

House Bill 334

By: Representatives Gullett of the 19th, Jones of the 25th, Leverett of the 33rd, Kelley of the 16th, and Burchett of the 176th

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 2 of Chapter 6 of Title 15 and Article 1 of Chapter 17 of Title 45 of the
2 Official Code of Georgia Annotated, relating to clerks of superior courts and general
3 provisions regarding notaries public, respectively, so as to provide for remote online notaries
4 public and remote online notarizations; to provide for and revise definitions; to revise the
5 powers of the Georgia Superior Court Clerks' Cooperative Authority; to provide for
6 requirements for remote online notaries public and remote online notarization; to provide that
7 the Georgia Superior Court Clerks' Cooperative Authority may adopt certain standards for
8 remote online notarization; to provide for application and appointment as a remote online
9 notary public; to provide requirements for electronic journaling; to amend Part 1 of Article
10 1 of Chapter 2 of Title 44 and Article 4 of Chapter 18 of Title 50 of the Official Code of
11 Georgia Annotated, relating to recording of deeds and other real property transactions and
12 inspection of public records, respectively, so as to revise recordation standards for deeds and
13 other real property transactions requiring an official and an unofficial witness; to provide for
14 electronic executions; to provide that certain records of remote online notarization processes
15 shall not be subject to public disclosure; to provide for related matters; to provide an
16 effective date; to repeal conflicting laws; and for other purposes.

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

H. B. 334

PART I**SECTION 1-1.**

Article 2 of Chapter 6 of Title 15 of the Official Code of Georgia Annotated, relating to clerks of superior courts, is amended by revising paragraphs (8) and (9) and by adding a new paragraph to subsection (d) of Code Section 15-6-94, relating to the Georgia Superior Court Clerks' Cooperative Authority, as follows:

"(8) To exercise any power granted by the laws of this state to public or private corporations which is not in conflict with the public purpose of the authority; ~~and~~
(9) To issue technical standards for remote online notarization pursuant to Article 1 of Chapter 17 of Title 45; and
~~(9)~~(10) To do all things necessary or convenient to carry out the powers conferred by this Code section and to carry out such duties and activities as are specifically imposed upon the authority by law."

SECTION 1-2.

Article 1 of Chapter 17 of Title 45 of the Official Code of Georgia Annotated, relating to general provisions regarding notaries public, is amended by revising Code Section 45-17-1, relating to definitions, as follows:

"45-17-1.

As used in this article, the term:

(1) 'Appear', 'personally appear', and 'in the presence of' mean:

(A) Being in the same physical location as another individual and close enough to see, hear, communicate with, and exchange tangible identification credentials with such individual; or

(B) Interacting with another individual by means of communication technology that complies with the provisions of this article.

43 (2) 'Attesting', and 'attestation', and 'attested' are synonymous and mean the notarial act
44 of witnessing or attesting a signature or execution of a deed or other written instrument,
45 where such notarial act does not involve the taking of an acknowledgment, the
46 administering of an oath or affirmation, the taking of a verification, or the certification
47 of a copy.

48 (3) 'Communication technology' means an electronic device or process that allows a
49 remote online notary public physically located in this state and a remotely located
50 individual to communicate with each other simultaneously by sight and sound and which,
51 as necessary, makes reasonable accommodations for individuals with vision, hearing, or
52 speech impediments.

53 (4) 'Credential analysis' means a process or service operating according to the standards
54 through which a third person or entity affirms the validity of a government issued
55 identification credential through review of public or proprietary data sources.

56 (5) 'Digital signature' means an electronic signature that embeds registered personal key
57 infrastructure technology into the signing process and provides for the authentication of
58 the identity of a remote online notary public, confirmation of the signed document's
59 contents, and for the nonrepudiation of the notary's electronic signature. The digital
60 signature shall be made pursuant to and associated with a digital certificate issued by a
61 trusted service provider which is attached to or logically associated with an electronic
62 document and adopted by a notary public with the intent to sign an electronic document
63 in the official capacity as a notary. A digital signature means an electronic signature that
64 is, and shall be, made in compliance with the standards adopted pursuant to this article
65 by the Georgia Superior Court Clerks' Cooperative Authority based on the Digital
66 Signature Standard (DSS) of the National Institute of Standards and Technology (NIST).

