

OFFICIAL CODE OF GEORGIA ANNOTATED

**TITLE 10. COMMERCE AND TRADE
CHAPTER 12. ELECTRONIC RECORDS AND SIGNATURES**

10-12-11. Satisfaction of notarization, acknowledgement, verification or oath requirement

If a law requires a signature or record to be notarized, acknowledged, verified, or made under oath, such requirement shall be 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.

**TITLE 44. PROPERTY
CHAPTER 2. RECORDATION AND REGISTRATION OF DEEDS AND OTHER INSTRUMENTS
ARTICLE 1. RECORDING
PART 2. UNIFORM REAL PROPERTY ELECTRONIC RECORDING ACT**

44-2-37. Electronic documents treated as original; electronic signatures acceptable

(a) An electronic document prepared and filed in compliance with this part shall satisfy any requirement as a condition for recording that a document be an original, on paper or another tangible medium, or in writing.

(b) An electronic signature shall satisfy any requirement as a condition for recording that a document be signed.

(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 by other applicable law, 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.

**CHAPTER 14. MORTGAGES, CONVEYANCES TO SECURE DEBT, AND LIENS
ARTICLE 1. IN GENERAL**

§ 44-14-13. Disbursement of settlement proceeds; delivery of loan funds to settlement agent by lender; damages

(10) "Settlement agent" means the lender or an active member of the State Bar of Georgia responsible for conducting the settlement and disbursement of the settlement proceeds.

"(b) This Code section shall apply only to transactions involving purchase money loans made by a lender, or refinance loans made by the current or a new lender, which loans will be secured by deeds to secure debt or mortgages on real estate within the State of Georgia containing not more than four residential dwelling units, whether or not such deeds to secure debt or mortgages have a first-priority status."

“(e) Any party violating this Code section shall be liable to any other party suffering a loss due to such violation for such other party’s actual damages plus reasonable attorneys’ fees. In addition, any party violating this Code section shall pay to the party suffering the loss an amount of money equal to \$1,000.00 or double the amount of interest payable on the loan for the first 60 days after the loan closing, whichever is greater.

(f) Any individual, corporation, partnership, or other entity conducting the settlement and disbursement of loan funds, when he, she, or it is not the settlement agent, shall be guilty of a misdemeanor.

(g) Nothing contained in this Code section shall prevent a real estate broker or real estate salesperson from exercising the rights and providing the duties and services specified by Chapter 40 of Title 43.

TITLE 45. PUBLIC OFFICERS AND EMPLOYEES
CHAPTER 17. NOTARIES PUBLIC
ARTICLE 1. GENERAL PROVISIONS

45-17-1. Definitions.

As used in this article, the term:

(1) “Attesting” and “attestation” are synonymous and mean the notarial act of witnessing or attesting a signature or execution of a deed or other written instrument, where such notarial act does not involve the taking of an acknowledgment, the administering of an oath or affirmation, the taking of a verification, or the certification of a copy.

(2) “Notarial act” means any act that a notary public is authorized by law to perform and includes, without limitation, attestation, the taking of an acknowledgment, the administration of an oath or affirmation, the taking of a verification upon an oath or affirmation, and the certification of a copy.

(3) “Notarial certificate” means the notary’s documentation of a notarial act. (Code 1981, § 45-17-1, enacted by Ga. L. 1986, p. 1446, § 1; Ga. L. 1990, p. 8, 9 § 45.)

45-17-1.1. Power to appoint notaries public.

The power to appoint notaries public is vested in the clerks of the superior courts and may be exercised by them at any time.

45-17-2. Qualifications of notaries.

(a) Any individual applying for appointment to be a notary public shall:

(1) Be at least 18 years old;

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

(3) Be a legal resident of the county from which such individual is appointed;

(4) Have, and provide at the time of the application, the applicant’s operating telephone number; and

(5) Be able to read and write the English language.

(b) The qualification of paragraph (3) of subsection (a) of this Code section shall not apply to any nonresident individual applying for appointment as a notary public under the provisions of Code Section 45-17-7.

