

**SOUTH CAROLINA CODE**  
**TITLE 26. NOTARIES PUBLIC AND ACKNOWLEDGMENTS**  
**CHAPTER 1. NOTARIES PUBLIC**

**§ 26-1-5. Definitions.**

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.

HISTORY: 2014 Act No. 185 (S.356), Section 1, eff June 2, 2014.

#### **§ 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.

HISTORY: 1962 Code Section 49-1; 1952 Code Section 49-1; 1942 Code Section 3459; 1932 Code Section 3459; Civ. C. '22 Section 817; Civ. C. '12 Section 732; Civ. C. '02 Section 662; G. S. 520; R. S. 578; 1871 (15) 538; 1911 (27) 139; 1967 (55) 509; 2014 Act No. 185 (S.356), Section 1, eff June 2, 2014.

Effect of Amendment

2014 Act No. 185, Section 1, deleted the former third and fourth sentences, relating to commissions issued before and after July 1, 1967; and made other nonsubstantive changes.

### **§ 26-1-15. Qualifications for notarial commission.**

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.

HISTORY: 2014 Act No. 185 (S.356), Section 1, eff June 2, 2014.

### **§ 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 the 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.

HISTORY: 1962 Code Section 49-2; 1952 Code Section 49-2; 1942 Code Section 3465; 1932 Code Section 3465; Civ. C. '22 Section 823; Civ. C. '12 Section 738; 1911 (27) 139; 1967 (55) 509; 1989 Act No. 56, Section 1; 2014 Act No. 185 (S.356), Section 1, eff June 2, 2014.

Effect of Amendment

2014 Act No. 185, Section 1, rewrote the section.

### **§ 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 later delegation resolution.

HISTORY: 1997 Act No. 127, Section 1; 2014 Act No. 185 (S.356), Section 1, eff June 2, 2014.

Effect of Amendment

2014 Act No. 185, Section 1, added the paragraph designators; and in subsection (B), substituted “later” for “subsequent”.

### **§ 26-1-30. Fee for issuance or renewal of commission.**

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

HISTORY: 1962 Code Section 49-3; 1952 Code Section 49-3; 1942 Code Section 3466; 1932 Code Section 3466; Civ. C. ‘22 Section 824; Civ. C. ‘12 Section 739; 1911 (27) 139; 1967 (55) 509; 1983 Act No. 151, Part II, Section 8A; 1988 Act No. 658, Part II, Section 3A; 2014 Act No. 185 (S.356), Section 1, eff June 2, 2014.

Effect of Amendment

2014 Act No. 185, Section 1, reenacted the section with no apparent change.

### **§ 26-1-40. Oath.**

A notary public shall take the oath of office prescribed by the Constitution, and a certified copy of the written oath must be recorded in the office of the Secretary of State.

HISTORY: 1962 Code Section 49-4; 1952 Code Section 49-4; 1942 Code Section 3460; 1932 Code Section 3460; Civ. C. ‘22 Section 818; Civ. C. ‘12 Section 733; Civ. C. ‘02 Section 663; G. S. 521; R. S. 579; 1871 (15) 538, Section 2; 1911 (27) 139; 1961 (52) 510; 2014 Act No. 185 (S.356), Section 1, eff June 2, 2014.

Effect of Amendment

2014 Act No. 185, Section 1, rewrote the section.

### **§ 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.

HISTORY: 1962 Code Section 49-5; 1952 Code Section 49-5; 1942 Code Section 3461; 1932 Code Section 3461; Civ. C. ‘22 Section 819; Civ. C. ‘12 Section 734; 1911 (27) 139; 2014 Act No. 185 (S.356), Section 1, eff June 2, 2014.

Effect of Amendment

2014 Act No. 185, Section 1, made nonsubstantive changes.

### **§ 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.

HISTORY: 1962 Code Section 49-6; 1952 Code Section 49-6; 1942 Code Section 3462; 1932 Code Section 3462; Civ. C. ‘22 Section 820; Civ. C. ‘12 Section 735; Civ. C. ‘02 Section 664; G. S. 522; R. S. 580; 1871 (15) 538; 1911 (27) 139; 1967 (55) 509; 1968 (55) 2843; 2014 Act No. 185 (S.356), Section 1, eff June 2, 2014.