67 (6) 'Electronic' means relating to technology having electrical, digital, magnetic,
68 wireless, optical, electromagnetic, or similar capabilities.

69 (7) 'Electronic document' and 'electronic record' mean information that is created,
70 generated, sent, communicated, received, or stored by electronic means.

71 (8) 'Electronic journal' means a record kept by the remote online notary public to track
72 and document every notarial act performed, as provided by subsection (a) of Code
73 Section 45-17-8.5.

74 (9) 'Electronic in-person notarization' means the notarization of an electronic record
75 when the signer or signers of the record are in the physical presence of the notary public
76 and that include the notary's electronic notarial certificate, the notary's digital signature,
77 and electronic signatures of each signer.

78 (10) 'Electronic notarial certificate' means the electronic form of an acknowledgment,
79 jurat, verification by oath or affirmation, or verification of witness or attestation that is
80 completed by a notary performing an electronic in-person notarization and:

81 (A) Contains the notary public's digital signature, electronic seal, title, and commission
82 expiration date; or

83 (B) Otherwise conforms to the requirements for an acknowledgment, jurat, verification
84 by oath or affirmation, or verification of witness or attestation under the laws of this
85 state.

86 (11) 'Electronic seal' means information within a notarized electronic document that
87 confirms the remote online notary public's, or electronic in person notary public's, name,
88 jurisdiction, commission expiration date, commission number, and otherwise generally
89 corresponds to information in notary public seals used on paper documents.

90 (12) 'Electronic signature' means an electronic sound, symbol, or process attached to or
91 logically associated with an electronic record and executed or adopted by an individual
92 with the intent to sign the electronic document or record.

93 (13) 'Identity proofing' means a process or service operating pursuant to the standards
94 through which credential analysis and authentication confirms the identity of an
95 individual.

96 ~~(2)~~(14) 'Notarial act' means any act that a notary public is authorized by law to perform
97 and includes, without limitation, attestation, the taking of an acknowledgment, the
98 administration of an oath or affirmation, the taking of a verification upon an oath or
99 affirmation, and the certification of a copy.

100 ~~(3)~~(15) 'Notarial certificate' means the notary's documentation of a notarial act.

101 (16) 'Notary' and 'notary public' mean a person who has been appointed by a clerk of
102 superior court pursuant to Code Section 45-17-2.3.

103 (17) 'Original appointment' means a notary public appointment other than a remote
104 online notary public appointment.

105 (18) 'Remote online notarial certificate' is the electronic form of an acknowledgment,
106 jurat, verification by oath or affirmation, or verification of witness or attestation that is
107 completed by a remote online notary public performing a remote online notarization and:

108 (A) Contains the remote online notary public's digital signature, electronic seal, title,
109 and commission expiration date;

110 (B) Contains the date and location address of the signer or signers and the location of
111 the remote online notary public;

112 (C) Contains a statement that the signer or signers executing the electronic document
113 or making the acknowledgment, oath, affirmation, verification, or attestation appeared
114 remotely online;

115 (D) Otherwise conforms to the requirements for an acknowledgment, jurat, verification
116 by oath or affirmation, verification of witness or attestation under the laws of this state;
117 and

118 (E) Contains a statement that the signer or signers affirmatively agreed to electronic
119 execution and remote online notarization.

120 (19) 'Remote online notarization' or 'remote online notarial act' means a notarial act
121 performed by a remote online notary public by means of communication technology
122 according to the provisions of this article.

123 (20) 'Remote online notary public' means a notary public who has been commissioned
 124 as a remote online notary public to perform online notarizations under this article.

125 (21) 'Remote presentation' means transmission to the remote online notary public
 126 through communication technology of an image of a government issued identification
 127 credential that is of sufficient quality to enable the remote notary public to:

128 (A) Identify the individual seeking the remote online notary public's services; and

129 (B) Perform credential analysis.

130 (22) 'Remotely located individual' means an individual who is not in the physical
 131 presence of the remote online notary public.

132 (23) 'Repository' means a third-party business entity authorized to transact business in
 133 this state that is in the business of retaining electronic journals and audiovisual copies of
 134 remote online notarizations according to Code Section 45-17-8.5.