45-17-2.1, Application to be a notary; endorsements and declarations.

(a) (1) Any individual desiring to be a notary public shall submit application to the clerk of superior court of the county in which the individual resides or, when applying under the provisions of Code Section 45-17-7, to the clerk of superior court of the county in which the individual works or has a business. Except for applicants applying under the provisions of Code Section 45-17-7, the applicant shall submit proof to the clerk of superior court that he or she resides in the county in which the applicant is applying. Such proof shall consist of one of the following:

- (A) A valid Georgia driver's license;
- (B) A valid United States passport;
- (C) A valid voter identification card; or
- (D) Such other valid identification by a local or state government or by the United States government.

(2) The applicant shall sign and swear or affirm as outlined in paragraph (2) of subsection (b) of this Code section to the truthfulness of the application which shall state:

(A) That the applicant resides or works or has a business in the county of application and the address of the residence or business. The applicant shall use his or her residential address for purposes of the application and may only use a business address for the application if the applicant is applying pursuant to the provisions of Code Section 45-17-7;

- (B) That the applicant is at least 18 years old;
- (C) That the applicant can read and write the English language;
- (D) That the applicant has an operating telephone number;

(E) All denials, revocations, suspensions, restrictions, or resignations of a notary commission held by the applicant; and

(F) All criminal convictions of the applicant, including any plea of nolo contendere, except minor traffic violations.

(b) In addition to the application required in subsection (a) of this Code section, every applicant for initial appointment as a notary public shall also submit the following endorsement and declaration to the clerk of superior court of the county in which the individual makes application:

(1) Endorsements from two persons who are not relatives of the applicant, who are at least 18 years old, who reside in the county in which the individual makes application, and who have known the applicant for at least one month. The endorsement shall be in the following form:

I, (name of endorser), being 18 years of age or older and a legal resident of (name of county), believe the applicant for a notary public commission, (name of applicant), who is not related to myself, to be a person of integrity, of good moral character, and capable of performing notarial acts. I have known the applicant for one month or more.

(Signature of endorser)

(Date)

(Address of endorser)

(Telephone number of endorser)

(2) A declaration of applicant which shall have been signed in the presence of a commissioned notary public of this state. The declaration of applicant shall be in the following form:

I, (name of applicant), do solemnly swear or affirm under penalty of perjury that the personal information I have written in this application is true, complete, and correct.

(Signature of applicant)

State of _____

County of _____

On this ____ day of _____, _____, before me appeared, _____, the person who signed the preceding declaration of applicant in my presence and who swore or affirmed that (he/she) understood the document and freely declared it to be truthful.

(Official signature of the notary)

(Official seal of the notary)

45-17-2.2. Application information to be matter of public record.

The information in the application for appointment and commissioning as a notary public shall be a matter of public record.

45-17-2.3. Grant or denial of commission.

(a) After an applicant submits to the clerk of superior court of the county the application, endorsements, and declaration of applicant as required in Code Section 45-17-2.1, the clerk of superior court shall either grant or deny a commission as a notary public within ten days following the applicant's submission of the necessary documents.

(b) The clerk of superior court may in his discretion deny a commission to an applicant based on any of the following grounds:

(1) The applicant's criminal history;

(2) Revocation, suspension, or restriction of any notary commission or professional license issued to the applicant by this or any other state; or

(3) The commission in this or any state of any act enumerated in subsection (a) of Code Section 45-17-15, whether or not criminal penalties or commission suspension or revocation resulted.

(c) Any applicant who is denied a notarial commission by the clerk of superior court shall upon demand be allowed a hearing and adjudication before the superior court clerk with the right of de novo appeal to the superior court, such appeal to be determined by the court without the intervention of a jury.

45-17-3. Oath of office.

Before entering on the duties of his office, each notary public shall take and subscribe before the clerk of the superior court the following oath, which shall be entered on his minutes:

"I, (name of person) do solemnly swear or affirm that I will well and truly perform the duties of a notary public to the best of my ability; and I further swear or affirm that I am not the holder of any public money belonging to the state and unaccounted for, so help me God."