Effect of Amendment

2014 Act No. 185, Section 1, rewrote the section.

### **§ 26-1-70. [Reserved].**

Editor’s Note

Prior Laws: Former Section 26-1-70 was titled Effect of change of name by notary, and had the following history: 1962 Code Section 49-6.1; 1967 (55) 509; 1983 Act No. 151, Part II, Section 8B. See now Section 26-1-130.

### **§ 26-1-80. Jurisdiction.**

The jurisdiction of notaries public extends throughout the State.

HISTORY: 1962 Code Section 49-7; 1952 Code Section 49-7; 1942 Code Section 3459; 1932 Code Section 3459; Civ. C. '22 Section 817; Civ. C. '12 Section 732; Civ. C. '02 Section 662; G. S. 520; R. S. 578; 1871 (14) 538; 1911 (27) 139; 2014 Act No. 185 (S.356), Section 1, eff June 2, 2014.

Effect of Amendment

2014 Act No. 185, Section 1, made nonsubstantive changes.

**§ 26-1-90. Powers of notary public.**

(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.

HISTORY: 1962 Code Section 49-8; 1952 Code Section 49-8; 1942 Code Section 3463; 1932 Code Section 3463; Civ. C. '22 Section 821; Civ. C. '12 Section 736; Civ. C. '02 Section 665; G. S. 523; R. S. 581; 1871 (15) 538; 1911 (27) 139; 1927 (35) 43; 1938 (40) 1559; 2014 Act No. 185 (S.356), Section 1, eff June 2, 2014. Effect of Amendment  
2014 Act No. 185, Section 1, rewrote the section.

### **§ 26-1-95. Repealed by 2014 Act No. 185, § 1, eff June 2, 2014.**

Editor's Note

Former Section 26-1-95 was titled False certification by notary and was derived from 1989 Act No. 94, Section 1. See now Section 26-1-160.

### **§ 26-1-100. Fees for notary acts.**

(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.

HISTORY: 2014 Act No. 185 (S.356), Section 1, eff June 2, 2014.

Editor's Note

Prior Laws: Former Section 26-1-100 was titled Criminal jurisdiction, and had the following history: 1962 Code Section 49-9; 1952 Code Section 49-9; 1942 Code Section 3464; 1932 Code Section 3464; Civ. C. '22 Section 822; Civ. C. '12 Section 737; Civ. C. '02 Section 666; G. S. 524; R. S. 582, 829; 829 (6) 387. See now Section 26-1-170.

### **§ 26-1-110. Notarizing a paper record.**

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.

HISTORY: 2014 Act No. 185 (S.356), Section 1, eff June 2, 2014.

Editor's Note

Prior Laws: Former Section 26-1-110 was titled Attorney at law; exercise of powers as notary, and had the following history: 1962 Code Section 49-10; 1952 Code Section 49-10; 1942 Code Section 3463; 1932

Code Section 3463; Civ. C. '22 Section 821; Civ. C. '12 Section 736; Civ. C. '02 Section 665; G. S. 523; R. S. 581; 1871 (15) 538; 1911 (27) 139; 1927 (35) 43; 1938 (40) 1559. See now Section 26-1-180.

**§ 26-1-120. Notarial certificate.**

(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.

HISTORY: 2014 Act No. 185 (S.356), Section 1, eff June 2, 2014.

Editor's Note

Prior Laws: Former Section 26-1-120 was titled Notary as stockholder, director, officer or employee of corporation; exercise of powers, and had the following history: 1962 Code Section 49-11; 1952 Code Section 49-11; 1942 Code Section 3463; 1932 Code Section 3463; Civ. C. '22 Section 821; Civ. C. '12 Section 736; Civ. C. '02 Section 665; G. S. 523; R. S. 581; 1871 (15) 538; 1911 (27) 139; 1927 (35) 43; 1938 (40) 1559. See now Section 26-1-190.

### **§ 26-1-130. Changes in Notary's status.**

(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.

HISTORY: 1962 Code Section 49-6.1; 1967 (55) 509; 1983 Act No. 151, Part II, Section 8B; former 1976 Code Section 26-1-70; 2014 Act No. 185 (S.356), Section 1, eff June 2, 2014.

Effect of Amendment

2014 Act No. 185, Section 1, rewrote the section.

### **§ 26-1-140. Resignation of commission.**

(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.