135 (24) 'Signer' means an individual whose electronic signature is notarized in an electronic
 136 in-person notarization or a remote online notarization or is making an oath or affirmation
 137 or an acknowledgment, other than in the capacity of a witness, for a document which is
 138 to be notarized by an electronic in-person notarization or a remote online notarization.

139 (25) 'Standards' means the remote online notary standards as shall be adopted by the
 140 Georgia Superior Court Clerks' Cooperative Authority."

141 **SECTION 1-3.**

142 Said article is further amended by revising Code Section 45-17-6, relating to seal of office,
 143 as follows:

144 "45-17-6.

145 (a)(1) For the authentication of his or her notarial acts, each notary public must provide
 146 a seal of office, which seal shall have for its impression ~~his~~ the notary's name, the words
 147 'Notary Public,' the name of the state, and the county of ~~his residence~~ the notary's
 148 appointment; or it shall have for its impression ~~his~~ the notary's name and the words

149 'Notary Public, Georgia, State at Large.' Notaries commissioned or renewing their
150 commission after July 1, 1985, shall provide a seal of office which shall have for its
151 impression the notary's name, the words 'Notary Public,' the name of the state, and the
152 county of ~~his~~ the notary's appointment. The embossment of notarial certificates by the
153 notary's seal shall be authorized but not necessary; and the use of a rubber or other type
154 stamp shall be sufficient for imprinting the notary's seal on paper notarial certificates. A
155 scrawl shall not be a sufficient notary seal. An official notarial act must be documented
156 by the notary's seal. An electronic seal shall be used for purposes of any electronic
157 in-person notarization or remote online notarization.

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

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

167 **SECTION 1-4.**

168 Said article is further amended by revising subsection (a) of Code Section 45-17-8.1, relating
169 to signature and date of notarial act, as follows:

170 "(a) Except as otherwise provided in this Code section, in documenting a notarial act, a
171 notary public shall sign on the notarial certification, digitally in the case of electronic
172 in-person notarization or remote online notarization or by hand in ink in all other cases,
173 only and exactly the name indicated on the notary's commission and shall record on the
174 notarial certification the exact date of the notarial act."

SECTION 1-5.

175

176 Said article is further amended by adding new Code sections to read as follows:

177 "45-17-8.3.178 (a) Prior to January 1, 2022, the Georgia Superior Court Clerks' Cooperative Authority
179 shall adopt standards for remote online notarization in accordance with this article.180 (b) The Georgia Superior Court Clerks' Cooperative Authority may confer with any
181 appropriate state agency on matters relating to equipment, security, and technological
182 aspects of the remote online notarization standards.183 (c) In the adoption of any standards it may adopt pursuant to this article, the Georgia
184 Superior Court Clerks' Cooperative Authority shall consider the most recent standards
185 established by relevant national bodies, such as the Mortgage Industry Standards
186 Maintenance Organization (MISMO) and the National Association of Secretaries of State
187 (NASS).188 45-17-8.4189 (a) Appointment as a notary public in this state shall be a requirement and condition
190 precedent for appointment as a remote online notary public.191 (b) Before each application for appointment as a remote online notary public, an individual
192 shall complete a course of instruction provided by the Georgia Superior Court Clerks'
193 Cooperative Authority and pass an examination based on such course. The content of the
194 course shall include notarial standards and procedures, the standards, and ethical
195 obligations pertaining to electronic in-person notarization and remote online notarization
196 in this article or in any other law. Such course may be taken in conjunction with any
197 course required by the clerk of superior court for an original appointment. The standards
198 for such course shall be developed and maintained and administered by the Georgia
199 Superior Court Clerks' Cooperative Authority.

200 (c) Except for a remote online notary public as appointed under subsection (h) of this Code
201 section, effective January 1, 2022, an individual who meets the qualifications for becoming
202 a notary public of this state desiring to be appointed as a remote online notary public shall
203 submit an application to the clerk of superior court of the county of the applicant's current
204 residence. In the event that such applicant is the holder of an unexpired notary commission
205 issued from a county other than the county of the applicant's current residence, such
206 applicant shall officially resign the unexpired commission and make new application to the
207 clerk of superior court for the county of current residence for both a notary commission and
208 commission as a remote online notary public. An application may request both an original
209 appointment or renewal and a remote online notary public appointment. The application
210 for a remote online notary public appointment shall set forth the declaration that the notary
211 meets the qualifications for remote online notarization as provided by this article. Such
212 application shall include, but shall not be limited to:

