

SOUTH CAROLINA CODE

**TITLE 26. NOTARIES PUBLIC AND ACKNOWLEDGMENTS
CHAPTER 1. NOTARIES PUBLIC**

§ 26-1-5.

For purposes of this chapter:

(1) 'Acknowledgment' means a notarial act in which a notary certifies that, at a single time and place, all of the following occurred:

(a) an individual appeared in person before the notary and presented a record;

(b) the individual was personally known to the notary or identified by the notary through satisfactory evidence; and

(c) the individual signed the record while in the physical presence of the notary and while being personally observed signing the record by the notary.

(2) 'Affirmation' means a notarial act which is legally equivalent to an oath and in which a notary certifies that, at a single time and place, all of the following occurred:

(a) an individual appeared in person before the notary;

(b) the individual was personally known to the notary or identified by the notary through satisfactory evidence; and

(c) the individual made a vow of truthfulness on penalty of perjury, based on personal honor and without invoking a deity or using a form of the word 'swear'.

(3) 'Attest' or 'attestation' means the completion of a certificate by a notary who has performed a notarial act.

(4) 'Commission' means the empowerment to perform notarial acts and the written evidence of authority to perform those acts.

(5) 'Credible witness' means an individual who is personally known to the notary and whom the notary reasonably believes to be honest and reliable for the purpose of confirming to the notary the identity of another individual and the notary believes is not a party to or beneficiary of the transaction.

(6) 'Jurat' means a notary's certificate evidencing the administration of an oath or affirmation.

(7) 'Moral turpitude' means conduct contrary to expected standards of honesty, morality, or integrity.

(8) 'Notarial act', 'notary act', and 'notarization' mean acts that the laws and regulations of this State authorize notaries public of this State to perform, including the administering of oaths and affirmations, taking proof of execution and acknowledgments of instruments, and attesting documents.

(9) 'Notarial certificate' and 'certificate' mean the portion of a notarized record 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.

(10) 'Notary public' and 'notary' mean a person commissioned to perform notarial acts pursuant to this chapter. A notary is a public officer of the State of South Carolina and shall act in full and strict compliance with this chapter.

(11) 'Oath' means a notarial act that is legally equivalent to an affirmation and in which a notary certifies that at a single time and place all of the following occurred:

(a) an individual appeared in person before the notary;

(b) the individual was personally known to the notary or identified by the notary through satisfactory evidence; and

(c) the individual made a vow of truthfulness on penalty of perjury while invoking a deity or using a form of the word 'swear'.

(12) 'Official misconduct' means a notary's performance of a prohibited act or failure to perform a mandated act set forth in this chapter or other law in connection with notarization.

(13) 'Personal appearance' and 'appear in person before a notary' means an individual and a notary are in the physical presence of one another so that they may freely see and communicate with one another and exchange records back and forth during the notarization process.

(14) 'Personal knowledge' or 'personally known' means familiarity with an individual resulting from interactions with that individual over a period of time sufficient to eliminate any reasonable doubt that the individual has the identity claimed.

(15) 'Principal' means:

(a) in the case of an acknowledgment, the individual whose identity and due execution of a record is being certified by the notary;

(b) in the case of a verification or proof, the individual other than a subscribing witness whose identity and due execution of the record are being proven or signature is being identified as genuine; and

(c) in the case of an oath or affirmation, the individual who makes a vow of truthfulness on penalty of perjury.

(16) 'Record' means information that is inscribed on a tangible medium and called a traditional or paper record. Record also may mean information that is inscribed on a tangible medium or that is stored in an electronic or other medium.

(17) 'Satisfactory evidence' means identification of an individual based on either:

(a) a current identification document issued by a federal or state government agency bearing a photographic image of the individual's face, signature, and a physical description, except that a current passport without a physical description is acceptable; or

(b) upon the oath or affirmation of a credible witness personally known to the notary public or of two witnesses who present an identification document as described in subitem (a).

(18) 'Seal' or 'stamp' means a device for affixing on a paper record an image containing a notary's name, the words 'notary public', and the words 'State of South Carolina'. The device may be in the form of an ink stamp or an embosser.

(19) 'Secretary' means the South Carolina Secretary of State or the Secretary's designee.

(20) 'Subscribing witness' means a person who signs a record for the purpose of being a witness to the principal's execution of the record or to the principal's acknowledgment of his execution of the record.