HISTORY: 2014 Act No. 185 (S.356), Section 1, eff June 2, 2014.

### **§ 26-1-150. Death of notary.**

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.

HISTORY: 2014 Act No. 185 (S.356), Section 1, eff June 2, 2014.

**§ 26-1-160. Unlawful acts; forfeiture of commission; penalties.**

(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.

(I) The Secretary of State may terminate a notary public's commission upon notification that the notary public has been charged with an offense listed in this section or may terminate the notary public's commission at any subsequent point until the final adjudication of the charges. If the Secretary of State terminates a notary public's commission, then the Secretary of State shall send written notice by certified mail to the notary public at his last known address. A person who has had his notary public commission terminated has thirty days from the receipt of the notice to appeal the termination by filing a request for a contested case hearing with the South Carolina Administrative Law Court.

HISTORY: 1989 Act No. 94, Section 1; former 1976 Code Section 26-1-95; 2014 Act No. 185 (S.356), Section 1, eff June 2, 2014; 2021 Act No. 85 (S.631), Section 3, eff May 18, 2021.

Editor's Note

2021 Act No. 85, Sections 1, 6, provide as follows:

“SECTION 1. This act must be known and may be cited as the ‘South Carolina Electronic Notary Public Act’.”

“SECTION 6. This act takes effect upon approval by the Governor. Electronic online notary public

applications will not be accepted for processing until the administrative rules are in effect and vendors of technology are approved by the Secretary of State.”

Effect of Amendment

2014 Act No. 185, Section 1, rewrote the section.

2021 Act No. 85, Section 3, added (I).

### **§ 26-1-170. Criminal jurisdiction.**

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

HISTORY: 1962 Code Section 49-9; 1952 Code Section 49-9; 1942 Code Section 3464; 1932 Code Section 3464; Civ. C. '22 Section 822; Civ. C. '12 Section 737; Civ. C. '02 Section 666; G. S. 524; R. S. 582, 829; 829 (6) 387; former 1976 Code Section 26-1-100; 2014 Act No. 185 (S.356), Section 1, eff June 2, 2014.

Effect of Amendment

2014 Act No. 185, Section 1, rewrote the section.

### **§ 26-1-180. Attorney at law; exercise of powers as notary.**

An 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.

HISTORY: 1962 Code Section 49-10; 1952 Code Section 49-10; 1942 Code Section 3463; 1932 Code Section 3463; Civ. C. '22 Section 821; Civ. C. '12 Section 736; Civ. C. '02 Section 665; G. S. 523; R. S. 581; 1871 (15) 538; 1911 (27) 139; 1927 (35) 43; 1938 (40) 1559; former 1976 Code Section 26-1-110; 2014 Act No. 185 (S.356), Section 1, eff June 2, 2014.

Effect of Amendment

2014 Act No. 185, Section 1, rewrote the section.

### **§ 26-1-190. Notary as stockholder, director, officer or employee of corporation; exercise of powers.**

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 the instrument or record that is the subject of the notarial act.

HISTORY: 1962 Code Section 49-11; 1952 Code Section 49-11; 1942 Code Section 3463; 1932 Code Section 3463; Civ. C. '22 Section 821; Civ. C. '12 Section 736; Civ. C. '02 Section 665; G. S. 523; R. S. 581; 1871 (15) 538; 1911 (27) 139; 1927 (35) 43; 1938 (40) 1559; former 1976 Code Section 26-1-120; 2014 Act No. 185 (S.356), Section 1, eff June 2, 2014.

Effect of Amendment

2014 Act No. 185, Section 1, rewrote the section.

### **§ 26-1-200. Notarized document sent to another state or nation.**

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.

HISTORY: 2014 Act No. 185 (S.356), Section 1, eff June 2, 2014.

### **§ 26-1-210. Certificate of authority.**

A certificate of authority evidencing the authenticity of the official seal and signature of a

notary of this State shall be substantially in the following form:

“Certificate of Authority for 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)

HISTORY: 2014 Act No. 185 (S.356), Section 1, eff June 2, 2014.

**§ 26-1-220. Fee for issuing certificate of authority or Apostille.**

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

HISTORY: 2014 Act No. 185 (S.356), Section 1, eff June 2, 2014.