- 213 (1) The applicant's legal name to be used in acting as a notary public;
214 (2) Email address of the applicant;
215 (3) Telephone number of the applicant;
216 (4) Proof of successful completion by the applicant of the course and examination
217 required by subsection (b) of this Code section;
218 (5) A physical residential address of the applicant in this state if a resident of this state;
219 (6) The business address of the applicant in this state if the applicant is a resident of a
220 state bordering this state who maintains a business or profession in the State of Georgia
221 or who is regularly employed in this state.
222 (7) Evidence that the notary surety bond prescribed by this article for the performance
223 or remote online notarial acts has been issued;
224 (8) The identity of the technology provider the remote online notary public intends to use
225 for remote online notarization and the repository to be used by such notary for
226 maintenance of his or her electronic journal and audiovisual recordings. The technology

227 provider, communication technology, and repository selected by the remote online notary
228 public must conform to standards;

229 (9) A certification that the applicant will comply with this article and the standards;

230 (10) Disclosure of any and all license or commission revocations or other governmental
231 disciplinary actions against the applicant; and

232 (11) Any other information, evidence, or declaration requested by the clerk of superior
233 court.

234 (d) The fee for submitting an application for appointment as a remote online notary shall
235 be the same fee as for an application for an original appointment pursuant to Code Section
236 45-17-4. One fee shall be collected for:

237 (1) An application for a commission as a remote online notary public;

238 (2) An application for a notary commission renewal and a commission as a remote online
239 notary public; or

240 (3) An application for an original or new notary commission and commission as a remote
241 online notary public.

242 (e) Upon the applicant's fulfillment of the requirements for appointment under this chapter,
243 the clerk of superior court may approve or deny the appointment based on the provisions
244 of this article and Code Section 45-17-2.3, and upon approval shall issue to the applicant
245 a commission as a remote online notary public and a unique remote online notary public
246 commission number.

247 (f) Unless terminated pursuant to this article, the term of commission to perform remote
248 online notarization shall coincide with the term of the original appointment or any renewal
249 thereof.

250 (g) Upon approval of the application to be appointed a remote online notary public by the
251 clerk of superior court, such notary shall:

252 (1) Be authorized to perform remote online notarization pursuant to this article;

253 (2) Maintain a notary surety bond in the amount of \$2,000.00;

254 (3) Except for a remote online notary public as appointed under subsection (h) of this
255 Code section, maintain a residential domicile and physical presence in this state; and
256 (4) Promptly notify the appointing clerk of superior court, with a copy to the Georgia
257 Superior Court Clerks' Cooperative Authority, of any change in the information provided
258 in the remote online notary public application, including, but not limited to, legal name,
259 email address, telephone number, physical residential address, any change in the
260 technology or repository provider used by such online notary public, and the name and
261 address of the repository used by such remote online notary public for maintenance of his
262 or her electronic journal.

263 (h)(1) Any person who is a resident of a state bordering on the State of Georgia and who
264 carries on a business or profession in the State of Georgia or who is regularly employed
265 in this state may be commissioned as a remote online notary public by the clerk of the
266 superior court of the county in which the person carries on said profession, business, or
267 employment.

268 (2) Such person wishing to be commissioned as a remote online notary public must meet
269 all the requirements of Code Section 45-17-2 as to an original appointment and this
270 article as to a remote online notary public appointment.

271 (3) In addition to the submission requirements for an original appointment under Code
272 Section 45-17-2.1, such individual shall submit the application for a remote online notary
273 public as required in this article to the clerk of superior court in the county in which such
274 individual carries on such profession, business, or employment. The clerk of superior
275 court shall approve or deny such application based on the provisions of this article and
276 Code Section 45-17-2.3. Upon approval and payment of the usual fees to the clerk, the
277 applicant shall be issued a unique remote online notary public commission number and
278 shall be authorized to perform all duties and exercise all of the powers and authorities
279 relating to remote online notary publics who are residents of this state.