45-17-4. Payment of fees to court clerk and Secretary of State; Secretary of State to keep record of notaries appointed; reappointment.

Before a certificate shall be issued to a notary public, he shall pay to the clerk of the superior court the sum prescribed by Code Section 15-6-77, relating to fees of clerks of the superior courts, from which amount the clerk shall be entitled to cover his services in issuing the certificate of appointment as notary public, administering the oath, and recording the same. The amount by which the sum prescribed by Code Section 15-6-77 exceeds the amount which the clerk is required by this Code section to forward to the Secretary of State is what the clerk shall use to cover his services. The clerk shall immediately send a copy of the certificate of appointment, under his seal of office, and \$2.00 to the Secretary of State who shall keep a record in his office showing the names of the notaries public appointed with their addresses, signatures, ages, sex, and the terms for which their commissions run; and such amount shall cover the cost of the Secretary of State in keeping such records. On reappointment as notaries public, the sum prescribed by Code Section 15-6-77 shall be paid to the clerk of the superior court and disbursed in the same manner as the fee for the original appointment is disbursed under this Code section.

45-17-5. Term of office; revocation; renewal of commission; issuance of certificates of appointment; record of appointments; duplicate original of certificate as prerequisite to obtaining seal; holding self out as or exercising powers of notary without commission.

(a) Each notary public shall hold office for four years, subject to revocation at any time by the clerk of the superior court, at the end of which time, on petition, his commission may be renewed by order of the clerk for a like term. Renewal of a notary public commission may be done in person or by mail at the discretion of the clerk of superior court. The clerk of the superior court shall issue to each notary public a certificate of his appointment and qualifications, which certificate shall contain the name, address, age, and sex of the appointee, the date the certificate was issued, and the term for which the appointment runs. The clerk shall also keep a record of the names, addresses, signatures, ages, sex, and the terms of all notaries public whom he appoints.

(b) At the time the clerk of the superior court issues a certificate of appointment as provided in subsection (a) of this Code section, said officer shall also issue to the appointee a duplicate original of such certificate. The presentation of such duplicate original, either by mail or in person, to the supplier of a notary public seal shall be necessary to authorize such supplier to make up a notary public seal and deliver it to the appointee.

(c) It shall be unlawful for any person to hold himself or herself out as a notary public or to exercise the powers of a notary public unless such person has an unexpired commission as a notary public.

45-17-6. Seal of office.

(a) (1) For the authentication of his notarial acts each notary public must provide a seal of office, which seal shall have for its impression his name, the words "Notary Public," the name of the state, and the county of his residence; or it shall have for its impression his name and the words "Notary Public, Georgia, State at Large." Notaries commissioned or renewing their commission after July 1, 1985, shall provide a seal of office which shall have for its impression the notary's name, the words "Notary Public," the name of the state, and the county of his appointment. The embossment of notarial certificates by the notary's seal shall be authorized but not necessary, and the use of a rubber or other type

stamp shall be sufficient for imprinting the notary's seal. A scrawl shall not be a sufficient notary seal. An official notarial act must be documented by the notary's seal.

(2) No document executed prior to July 1, 1986, which would otherwise be eligible for recording in the real property records maintained by any clerk of superior court or constitute record notice or actual notice of any matter to any person shall be ineligible for recording or fail to constitute such notice because of noncompliance with the requirement that the document contain a notary seal.

(b) It shall be unlawful for any person, firm, or corporation to supply a notary public seal to any person unless the person has presented the duplicate original of the certificate commissioning the person as a notary public. It shall be unlawful for any person to order or obtain a notary public seal unless such person is commissioned as a notary public.

45-17-7. Commissioning of nonresidents as notaries; powers and duties.

(a) Any person who is a resident of a state bordering on the State of Georgia and who carries on a business or profession in the State of Georgia or who is regularly employed in the State of Georgia may be commissioned as a notary public by the clerk of the superior court of the county in which the person carries on said profession, business, or employment.

(b) Such person wishing to be commissioned as a notary public must meet all the requirements of Code Section 45-17-2, as it applies to this Code section.