(21) 'Verification' or 'proof' means a notarial act in which a notary certifies that:

(a) an individual appeared in person before the notary;

(b) the individual was personally known to the notary or identified by the notary through satisfactory evidence;

(c) the individual was not a party to or beneficiary of the transaction; and

(d) the individual took an oath or gave an affirmation and testified that he is a subscribing witness and as such (i) witnessed the principal who signed the record, or (ii) received the acknowledgement of the principal's signature from the principal who signed the record.

§ 26-1-10. Appointment and term.

The Governor may appoint from the qualified electors as many notaries public throughout the State as the public good requires, to hold their offices for a term of ten years. A commission must be issued to each notary public so appointed and the record of the appointment must be filed in the Office of the Secretary of State.

§ 26-1-15.

A person qualified for a notarial commission:

- (1) must be a registered voter in this State;
- (2) shall read and write the English language; and
- (3) shall submit an application containing no significant misstatement or omission of fact. The application form must be provided by the Secretary and must include the signature of the applicant written with pen and ink, and the signature must be acknowledged as the applicant's by a person authorized to administer oaths.

§ 26-1-20. Endorsement of application.

(A) Each county legislative delegation shall determine whether the endorsement of notaries public must be by:

- (1) one-half of the members of the legislative delegation representing that county in which the applicant resides; or
- (2) endorsement by the Senator and Representative in whose district the applicant resides, without other endorsers.

(B) Each county legislative delegation shall notify the Secretary of State in writing if it chooses to utilize subsection (A)(2) within the individual county. If the county legislative delegation chooses to utilize subsection (A)(2), the applicant, senator, and representative shall indicate their respective districts on the application provided to the Secretary of State. If the office of senator or representative from that district is vacant at the time the application is submitted, the notary public may be appointed upon the endorsement of a majority of the legislative delegation representing the county in which the applicant resides.

§ 26-1-25. Additional methods of endorsement of applications.

(A) In addition to the methods of endorsement of applications for notary public commissions provided in Section 26-1-20, a legislator may provide for the endorsement of these applications by authorizing either the member serving as chairman or the member serving as secretary of the legislative delegation of the county in which the applicant resides to sign on the legislator's behalf.

(B) A copy of the resolution adopting any or all of these endorsement methods for a county must be forwarded to the Secretary of State, after which the method or methods of endorsement shall continue to apply in the county unless rescinded by a subsequent delegation resolution.

§ 26-1-30. Fees.

The fee for the issuance or renewal of a commission is twenty-five dollars, collected by the Secretary of State as other fees.

§ 26-1-40. Oath.

Every notary public shall take the oath of office prescribed by the Constitution, certified copies of which must be recorded in the office of the Secretary of State.

§ 26-1-50. Enrollment of commission.

Within fifteen days after he has been commissioned, a notary public must exhibit his commission to the clerk of the court of the county in which he resides and be enrolled by the clerk.

§ 26-1-60. Seal of office; notary shall indicate date of expiration of commission.

A notary public shall have a seal of office, which must be affixed to his notarial acts. He shall indicate below his signature the date of expiration of his commission. The absence of the seal of office or date of expiration does not render his notarial acts invalid if his official title is affixed to it.

§ 26-1-70. Reserved

§ 26-1-80. Jurisdiction.

The jurisdiction of notaries public extends throughout the State.

§ 26-1-90.

(A) A notary public may perform the following acts:

- (1) acknowledgments;
- (2) oaths and affirmations;
- (3) attestations and jurats;
- (4) signature witnessing;
- (5) verifications of fact; and
- (6) any other acts authorized by law.

(B) A notarial act must be attested by the:

- (1) signature of the notary, exactly as shown on the notary's commission;
- (2) legible appearance of the notary's name exactly as shown on the notary's commission. The legible appearance of the notary's name may be ascertained from the notary's typed or printed name near the notary's signature or from elsewhere in the notarial certificate or from the notary's seal if the name is legible; and
- (3) statement of the date the notary's commission expires. The statement of the date that the notary's commission expires may appear in the notary's stamp or seal or elsewhere in the notarial certificate.