**§ 26-1-230. Issuance of certificate of authority or Apostille.**

(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.

HISTORY: 2014 Act No. 185 (S.356), Section 1, eff June 2, 2014.

**§ 26-1-240. Act not to contradict requirements of § 62-2-503.**

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

HISTORY: 2014 Act No. 185 (S.356), Section 1, eff June 2, 2014.

**CHAPTER 2. ELECTRONIC NOTARIES PUBLIC**

**§ 26-2-5. Definitions.**

For the purposes of this chapter:

(1) “Capable of independent verification” means that any interested person may confirm through the Secretary of State that an electronic notary public who signed an electronic record in an official capacity had the authority at that time to perform electronic notarial acts.

(2) “Electronic” means relating to technology and having electrical, digital, magnetic,

wireless, optical, electromagnetic, or similar capabilities.

(3) “Electronic document” or “electronic record” means information that is created, generated, sent, communicated, received, or stored by electronic means.

(4) “Electronic journal of notarial acts” or “electronic journal” means a chronological electronic record of notarizations that is maintained by the electronic notary public who performed the notarizations.

(5) “Electronic notarial act” or “electronic notarization” means an official act by an electronic notary public that involves electronic documents.

(6) “Electronic notarial certificate” means the part of, or attachment to, an electronic record that is completed by the electronic notary public, that bears the electronic notary’s electronic signature and electronic seal, and that states the facts attested to by the electronic notary in an electronic notarization.

(7) “Electronic notarization system” means a set of applications, programs, hardware, software, or technologies designed to enable an electronic notary public to perform electronic notarizations.

(8) “Electronic notary public” or “electronic notary” means a notary public who has registered with the Secretary of State to perform electronic notarial acts in conformance with this chapter.

(9) “Electronic notary seal” or “electronic seal” means information within a notarized electronic document that includes the electronic notary’s name, jurisdiction, registration number, and commission expiration date and that generally corresponds to data in notary seals used on paper documents.

(10) “Electronic signature” means an electronic symbol or process attached to or logically associated with an electronic document that is executed or adopted by an individual with the intent to sign the document.

(11) “Principal” has the same meaning as in Section 26-1-5.

(12) “Public key certificate” means an electronic credential that is used to identify an individual who signed an electronic record with the certificate.

(13) “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and that is retrievable in perceivable form.

(14) “Sole control” means at all times being in the direct physical custody of an electronic notary public or safeguarded by the electronic notary with a password or other secure means of authentication.

(15) “Tamper evident” means that any change to a record shall provide evidence of the change.

(16) “Verification of fact” means a notarial act in which an electronic notary reviews public or vital records, or other legally accessible data, to ascertain or confirm any of the following facts:

(a) a date of birth, death, marriage, or divorce;

(b) the name of a parent, a marital partner, offspring, or a sibling; or

(c) any matter authorized for verification by a notary by other law or rule of this State.

HISTORY: 2021 Act No. 85 (S.631), Section 2, eff May 18, 2021.

Editor’s Note

2021 Act No. 85, Sections 1, 6, provide as follows:

“SECTION 1. This act must be known and may be cited as the ‘South Carolina Electronic Notary Public Act’.”

“SECTION 6. This act takes effect upon approval by the Governor. Electronic online notary public applications will not be accepted for processing until the administrative rules are in effect and vendors of technology are approved by the Secretary of State.”

## **§ 26-2-10. Application of Chapters 1 and 3 of this title; conflicts.**

The provisions of Chapters 1 and 3 of this title apply to all acts authorized pursuant to this chapter unless the provisions of Chapters 1 and 3 directly conflict with the provisions of this chapter. In that case, the provisions of this chapter control when applied to electronic notaries public and electronic notarial acts.

HISTORY: 2021 Act No. 85 (S.631), Section 2, eff May 18, 2021.

Editor's Note

2021 Act No. 85, Sections 1, 6, provide as follows:

“SECTION 1. This act must be known and may be cited as the ‘South Carolina Electronic Notary Public Act’.”

“SECTION 6. This act takes effect upon approval by the Governor. Electronic online notary public applications will not be accepted for processing until the administrative rules are in effect and vendors of technology are approved by the Secretary of State.”