(c) Such person shall submit the application, endorsements, and declaration of applicant as required by Code Section 45-17-2.1 to the clerk of superior court in the county in which such person carries on such profession, business, or employment. The clerk of superior court shall approve or deny such application based on the provisions of Code Section 45-17-2.3. Upon approval and payment of the usual fees to the clerk, the applicant shall be issued a certificate as a notary public of this state and shall be authorized to perform all of the duties and exercise all of the powers and authorities relating to notaries public who are residents of this state.

45-17-8. Powers and duties generally.

(a) Notaries public shall have authority to:

- (1) Witness or attest signature or execution of deeds and other written instruments;
- (2) Take acknowledgments;
- (3) Administer oaths and affirmations in all matters incidental to their duties as commercial officers and all other oaths and affirmations which are not by law required to be administered by a particular officer;
- (4) Witness affidavits upon oath or affirmation;
- (5) Take verifications upon oath or affirmation;
- (6) Make certified copies, provided that the document presented for copying is an original document and is neither a public record nor a publicly recorded document certified copies of which are available from an official source other than a notary and provided that the document was photocopied under supervision of the notary; and
- (7) Perform such other acts as they are authorized to perform by other laws of this state.

(b) No notary shall be obligated to perform a notarial act if he feels such act is:

- (1) For a transaction which the notary knows or suspects is illegal, false, or deceptive;
- (2) For a person who is being coerced;
- (3) For a person whose demeanor causes compelling doubts about whether the person

knows the consequences of the transaction requiring the notarial act; or

(4) In situations which impugn and compromise the notary's impartiality, as specified in subsection (c) of this Code section.

(c) A notary shall be disqualified from performing a notarial act in the following situations which impugn and compromise the notary's impartiality:

(1) When the notary is a signer of the document which is to be notarized; or

(2) When the notary is a party to the document or transaction for which the notarial act is required.

(d) A notary public shall not execute a notarial certificate containing a statement known by the notary to be false nor perform any action with an intent to deceive or defraud.

(e) In performing any notarial act, a notary public shall confirm the identity of the document signer, oath taker, or affirmant based on personal knowledge or on satisfactory evidence.

(f) The signature of a notary public documenting a notarial act shall not be evidence to show that such notary public had knowledge of the contents of the document so signed, other than those specific contents which constitute the signature, execution, acknowledgment, oath, affirmation, affidavit, verification, or other act which the signature of that notary public documents, nor is a certification by a notary public that a document is a certified or true copy of an original document evidence to show that such notary public had knowledge of the contents of the document so certified.

45-17-8.1. Signature and date of notarial act.

(a) Except as otherwise provided in this Code section, in documenting a notarial act, a notary public shall sign on the notarial certification, by hand in ink, only and exactly the name indicated on the notary's commission and shall record on the notarial certification the exact date of the notarial act.

(b) The requirement of subsection (a) of this Code section for recording of the date of the notarial act shall not apply to an attestation of deeds or any other instruments pertaining to real property.

(c) No document executed prior to July 1, 1986, which would otherwise be eligible for recording in the real property records maintained by any clerk of superior court or constitute record notice or actual notice of any matter to any person shall be ineligible for recording or fail to constitute such notice because of noncompliance with the present or any prior requirements of this Code section.

45-17-8.2. Misrepresentation prohibited.

A notary shall not make claims to have or imply he has powers, qualifications, rights, or privileges that the office of notary does not authorize, including the powers to counsel on immigration matters and to give legal advice.

45-17-9. Where notarial acts may be exercised.

Notarial acts may be exercised in any county in the state.

45-17-10. Notaries not to issue attachments or garnishments or approve bonds for such purpose; not to issue summons in dispossessory case; may attest affidavit in attachment, garnishment, or dispossessory action.

It shall not be lawful for notaries public to issue attachments or garnishments, to approve bonds for the purpose of issuing attachments or garnishments, or to issue a summons in a dispossessory case; but a notary may attest an affidavit in an attachment, garnishment, or

dispossessory action; provided, however, no writ or summons in said matter shall issue without first having judicial approval as provided by law.