(C) A notary may not perform a notarial act if the:

- (1) principal or subscribing witness is not in the notary's presence at the time the notarial act is performed;
- (2) principal or subscribing witness is not personally known to the notary or identified by the notary through satisfactory evidence;
- (3) notary is a signer of, party to, or beneficiary of the record that is to be notarized. A disqualification pursuant to this item does not apply to an employee of a court within the unified judicial system, a notary who is named in a record solely as the trustee in a deed of trust, the drafter of the record, the person to whom a registered document must be mailed or sent after recording, or the attorney for a party to the record, so long as the notary is not also a party to the record individually or in some other representative or fiduciary capacity; or
- (4) notary will receive directly from a transaction connected with the notarial act any commission, fee, advantage, right, title, interest, cash, property, or other consideration exceeding in value the fees specified in Section 26-1-100, other than fees or other

consideration paid for services rendered by a licensed attorney, a licensed real estate broker or salesperson, a motor vehicle dealer, or a banker.

(D) A notary shall not notarize a signature:

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

(E) A notary shall not certify or authenticate a photograph or photocopy.

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

(1) the mark is affixed in the presence of the notary;

(2) the notary writes below the mark: 'Mark affixed by (name of signer by mark) in presence of undersigned notary'; and

(3) the notary notarizes the signature by performing an acknowledgment, oath or affirmation, jurat, or verification or proof.

(G) If a principal is physically unable to sign or make a mark on a record presented for notarization, that principal may designate another person, who must be a disinterested party, as his designee, to sign on the principal's behalf pursuant to the following procedure:

(1) the principal directs the designee to sign the record in the presence of the notary and two witnesses, who are either personally known to the notary or identified by the notary through satisfactory evidence, and who are unaffected by the record;

(2) the designee signs the principal's name in the presence of the principal, the notary, and the two witnesses;

(3) both witnesses sign their own names to the record near the principal's signature;

(4) the notary writes below the principal's signature: 'Signature affixed by designee in the presence of (names and addresses of principal and witnesses)'; and

(5) the notary notarizes the signature through an acknowledgment, oath or affirmation, jurat, or verification or proof.

(H) A notary may sign the name of a principal physically unable to sign or make a mark on a document presented for notarization if:

(1) the principal directs the notary to sign the record in the presence of two witnesses unaffected by the record;

(2) the notary signs the principal's name in the presence of the principal and the witnesses;

(3) both witnesses sign their own names to the record near the principal's signature;

(4) the notary writes below the principal's signature: 'Signature affixed by the notary at the direction of (name of principal unable to sign or make a mark) and also in the presence of (names and addresses of witnesses)'; and

(5) the notary notarizes the signature through an acknowledgment, oath or affirmation, jurat, or verification or proof.

(I) A notary public who is not an attorney licensed to practice law in this State and who advertises his services as a notary public in a language other than English, by radio, television, signs, pamphlets, newspapers, other written communication, or in another manner, shall post or otherwise include with the advertisement the notice set forth in this subsection in English and in the language used for the advertisement. The notice must be of conspicuous size, if in writing, and must state: 'I AM NOT AN ATTORNEY LICENSED TO PRACTICE LAW IN THE STATE OF SOUTH CAROLINA, AND I MAY NOT GIVE LEGAL ADVICE OR ACCEPT FEES FOR LEGAL ADVICE.' The notice must provide the fees for notarial acts specified in Section 26-1-100. If the

advertisement is by radio or television, the statement may be modified but must include substantially the same message.

(J) A notary public who is not an attorney licensed to practice law in this State may not render a service that constitutes the unauthorized practice of law. A nonattorney notary may not assist another person in drafting, completing, selecting, or understanding a record or transaction requiring a notarial act. This subsection does not prohibit an employee of any court within the unified judiciary system, acting within the scope of his employment, from assisting an individual with filing a document with the court, provided that the assistance does not constitute the unauthorized practice of law.

(K) A notary may 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.

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

(M) A notary may not execute a certificate that is not written in the English language. A notary may execute a certificate written in the English language that accompanies a record written in another language, which record may include a translation of the notarial certificate into the other language. In that instance, the notary shall execute only the English language certificate.

§ 26-1-95. False certification by notary.

A notary public who, in his official capacity, falsely certifies to affirming, swearing, or acknowledging of a person or his signature to an instrument, affidavit, or writing is guilty of a misdemeanor and, upon conviction, must be fined not more than two hundred dollars or imprisoned not more than thirty days. A notary public convicted under the provisions of this section shall forfeit his commission and shall not be issued another commission. The court in which the notary public is convicted shall notify the Secretary of State within ten days after conviction.

§ 26-1-100.