280 45-17-8.5

281 (a) Each remote online notary public shall keep a secure, permanent, tamper-evident
282 electronic journal in accordance with this article and the standards with entries for each
283 remote online notarization. A journal entry shall at a minimum include the:

284 (1) Date and time of the remote online notarization;

285 (2) Type of remote online notarial act;

286 (3) Type, title, or description of the electronic document or proceeding;

287 (4) Name and address of each signer involved in the transaction or proceeding, notarized
288 by such notary;

289 (5) Confirmation of identify based on evidence of identity presented for each signer
290 involved in the transaction or proceeding in the form of:

291 (A) Notation of the type of identification document provided to the remote online
292 notary public pursuant to the credential analysis; and

293 (B) A description and results of each identity proofing performed;

294 (6) Physical location of the signer or signers of the document at the time of notarization;

295 (7) Physical location of the remote online notary public at the time of remote online
296 notarization; and

297 (8) The fee, if any, charged for the remote online notarization.

298 (b) The electronic journal shall be retained and maintained for at least ten years after the
299 date of the last remote online notarial transaction performed.

300 (c) Each remote online notary public shall cause an electronic copy of each electronic
301 journal entry to be promptly transmitted to and retained by a repository for retention. Each
302 repository receiving any journal or journal entry shall securely retain and maintain such
303 electronic journal for a minimum of ten years following the last submission of an electronic
304 journal entry by a remote online notary public.

305 (d) Each remote online notary public shall create an audiovisual recording of the
306 performance of the remote online notarial act as evidence of participant identity, type of
307 participant identification presented, and the validity of the notarial act.

308 (e) Each remote online notary public shall cause an electronic copy of each audiovisual
309 recording to be immediately transmitted to and retained by a repository. Each repository
310 receiving any audiovisual recording shall securely retain and maintain such audiovisual
311 recording for a minimum of ten years following submission of the last audiovisual
312 recording submitted by a remote online notary public.

313 (f)(1) When adopting standards regarding remote online notarization, the Georgia
314 Superior Court Clerks' Cooperative Authority shall consider the most recent guidance or
315 model standards proposed by relevant organizations recognized in such field of practice,
316 including, but not limited to, the Mortgage Industry Standards Maintenance Organization
317 (MISMO) and the National Association of Secretaries of State (NASS).

318 (2) When adopting standards regarding digital signatures, the Georgia Superior Court
319 Clerks' Cooperative Authority shall consider the most recent guidance or model standards
320 proposed by relevant organizations recognized in such field of practice, including, but not
321 limited to, the Digital Signature Standard (DSS) of the National Institute of Standards and
322 Technology (NIST).

323 (g) A remote online notary public shall take reasonable steps to:

- 324 (1) Ensure the integrity, security, and authenticity of each remote online notarization;
325 (2) Maintain a backup of each electronic journal required by subsection (a) of this Code
326 section and the recording required by subsection (d) of this Code section; and
327 (3) Protect the backup record from unauthorized use.

328 45-17-8.6

329 (a) A notary public physically located in this state may perform electronic in-person
330 notarization in accordance with this article and the standards for an individual who is in the
331 physical presence of the notary public.

332 (b) A remote online notary public physically located in this state may perform remote
333 online notarization using communication technology in accordance with this article and the
334 standards for a remotely located individual who is physically located:

335 (1) In this state;

336 (2) Outside this state but within the United States; or

337 (3) Outside the United States if:

338 (A) The remote online notary public has no actual knowledge that the act of making
339 the statement or signing the electronic record is prohibited in the jurisdiction in which
340 the person is located; and

341 (B) The signer placing his or her electronic signature on the electronic record confirms
342 to the remote online notary public that the requested remote online notarial act and the
343 electronic record:

344 (i) Are part of or pertain to a matter that is to be filed with or is currently before a
345 court, governmental entity, or other entity in the United States;

346 (ii) Relate to property located in the United States; or

347 (iii) Relate to a transaction that is substantively connected to the United States.

348 45-17-8.7.

349 (a) A notary public and a remote online notary public shall take reasonable steps to ensure
350 that any registered device or digital certificate used to create an electronic signature or the
351 notary's or remote online notary public's digital signature is current, valid, and has not been
352 revoked or terminated by the device's or certificate's issuing or registering authority.