### **§ 26-2-20. Electronic notary public; registration; approval and rejection of registration applications.**

(A) A notary public commissioned in this State may become an electronic notary public in accordance with this section. Before a notary public performs an electronic notarization, the notary public must register with the Secretary of State in accordance with the rules for registration as an electronic notary public and must identify the technology that he intends to use, which must conform to any rules or regulations adopted by the Secretary of State. A registration fee of fifty dollars must be submitted to the Secretary of State with the registration form to be used by the Secretary of State to administer the provisions of this chapter.

(B) Unless terminated pursuant to Section 26-2-140, the term of registration to perform electronic notarial acts shall begin on the registration starting date set by the Secretary of State and shall continue as long as the notary public's current commission remains valid.

(C) An individual registering to perform electronic notarial acts shall submit to the Secretary of State an application in a format prescribed by the Secretary of State that includes:

(1) proof of the successful completion of the course and examination required pursuant to Section 26-2-30;

(2) the disclosure of any and all license or commission revocations or other disciplinary actions against the individual; and

(3) any other information, evidence, or declarations required by the Secretary of State.

(D) Upon the individual's fulfillment of the requirements for registration under this chapter, the Secretary of State shall approve the registration and issue to the individual a unique registration number.

(E) The Secretary of State may reject a registration application if the individual fails to comply with any section of this chapter.

HISTORY: 2021 Act No. 85 (S.631), Section 2, eff May 18, 2021.

Editor's Note

2021 Act No. 85, Sections 1, 6, provide as follows:

“SECTION 1. This act must be known and may be cited as the ‘South Carolina Electronic Notary Public Act’.”

“SECTION 6. This act takes effect upon approval by the Governor. Electronic online notary public applications will not be accepted for processing until the administrative rules are in effect and vendors of technology are approved by the Secretary of State.”

### **§ 26-2-30. Required course of instruction and examination.**

(A) Before performing electronic notary acts, an electronic notary public shall take a course of instruction of sufficient length to ensure that the electronic notary public

understands his duties and responsibilities, as determined and approved by the Secretary of State, and shall pass an examination of this course.

(B) The content of the course and the basis of the examination must be notarial laws, procedures, technology, and ethics as they pertain to notarizations and electronic notarizations.

HISTORY: 2021 Act No. 85 (S.631), Section 2, eff May 18, 2021.

Editor's Note

2021 Act No. 85, Sections 1, 6, provide as follows:

“SECTION 1. This act must be known and may be cited as the ‘South Carolina Electronic Notary Public Act’.”

“SECTION 6. This act takes effect upon approval by the Governor. Electronic online notary public applications will not be accepted for processing until the administrative rules are in effect and vendors of technology are approved by the Secretary of State.”

### **§ 26-2-40. Notarial acts which may be performed electronically.**

The following notarial acts may be performed electronically:

- (1) acknowledgments;
- (2) oaths and affirmations;
- (3) attestations and jurats;
- (4) signature witnessing;
- (5) verifications of fact;
- (6) certification that a tangible copy of an electronic record is an accurate copy of the electronic record; and
- (7) any other acts authorized by law.

HISTORY: 2021 Act No. 85 (S.631), Section 2, eff May 18, 2021.

Editor's Note

2021 Act No. 85, Sections 1, 6, provide as follows:

“SECTION 1. This act must be known and may be cited as the ‘South Carolina Electronic Notary Public Act’.”

“SECTION 6. This act takes effect upon approval by the Governor. Electronic online notary public applications will not be accepted for processing until the administrative rules are in effect and vendors of technology are approved by the Secretary of State.”

### **§ 26-2-50. Requirements of the principal for an electronic notarization.**

(A) An electronic notary public shall perform an electronic notarization only if the principal:

- (1) appears in person before the electronic notary public at the time of notarization; and
- (2) is personally known to the electronic notary or identified by the electronic notary through satisfactory evidence as defined in Chapter 1 of this title.

(B) In performing electronic notarial acts, an electronic notary public shall adhere to all applicable rules governing notarial acts provided in Chapter 1 of this title.

HISTORY: 2021 Act No. 85 (S.631), Section 2, eff May 18, 2021.

Editor's Note

2021 Act No. 85, Sections 1, 6, provide as follows:

“SECTION 1. This act must be known and may be cited as the ‘South Carolina Electronic Notary Public Act’.”