(A) The maximum fees that may be charged by a notary for a notarial act is:

- (1) for an acknowledgment, five dollars per signature;
- (2) for an oath or affirmation without a signature, five dollars per person;
- (3) for a jurat, five dollars per signature;
- (4) for a signature witnessing, five dollars per signature; and
- (5) for a verification of fact, five dollars per certificate.

(B) A notary who charges a fee for his notarial services shall display conspicuously in his place of business, or present to each principal outside his place of business, an English language schedule of fees for notarial acts.

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

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

(2) the notary explains to the person requesting the notarial act that the travel fee is both separate from the notarial fee prescribed by subsection (A) and is neither specified nor mandated by law.

(D) Nothing in this chapter compels a notary to charge a fee.

§ 26-1-110.

When notarizing a paper record, a notary shall sign by hand in ink on the notarial certificate. The notary shall comply with the requirements of Section 26-1-90(B)(1) and (2). The notary shall affix the official signature only after the notarial act is performed. The notary may not sign a paper record using the facsimile stamp or an electronic or other printing method; except that a notary with a disability may use a signature stamp that depicts the notary's signature in a clear and legible manner, upon prior approval of the Secretary.

§ 26-1-120.

(A) A notary may not make or give a notarial certificate unless the notary has either personal knowledge or satisfactory evidence of the identity of the principal and, if applicable, the subscribing witness.

(B) By making or giving a notarial certificate, regardless of whether it is stated in the certificate, a notary certifies that:

(1) at the time the notarial act was performed and the notarial certificate was signed by the notary, the notary was lawfully commissioned, the notary's commission had neither expired nor been suspended, the notarial act was performed within the geographic limits of the notary's commission, and the notarial act was performed in accordance with the provisions of this chapter;

(2) if the notarial certificate is for an acknowledgment or the administration of an oath or affirmation, the person whose signature was notarized did not appear in the judgment of the notary to be incompetent, lacking in understanding of the nature and consequences of the transaction requiring the notarial act, or to be acting involuntarily, under duress, or undue influence; and

(3) the notary was not prohibited from acting pursuant to this chapter.

(C) The inclusion of additional information in a notarial certificate, including the representative or fiduciary capacity in which a person signed or the means a notary used to identify a principal, does not invalidate an otherwise sufficient notarial certificate.

(D) A notarial certificate for the acknowledgment must comply with Chapter 3, Title 26, the Uniform Recognition of Acknowledgments Act.

(E) A notarial certificate for the verification or proof of the signature of a principal by a subscribing witness taken by a notary is sufficient and must be accepted in this State if it is substantially in a form otherwise prescribed by the laws of this State, or if it:

(1) identifies the state and county in which the verification or proof occurred;

(2) names the subscribing witness who appeared in person before the notary;

(3) names the principal whose signature on the record is to be verified or proven;

(4) indicates that the subscribing witness certified to the notary under oath or by affirmation that the subscribing witness is not a party to or beneficiary of the transaction, signed the record as a subscribing witness, and either (i) witnessed the principal sign the record, or (ii) witnessed the principal acknowledge the principal's signature on the record;

(5) states the date of the verification or proof;

(6) contains the signature of the notary who took the verification or proof; and

(7) states the notary's commission expiration date.

(F) A notarial certificate for an oath or affirmation taken by a notary is sufficient and must be accepted in this State if it is substantially in a form otherwise prescribed by the laws of this State, or if it:

(1) names the principal who appeared in person before the notary unless the name of the principal otherwise is clear from the record itself;

(2) indicates that the principal who appeared in person before the notary signed the record in question and certified to the notary under oath or by affirmation as to the truth of the matters stated in the record;

(3) states the date of the oath or affirmation;

(4) contains the signature of the notary who took the oath or affirmation; and

(5) states the notary's commission expiration date.

(G) A notarial certificate made in another jurisdiction is sufficient in this State if it is made in accordance with federal law or the laws of the jurisdiction where the notarial certificate was made.

(H) On records to be filed, registered, recorded, or delivered in another state or jurisdiction of the United States, a South Carolina notary may complete a notarial certificate that is required in that other state or jurisdiction.

§ 26-1-130.