353 (b) The duties of the notary public and the remote online notary public, in addition to the
354 duties provided for in Code Section 45-17-8, are to:

355 (1) Keep his or her electronic record, electronic signature, and electronic seal secure and
356 under his or her exclusive control;

357 (2) Not allow another person to use his or her electronic record, digital signature, or
358 electronic seal. A remote online notary public may use such remote online notary
359 public's digital signature only for performing electronic in-person notarization or remote
360 online notarization and a notary public may use such notary public's digital signature only
361 for performing electronic in-person notarization;

362 (3) Attach his or her digital signature and seal to the remote online notarial certificate of
363 an electronic document in a manner that is conducive to independent verification and
364 renders evident any subsequent change or modification to the electronic document; and

365 (4) Immediately notify an appropriate law enforcement agency and appointing clerk of
366 superior court, with a copy to the Georgia Superior Court Clerks' Cooperative Authority,
367 of the theft or vandalism of such notary's or remote online notary public's electronic
368 record, digital signature, or electronic seal. A notary public or a remote online notary
369 public shall immediately notify the appointing clerk of superior court, with a copy to the
370 Georgia Superior Court Clerks' Cooperative Authority, if his or her electronic record,
371 digital signature, or electronic seal has been lost or used by another person.

372 45-17-8.8

373 (a) In performing a remote online notarization, a remote online notary public shall verify
374 the identity of a signer creating an electronic signature at the time that the signature is taken
375 by using secure communication technology that meets the requirements of this article and
376 any standards adopted under this article; provided, however, that a failure to provide an
377 accommodation shall not invalidate an otherwise valid notarial act. Identity shall be
378 verified by each of the following:

- 379 (1) Remote presentation by the person creating the electronic signature of a valid
380 government issued identification credential, including a passport or driver's license, that
381 contains the signature and a photograph of the person;
382 (2) Credential analysis; and
383 (3) Successful verified identity proofing.
- 384 (b) The remote online notary public's communication technology provider and repository
385 shall take reasonable steps to ensure that the communication technology used for a remote
386 online notarization is secure from unauthorized interception. Each provider of
387 communication technology products or services for remote online notarization in this state
388 shall cause such products or services to comply with all provisions of this article and the
389 standards relating to remote online notarization. Prior to providing remote online notary
390 public products or services, a communication technology provider shall present a certificate
391 of compliance to the remote online notary public affirming that such products and services
392 comply with the provisions of this article and the standards pursuant to this article.
- 393 (c) A remote online notary public shall require his or her communication technology
394 provider used to comply with the provisions of this article and the standards.
- 395 (d) A remote online notarial act meeting the provisions of this Code section satisfies the
396 requirement of any law of this state relating to a notarial act that requires a signer to appear
397 or personally appear before a notary or that the notarial act be performed in the presence
398 of a notary, except for a notarial act pursuant to a law governing the creation and execution
399 of wills, codicils, or testamentary trusts.
- 400 (e) An electronic document executed by a signer and notarized under this article by a
401 remote online notary public is deemed to be executed in this state.

402 45-17-8.9.

403 (a) A remote online notary public or the remote online notary public's employer may
404 charge a fee for performance of remote online notarization in an amount not to exceed
405 \$25.00 per remote notarization.

406 (b) A notary public or a remote online notary public whose commission terminates shall
407 destroy or delete the coding, disk, certificate, card, software, hardware, or password that
408 enables the electronic affixation of the notary public's or remote online notary public's
409 official digital signature and electronic seal.

410 (c) Any person that, without authorization, knowingly obtains, conceals, damages,
411 destroys, or deletes the coding, disk, certificate, card, software, hardware, or password
412 enabling a notary public or a remote online notary public to affix a digital signature or
413 electronic seal shall, upon conviction thereof, be guilty of a misdemeanor and punished
414 pursuant to Code Section 45-17-20.

415 45-17-8.10.

416 (a) Nothing in this article shall be construed to alter or supersede the law as set forth under
417 Article 3 of Chapter 19 of Title 15 or any opinion or ruling by the Supreme Court of
418 Georgia pertaining to the unauthorized practice of law in this state, including, but not
419 limited to, the requirement that a licensed Georgia attorney shall supervise a real estate
420 closing for real property located in this state.

421 (b) A remote online notary public who is not a licensed Georgia attorney shall be
422 prohibited from rendering services or advice that constitutes the practice of law in this
423 state.

424 45-17-8.11.

425 (a) Any public official in this state, including all public officials of county and municipal
426 government entities, shall be authorized to accept as an original a reproduction of any

427 document executed using electronic signatures or electronic signatures and remote online
428 notarization.

