, and any attorney licensed in this state who is involved in such a transaction in any capacity, may execute an affidavit and file it with either the Secretary of State or the judge of probate who issued the commission to the notary public, setting forth the actions which the affiant alleges are violations. Upon receipt of an affidavit, the Secretary of State or judge of probate shall forward the affidavit to the Alabama State Law Enforcement Agency. Upon receipt of the affidavit, the Alabama State Law Enforcement Agency shall initiate and carry out, on its own or in coordination with local law enforcement agencies, investigations of violations. Founded investigations shall be referred to the appropriate district attorney for prosecution.

(2) Resignation or expiration of a notarial commission does not terminate or preclude an investigation into the conduct of a notary public by the Secretary of State, a judge of probate, or a law enforcement agency who may pursue the investigation to a conclusion, whereupon it may be a matter of public record whether or not the finding would have

been grounds for disciplinary action.

(3) The commissioning judge of probate may order injunctive relief against any individual who violates this chapter including, but not limited to, ordering the surrender and destruction of a notary commission and a notary seal.

(e) Any individual who knowingly solicits, coerces, or in any material way influences a notary public to commit official misconduct is guilty as an aider and abettor and is subject to the same level of punishment as the notary public.
(Act 2011-295, p. 544, §1; Act 2023-548, §1.)