45-17-11. Fees of notaries.

- (a) The fees of notaries public shall be as follows:
 - (1) Administering an oath in any case \$2.00
 - (2) Each attendance on any person to make proof as a notary public and certifying to same \$2.00
 - (3) Every other certificate \$2.00
- (b) It shall not be lawful for any notary public to charge a greater sum than \$4.00 for each service performed. Said sum shall include a fee of \$2.00 for performing the notarial act and a fee of \$2.00 for an attendance to make proof as a notary public and certifying to same if such certification, which shall be issued by the clerk of superior court of the county in which the notary public was appointed or the Secretary of State, is required. Registering shall be paid for by the party who has the service performed. The fee for all official acts which the notary may perform shall be the same as those prescribed for other officers who are likewise permitted to perform them.
- (c) A notary public need not charge fees for notarial acts.
- (d) A notary public shall inform the person requesting any notarial act, prior to performing the act, the fees permitted for each act.

45-17-12. Authority of notaries who are stockholders, directors, officers, or employees of banks or other corporations to witness execution of written instruments.

- (a) As used in this Code section, the term:
 - (1) “Bank” or “other corporation” means a bank or other corporation organized under the laws of this or any other state or the United States.
 - (2) “Written instrument,” without limiting the generality of meaning of such words, means deeds, mortgages, bills of sale to secure debt, deeds to secure debt, deeds of trust, contracts, legal pleadings, affidavits, certificates, or any other like instruments.
- (b) 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 acknowledgement of any party to any written instrument executed to or by such corporation. Any such notary public may act and sign as official witness to the execution by any party of any written instrument executed to or by such bank or other corporation. Any such notary public may administer an oath to any other stockholder, director, officer, employee, or agent of such bank or other corporation or may 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 bank or other corporation, provided that it shall be unlawful for any notary public to act and sign as official witness to or take the acknowledgement of an instrument executed by or to a bank or other corporation of which he is a stockholder, director, officer, or employee where such notary would be witnessing or acknowledging his own signature as it appears on the instrument either in his capacity as an individual or in his representative capacity with the bank or other corporation or to protest any negotiable instrument owned or held for collection by such bank or other corporation where such notary is individually a party to such instrument.

45-17-13. Change of residence, address, or name.

- (a) Every notary public shall notify in writing the appointing clerk of superior court

and provide a copy of such notice to the Georgia Superior Court Clerks' Cooperative Authority, of any change in the notary's residence or business address, whichever was used for the purpose of appointment, and of any change in the notary's telephone number. The notice shall contain both the old and new addresses and must be received by the clerk of superior court within 30 days of the change.

(b) (1) Every notary public shall notify in writing the appointing clerk of superior court, with a copy to the Secretary of State, of any change in the notary's name. The notice shall contain both the old and new names, the new signature, and any new address and must be received by the clerk of superior court within 30 days of the change.

(2) A notary with a new name may begin to officially sign the new name on notarial certificates when the following steps have been completed:

(A) The notice described in paragraph (1) of this subsection has been received by the appointing clerk of superior court;

(B) A confirmation of the notary's name change has been received from the appointing clerk of superior court; and

(C) A new seal bearing the new name exactly as indicated in the confirmation has been obtained.

45-17-14. Notice of loss or theft of notarial seal.

Within ten days of the loss or theft of an official notarial seal, the notary public shall send to the appointing clerk of superior court, with a copy to the Secretary of State, a written notice of the loss or theft.

45-17-15. Revocation of commission; denial of reappointment.

(a) The appointing clerk of superior court may by letter, with a copy to the Secretary of State, revoke the commission or deny the reappointment of any notary public who:

(1) Violates any provision of this chapter;

(2) Performs any notarial act in violation of Code Section 45-17-8;

(3) Is found to have submitted an application or endorsement for a notarial commission containing substantial and significant misstatement or omission of fact;

(4) Ceases to reside or work or have a business in this state; or

(5) Becomes incapable of reading and writing the English language.