(A) Within forty-five days after the following changes in a notary's status, the notary must notify the Office of the Secretary of State the:

(1) change of a notary's residence, business, or a mailing address or telephone number. The notary's term expires at the same time as the original term;

(2) legal change of a notary's name. A notary with a new name may continue to use the former name in performing notarial acts until the notary receives a confirmation of Notary's Name Change Form from the Secretary. Upon receipt of the confirmation of the Notary's Name Change Form from the Secretary, the notary shall use the new name, and shall destroy or deface all notary seals bearing the former name so that they may not be misused. The notary's term expires at the same time as the original term; and

(3) change of a notary's county of residence. A notary who has moved to another county in South Carolina remains commissioned until the current commission expires, is not required to obtain a new seal, and may continue to notarize without changing his seal.

(B) Notifications to the Office of the Secretary of State required by this section, must be made on a Change in Status Form, accompanied by a fee of ten dollars, and in a form and manner that is prescribed by the Secretary.

§ 26-1-140.

(A) A notary who resigns the notary's commission shall submit to the Secretary a Change in Status Form indicating the effective date of resignation.

(B) A notary who ceases to reside in this State, or who becomes permanently unable to perform his notarial duties, shall resign his commission and submit to the Secretary a Change in Status Form indicating the effective date of resignation.

(C) A notary who resigns his commission shall destroy or deface all notary seals so that they may not be misused.

§ 26-1-150.

If a notary dies during the term of commission, the notary's personal representative shall:

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

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

§ 26-1-160.

(A) Except as otherwise permitted by law, a person who commits one of the following acts is guilty of a misdemeanor:

(1) holding one's self out to the public as a notary if the person does not have a commission;

(2) performing a notarial act if the person's commission has expired or been suspended or restricted; or

(3) performing a notarial act before the person had taken the oath of office.

(B) A notary is guilty of a misdemeanor if the notary takes:

(1) an acknowledgment or administers an oath or affirmation without the principal appearing in person before the notary;

(2) a verification or proof without the subscribing witness appearing in person before the notary;

(3) an acknowledgment or administers an oath or affirmation without personal knowledge or satisfactory evidence of the identity of the principal;

(4) a verification or proof without personal knowledge or satisfactory evidence of the identity of the subscribing witness; or

(5) an acknowledgment or a verification or proof or administers an oath or affirmation if the notary knows it is false or fraudulent.

(C) It is a misdemeanor for a person to perform notarial acts in this State with the knowledge that he is not commissioned pursuant to this chapter.

(D) A person who without authority obtains, uses, conceals, defaces, or destroys the seal or notarial records of a notary is guilty of a misdemeanor.

(E) A person who knowingly solicits, coerces, or in a material way influences a notary to commit official misconduct is guilty of aiding and abetting and is subject to the same level of punishment as the notary.

(F) The sanctions and remedies of this chapter supplement other sanctions and remedies provided by law.

(G) A notary public convicted under the provisions of this section must forfeit his commission and must not be issued another commission. The court in which the notary public is convicted shall notify the Secretary of State within ten days after conviction.

(H) A person who violates the provisions of subsections (A), (B), (C), (D), or (E) is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned for not more than thirty days.

§ 26-1-170. No jurisdiction in criminal cases.

A notary public has no power or jurisdiction in criminal cases.

§ 26-1-180.

Any attorney at law who is a notary public may exercise all his powers as a notary, notwithstanding the fact that he may be interested as counsel or attorney at law in a matter with respect to which he may exercise the power, and may probate in any court in this State in which he may be counsel.

§ 26-1-190.

A notary public who is a stockholder, director, officer or employee of a corporation may perform a notarial act for that corporation, unless the notary public is individually a party to an instrument or record that is the subject of the notarial act.

§ 26-1-200.

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 or designated local official, authenticated as necessary by additional certificates from the United States 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 federally designated official in the form prescribed by the Convention, with no additional authenticating certificates required.

§ 26-1-210.

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 Notarial Act

I, _____ (name of Secretary of State), South Carolina Secretary of State, 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 South Carolina 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)

§ 26-1-220.

The Secretary of State may charge a reasonable fee for issuing a certificate of authority or an Apostille.

§ 26-1-230.

(A) The Secretary shall not issue a certificate of authority or an Apostille for a document if the Secretary has cause to believe that the certificate is desired for an unlawful or improper purpose. The Secretary may examine not only the document for which a certificate is requested, but also any documents to which the previous seals or other certifications may have been affixed by other authorities. The Secretary may request any additional information that may be necessary to establish that the requested certificate will serve the interests of justice and is not contrary to public policy, including a certified or notarized English translation of document text in a foreign language.