429 (b) Any requirement that an instrument, document, or real estate document be attested or
430 acknowledged by a notary public and the requirement of confirmation of identity of the
431 document signer, oath taker, or affirmant contained in 45-17-8 is satisfied by a remote
432 online notarial act or an electronic in-person notarial act meeting the requirements of this
433 article.

434 (c) A remote online notarial act performed by a remote online notary public commissioned
435 or registered in another state has the same effect under the laws of this state as if performed
436 by a notary public appointed in this state.

437 (d) A notary public or a remote online notary public shall not perform any notarial act by
438 electronic in-person notarization or remote online notarial act by remote online notarization
439 if the notarial act or remote online notarial act is pursuant to a law governing the creation
440 and execution of any will, codicil or testamentary trust."

441 **SECTION 1-6.**

442 Said article is further amended by revising Code Section 45-17-9, relating to where notarial
443 acts may be exercised, as follows:

444 "45-17-9.

445 Notarial acts or remote online notarial acts may be exercised in or from any county in ~~the~~
446 this state."

447 **SECTION 1-7.**

448 Said article is further amended by revising Code Section 45-17-17, relating to resignation of
449 commission, return of papers, and destruction of seal, as follows:

450 "45-17-17.

451 A person who wishes to resign a notarial commission or remote online notarial commission
452 shall send a signed letter of resignation to the appointing clerk of superior court, with a
453 copy to the Georgia Superior Court Clerks' Cooperative Authority, and all papers of
454 appointment. The resigning notary public or remote online notary public shall destroy or
455 delete the official notarial seal."

456 **SECTION 1-8.**

457 Said article is further amended by revising Code Section 45-17-18, relating to the resignation
458 of commission, return of papers, and destruction of seal, as follows:

459 "45-17-18.

460 A notary public or remote online notary public whose commission expires and who does
461 not apply for renewal of such commission or whose application for renewal of a
462 commission is denied shall destroy or delete the official notary seal."

463 **PART II**

464 **SECTION 2-1.**

465 Part 1 of Article 1 of Chapter 2 of Title 44 of the Official Code of Georgia Annotated,
466 relating to recording of deeds and other real property transactions, is amended by adding a
467 new subsection to Code Section 44-2-14, relating to requirements for recordation, to read as
468 follows:

469 "(e) Any instrument presented to the clerk of superior court for recordation that requires
470 an official and an unofficial witness may be admitted to record if the apparent signatures
471 of both witnesses and any required seals are present on or in such document. The clerk
472 shall have no further duty to examine the circumstances of the witnessing, or witnesses,
473 method or location of same."

474 **SECTION 2-2.**

475 Said part is further amended by adding a new Code section to read as follows:

476 "44-2-31.477 (a) Any requirement that an instrument, document, deed or real estate document be
478 witnessed, attested, or acknowledged by an unofficial witness is satisfied if:479 (1) The witness is physically present with the signer, personally sees the signer execute
480 the instrument, document, or deed and executes the instrument, document, or deed by
481 hand in ink; or482 (2) The witness is physically present with the signer, personally sees the signer
483 electronically execute the instrument, document, or real estate document, or is physically
484 present in this state and sees the signer electronically execute the instrument, document,
485 or real estate document by the use of communication technology in accordance with
486 Chapter 17 of Title 45, and electronically executes the instrument, document, or real
487 estate document by the use of communication technology in accordance with Chapter 17
488 of Title 45.489 (b) Terms used in this Code Section shall have the same meanings as provided for in Code
490 Section 45-17-1."491 **SECTION 2-3.**492 Article 4 of Chapter 18 of Title 50 of the Official Code of Georgia Annotated, relating to
493 inspection of public records, is amended by revising paragraph (12) of subsection (a) of Code
494 Section 50-18-72, relating to when public disclosure not required, as follows:495 "(12) Records consisting of any audiovisual recording of the performance of a remote
496 online notarization process as provided for by Code Section 45-17-8.5 Reserved;"

497

PART III

498

SECTION 3-1.

499 This Act shall become effective upon its approval by the Governor or upon its becoming law
500 without such approval.

501

SECTION 3-2.

502 All laws and parts of laws in conflict with this Act are repealed.