(b) Any notary public whose commission has been revoked shall upon demand be allowed a hearing and adjudication before the superior court clerk with a right of de novo appeal to the superior court, such appeal to be determined by the court without the intervention of a jury. (Code enacted by Ga. L. 1984, p. 1105, § 1.)

45-17-16. Revocation of commission; return of papers; destruction of seal.

Within ten days after receiving notice from the appointing clerk of superior court that a notarial commission has been revoked, an individual shall send or deliver to the appointing clerk of superior court all papers of appointment. Such individual shall also destroy the official notarial seal.

45-17-17. Resignation of commission; return of papers; destruction of seal.

A person who wishes to resign a notarial commission shall send a signed letter of resignation to the appointing clerk of superior court, with a copy to the Secretary of State, and all papers of appointment. The resigning notary public shall destroy the official notarial seal.

45-17-18. Destruction of seal upon expiration or denial of renewal of commission.

A notary public whose commission expires and who does not apply for renewal of such commission or whose application for renewal of a commission is denied shall destroy the official notary seal.

45-17-19. Authenticity of official signature and term of office; fees; apostille.

(a) The authenticity of the official signature and term of office of a notary public may be evidenced by:

(1) A certificate of authority from the appointing clerk of superior court or the Secretary of State; or

(2) An apostille in the exact form prescribed by the Hague Convention from the Secretary of State.

(b) The fee for a certificate of authority shall be \$2.00. The fee for an apostille shall be \$3.00.

(c) An apostille as specified by the Hague Convention Abolishing the Requirement of Legalization for Foreign Public Documents shall be attached to any document requiring authentication that is bound for a nation that has signed and ratified the Hague Convention.

45-17-20. Penalty; prosecution of violations of article.

(a) Any person who violates subsection (d) of Code Section 45-17-8 shall be guilty of a misdemeanor.

(b) Any person who performs any notarial service without complying with the provisions of this article shall, upon the first or second conviction, be guilty of a misdemeanor and upon a third or subsequent conviction be guilty of a felony, punishable by imprisonment of not less than one year nor more than five years, a fine of up to \$5,000.00, or both.

ARTICLE 2. OFFICERS OF ARMED FORCES AS EX OFFICIO NOTARIES

45-17-30. Commissioned officers of armed services constituted as ex officio notaries; authority generally; effect of acts generally; no seal required.

All commissioned officers of all branches of the armed services of the United States of America are constituted ex officio notaries public of this state and as such are acknowledgments, and attest instruments conveying or affecting property in Georgia. Acts performed by such officers as authorized in this Code section shall have the same effect as if performed within this state by notaries public of this state. A statement of his rank following the signature of any such officer shall be evidence of the fact of his rank and no seal shall be necessary.

45-17-31. Persons authorized to have notarial acts performed by commissioned officers.

Any person who (1) is a member of the armed forces of the United States, (2) is serving as a merchant seaman outside the limits of the United States, or (3) is outside the limits of the United States 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 and the spouse, dependent child, or other dependent of such person may have instruments acknowledged, documents attested, oaths and affirmations administered, depositions and affidavits executed, and other notarial

acts performed by any commissioned officer in active service of the armed forces of the United States.

45-17-32. Validity and effect of notarial acts.

The notarial acts authorized by Code Section 45-17-31 are declared legal, valid, and binding; and instruments, documents, oaths, affirmations, depositions, and affidavits 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 they had been made or taken within this state before a duly qualified officer or official.

45-17-33. Sufficiency of certification generally; effect of failure to state place of execution or acknowledgment.

In the taking of acknowledgments and the performing of other notarial acts requiring certification, a certificate endorsed upon or attached to the instrument or document, which certificate 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.

45-17-34. Signature, rank, and branch of officer as proof of authority; action by officer as prima-facie evidence.

If the signature, rank, and branch of service, or subdivision thereof, of any commissioned officer provided for in Code Section 45-17-30 appears upon any instrument, 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 Code Sections 45-17-30 through 45-17-33 and this Code section.