(B) The Secretary shall not issue a certificate of authority or an Apostille if:

(1) a seal or signature cannot be authenticated by either the Secretary or another official;

(2) the seal or signature is of a foreign official; or

(3) the document is a facsimile, photocopy, photographic, or other reproduction of a signature or seal.

(C) The Secretary may not include within the certificate of authority or Apostille any statement that is not within the Secretary’s power or knowledge to authenticate. The Secretary may not certify that a document has been executed or certified in accordance with the law of any particular jurisdiction or that a document is a valid document in a particular jurisdiction.

§ 26-1-240.

Nothing in this act shall be construed to contradict the requirements of Section 62-2-503.

CHAPTER 3. UNIFORM RECOGNITION OF ACKNOWLEDGMENTS ACT

§ 26-3-10. Citation of chapter.

This chapter may be cited as the Uniform Recognition of Acknowledgments Act.

HISTORY: 1962 Code § 49-69; 1972 (57) 2374.

§ 26-3-20. “Notarial acts” defined; persons by whom notarial acts may be performed outside State.

For the purposes of this chapter, “notarial acts” means acts which the laws and regulations of this State authorize notaries public of this State to perform, including the administration of oaths and affirmations taking proof of execution and acknowledgment of instruments and attesting documents. Notarial acts may be performed outside this State for use in this State with the same effect as if performed by a notary public of this State by the following persons authorized pursuant to the laws and regulations of other governments, in addition to any other persons authorized by the laws and regulations of this State:

(1) A notary public authorized to perform notarial acts in the place in which the act is performed.

(2) A judge, clerk, or deputy clerk of any court of record in the place in which the notarial act is performed.

(3) An officer of the foreign service of the United States, a consular agent, or any other person authorized by regulation of the United States department of State to perform notarial acts in the place in which the notarial act which is performed.

(4) A commissioned officer in active service with the armed forces of the United States and any other person authorized by regulation of the armed forces to perform notarial acts if the notarial acts is performed for one of the following or his dependents: a merchant seaman of the United States, a member of the armed forces of the United States, and, further, such commissioned officers and other authorized persons, in the manner and under the conditions prescribed by this chapter, also may perform notarial acts inside this State for use in this State with the same effect as if performed by a notary public of this State.

(5) Any other person authorized to perform notarial acts in the place in which the act is performed.

HISTORY: 1962 Code § 49-61; 1972 (57) 2374; 1985 Act No. 14.

§ 26-3-30. Proof of Authority.

(a) If the notarial act is performed by any of the persons described in items (1) to (4), inclusive, of § 26-3-20, other than a person authorized to perform notarial acts by the laws or regulations of a foreign country, the signature, rank, or title and serial number, if any, of the person are sufficient proof of the authority of a holder of that rank or title to perform the act. Further proof of his authority is not required.

(b) If the notarial act is performed by a person authorized by the laws or regulations of a foreign country to perform the act, there is sufficient proof of the authority of that person to act if:

(1) Either a foreign service officer of the United States residing in the country in

which the act is performed or a diplomatic or consular officer of the foreign country residing in the United States certifies that a person holding that office is authorized to perform the act.

(2) The official seal of the person performing the notarial act is affixed to (he document; or

(3) The title and indication of authority to perform notarial acts of the person appears either in a digest of foreign law or in a list customarily used as a source of such information.

(c) If the notarial act is performed by a person other than one described in subsections (a) and (b), there is sufficient proof of the authority of that person to act if the clerk of a court of record in the place in which the notarial act is performed certifies to the official character of that person and to his authority to perform the notarial act.

(d) The signature and title of the person performing the act are prima-facie evidence that he is a person with the designated title and that the signature is genuine.

HISTORY: 1962 Code § 49-62; 1972 (57) 2374.

§ 26-3-40. What persons taking acknowledgments shall certify.

The person taking an acknowledgment shall certify that:

(1) The person acknowledging appeared before him and acknowledged he executed the instrument;

(2) The person acknowledging was known to the person taking the acknowledgment, or that the person taking the acknowledgment had satisfactory evidence that the person acknowledging was the person described in and who executed the instrument.

HISTORY: 1962 Code § 49-63; 1972 (57) 2374.

§ 26-3-50. Form of certification.

The form of a certificate of acknowledgment used by a person whose authority is recognized under section 1 shall be accepted in this State if:

(1) The certificate is in a form prescribed by the laws or regulations of this State;

(2) The certificate is in a form prescribed by the laws or regulations applicable in the place in which the acknowledgment is taken; or

(3) The certificate contains the words “acknowledged before me,” or their substantial equivalent.

HISTORY: 1962 Code § 49-64; 1972 (57) 2374.

§ 26-3-60. “Acknowledged before me” defined.

The words “acknowledged before me” means that:

(1) That the person acknowledging appeared before the person taking the acknowledgment;

(2) That he acknowledged he executed the instrument;

(3) that, in the case of:

(a) A natural person, he executed the instrument for the purposes therein stated;

(b) A corporation, the officer or agent acknowledged he held the position or title set forth in the instrument and certificate, he signed the instrument on behalf of the corporation by proper authority, and the instrument was the act of the corporation for the purpose therein stated;

(c) A partnership, the partner or agent acknowledged he signed the instrument on behalf of the partnership by proper authority and he executed the instrument as the act of tile partnership for the purposes therein stated;

(d) A person acknowledging as principal by an attorney in fact, he executed the

instrument by proper authority as the act of the principal for the purposes therein stated;

(e) A person acknowledging as a public officer, trustee, administrator, guardian, or other representative, he signed the instrument by proper authority and he executed the instrument in the capacity and for the purposes therein stated; and

(4) That the person taking the acknowledgment either knew or had satisfactory evidence that the person acknowledging was the person named in the instrument or certificate.

HISTORY: 1962 Code § 49-65; 1972 (57) 2374.

§ 26-3-70. Statutory Short Forms of Acknowledgment.

The forms of acknowledgment set forth in this section may be used and are sufficient for their respective purposes under any law of this State. The forms shall be known as “Statutory Short Forms of Acknowledgment” and may be referred to by that name. The authorization of the forms in this section does not preclude the use of other forms.

(1) For an individual acting in his own right:

State of

County of

The foregoing instrument was acknowledged before me this (date) by (name of person acknowledged.)

(Signature of person taking acknowledgment)

(Title or rank)

(Serial number, if any)

(2) For a corporation:

State of

County of

The foregoing instrument was acknowledged before me this (date) by (name of officer or agent title of officer or agent) of (name of corporation acknowledging a (state or place of incorporation) corporation on behalf of the corporation.

(Signature of person taking acknowledgment)

(Title or rank)

(Serial number, if any)

(3) For a partnership:

State of

County of

The foregoing instrument was acknowledged before me this (date) by (name of acknowledging partner or agent), partner (or agent) on behalf of (name of partnership), a partnership.

(Signature of person taking acknowledgment)

(Title or rank)

(Serial number, if any)

(4) For an individual acting as principal by an attorney in fact:

State of

County of

The foregoing instrument was acknowledged before me this (date) by (name of attorney in fact) as attorney in fact on behalf of (name of principal).

(Signature of person taking acknowledgment)
(Title or rank)
(Serial number, if any)

(5) By any public officer, trustee or personal representative:

State of

County of

The foregoing instrument was acknowledged before me this (date) by (name and title of position).

(Signature of person taking acknowledgment)

(Title or rank)

(Serial number if any)

HISTORY: 1962 Code § 49-66; 1972 (57) 2374.

§ 26-3-80. Application of chapter.

A notarial act performed prior to May 8, 1972 is not affected by this chapter. This chapter provides an additional method of proving notarial acts. Nothing in this chapter diminishes or invalidates the recognition accorded to notarial acts by other laws or regulations of this State.

HISTORY: 1962 Code § 49-67; 1972 (57) 2374.

§ 26-3-90. Construction.

This chapter shall be so interpreted as to make uniform the laws of those states which enact it.

HISTORY: 1962 Code § 49-68; 1972 (57) 2374.

CHAPTER 6. UNIFORM ELECTRONIC TRANSACTIONS ACT

§ 26-6-110.

A law requiring a signature or record to be notarized, acknowledged, verified, or made under oath 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.

**TITLE 30. PUBLIC RECORDS
CHAPTER 5. RECORDING GENERALLY**

§ 30-5-30. Prerequisites to recording.

Except as otherwise provided by statute, before any deed or other instrument in writing can be recorded in this State:

(1) The execution of the deed or other instrument must be first proved by the affidavit of a subscribing witness to the instrument, taken before some officer within this State competent to administer an oath. If the affidavit is taken without the limits of this State, it may be taken before:

(a) a commissioner appointed by dedimus issued by the clerk of the court of common pleas of the county in which the instrument is to be recorded,

(b) a commissioner of deeds of this State,

(c) a clerk of a court of record who shall make certificate of the deed or other instrument under his official seal,

(d) a justice of the peace who shall append to the certificate his official seal,

(e) a notary public who shall affix to the deed or other Instrument his official seal within the State of his appointment, which is a sufficient authentication of his signature, residence, and official character,

(f) before a minister, ambassador, consul general, consul, or vice-consul, or consular agent of the United States of America, or

(g) in the case of any officer or enlisted man of the United States Army, Air Force, Navy, Marine Corps, or Coast Guard on active duty outside the State or any civilian employee of any such organization on active duty outside the continental confines of the United States, any commissioned officer of the Army, Air Force, Navy, Marine Corps, or Coast Guard, if the probating officer states his rank, branch, and organization;

(2) The Uniform Recognition of Acknowledgments Act must be complied with; or

(3) The person executing it shall submit an affidavit subscribed to before a person authorized to perform notarial acts herein or by the Uniform Recognition of Acknowledgments Act that the signature on the deed or other instrument is his signature and that the instrument was executed for the uses and purposes stated in the instrument.

HISTORY: 1962 Code § 60-51; 1952 Code § 60-51; 1942 Code § 3632; 1932 Code § 3632; Civ. C. “22 § 2176; Civ. C. “12 § 1352; Civ. C. “02 § 948; G. S. 768; R. S. 818; 1880 (17) 319; 1889 (20) 367; 1908 (25) 104; 1909 (26) 84; 1910 (26) 621; 1951 (47) 447; 1972 (57) 2393; 1988 Act No. 494, § 8(10).

HISTORY: 1994 Act No. 382, § 1, eff May 10, 1994.

EDITOR’S NOTE —

1994 Act No. 382, § 3, provides as follows: “SECTION 3. This act takes effect upon approval by the Governor and applies to all deeds or other instruments in writing executed after December 31, 1994.”

EFFECT OF AMENDMENT — The 1994 amendment rewrote this section to add an alternative method as a prerequisite for recording a deed.

CHAPTER 6. UNIFORM REAL PROPERTY ELECTRONIC RECORDING ACT

Section 30-6-30. 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 chapter.

(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.

TITLE 34. BANKING, FINANCIAL INSTITUTIONS AND MONEY

CHAPTER 19. SAFE-DEPOSIT BOXES

§ 34-19-70. Opening box when rental is one year in default.

If the rental due on a safe-deposit box has not been paid for one year, the lessor may send a notice by registered mail to the last known address of the lessee stating that the safe-deposit box will be opened and its contents stored at the expense of the lessee unless

payment of the rental is made within thirty days. If the rental is not paid within thirty days from the mailing of the notice, the box may be opened in the presence of an officer, manager or assistant manager of the lessor and of a notary public who is not a director, officer, employee or stockholder of the lessor. The contents shall be sealed in a package by the notary public who shall write on the outside the name of the lessee and the date of the opening. The notary public shall execute a certificate reciting the name of the lessee, the date of the opening of the box and a list of its contents. The certificate shall be included in the package and a copy of the certificate shall be sent by registered mail to the last known address of the lessee. The package shall then be placed in the general vaults of the lessor at a rental not exceeding the rental previously charged for the box. HISTORY: 1962 Code § 8-507; 1952 Code §§ 8-572 to 8-574; 1942 Code § 7902; 1932 Code § 7902; 1928 (35) 1271; 1951 (47) 363, 513; 1952 (47) 1932.

§ 34-19-80. Sale of contents unclaimed for two years.

If the contents of the safe-deposit box have not been claimed within two years of the mailing of the certificate as required by § 34-19-70, the lessor may send a further notice to the last known address of the lessee stating that, unless the accumulated charges are paid within thirty days, the contents of the box will be sold at public auction at a specified time and place, or, in the case of securities listed on a stock exchange, will be sold upon the exchange on or after a specified date and that unsalable items will be destroyed. The time, place and manner of sale shall also be posted conspicuously on the premises of the lessor and advertised once seven days prior to the sale in a newspaper of general circulation in the community. If the articles are not claimed, and the accrued rent and disbursements of: lessor paid, they may then be sold in accordance with the notice. HISTORY: 1962 Code § 8-508; 1952 Code § 8-576; 1942 Code § 7902; 1932 Code § 7902; 1928 (35) 1271; 1951 (47) 363, 513; 1952 (47) 1932.