“SECTION 6. This act takes effect upon approval by the Governor. Electronic online notary public applications will not be accepted for processing until the administrative rules are in effect and vendors of technology are approved by the Secretary of State.”

### **§ 26-2-60. Attachment of electronic notarial certificate; requirements; electronic seals.**

(A) When performing an electronic notarial act, an electronic notarial certificate must be attached to, or logically associated with, the electronic document by the electronic notary public and must include:

(1) the electronic notary public's name exactly as stated on the commission issued by the Secretary of State;

(2) the electronic notary public's electronic seal;

(3) the expiration date of the electronic notary public's commission;

(4) the electronic notary public's electronic signature; and

(5) completed wording appropriate to the particular electronic notarial act, as prescribed by law.

(B) All components in subsection (A)(2) through (5) must be immediately perceptible and reproducible in the electronic record to which the electronic notary public's electronic signature is attached, such that removal or alteration of a component is tamper evident and will render evidence of alteration of the document containing the electronic notarial certificate, which may invalidate the electronic notarial act. If an electronic seal is not used, then the words "Electronic Notary Public" and the words "State of South Carolina" must still be attached.

(C) An electronic notary public's electronic signature or electronic seal is considered to be reliable if it is:

(1) unique to the electronic notary public;

(2) capable of independent verification;

(3) retained under the electronic notary public's sole control;

(4) attached to or logically associated with the electronic document; and

(5) linked to the data in such a manner that any subsequent alterations to the underlying document or electronic notarial certificate are tamper evident and may invalidate the electronic notarial act.

(D) The electronic seal of an electronic notary public shall contain the:

(1) name of the electronic notary public exactly as it is spelled on the electronic notary public's commission;

(2) title "Notary Public";

(3) words "State of South Carolina";

(4) registration number indicating that the electronic notary public may perform electronic notarial acts; and

(5) expiration date of the electronic notary public's commission.

(E) The electronic seal of an electronic notary public may be a digital image that appears in the likeness or representation of a traditional physical notary public seal. The electronic seal of an electronic notary public may not be used for any purpose other than performing electronic notarizations under this chapter.

(F) Only the electronic notary public whose name and registration number appear on an electronic seal shall generate that electronic seal.

HISTORY: 2021 Act No. 85 (S.631), Section 2, eff May 18, 2021.

Editor's Note

2021 Act No. 85, Sections 1, 6, provide as follows:

"SECTION 1. This act must be known and may be cited as the 'South Carolina Electronic Notary Public Act'."

"SECTION 6. This act takes effect upon approval by the Governor. Electronic online notary public applications will not be accepted for processing until the administrative rules are in effect and vendors of technology are approved by the Secretary of State."

#### **§ 26-2-70. Fees for electronic notarial acts.**

(A) An electronic notary public may charge the maximum fee for performing an electronic notarial act specified in subsection (B), charge less than the maximum fee, or waive the fee.

(B) The maximum fees that may be charged by an electronic notary public for



performing electronic notarial acts are:

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

(C) An electronic notary public may charge a travel fee when traveling to perform an electronic notarial act if:

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

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

(D) An electronic notary public who charges fees for performing electronic notarial acts shall conspicuously display in all of the electronic notary public's places of business and Internet websites, or present to each principal or requester of fact when outside these places of business, an English-language schedule of maximum fees for electronic notarial acts, as specified in subsection (B). A notarial fee schedule may not appear or be printed in smaller than ten-point type.

HISTORY: 2021 Act No. 85 (S.631), Section 2, eff May 18, 2021.

Editor's Note

2021 Act No. 85, Sections 1, 6, provide as follows:

“SECTION 1. This act must be known and may be cited as the ‘South Carolina Electronic Notary Public Act’.”

“SECTION 6. This act takes effect upon approval by the Governor. Electronic online notary public applications will not be accepted for processing until the administrative rules are in effect and vendors of technology are approved by the Secretary of State.”

### **§ 26-2-80. Use of electronic signature and electronic seal limited to proper electronic notarial acts; electronic notarization system; regulations.**

(A) An electronic notary public's electronic signature, in combination with his electronic seal, must be used only for the purpose of performing electronic notarial acts.

(B) An electronic notary public shall use an electronic notarization system that complies with this chapter and that has been registered with the Secretary of State to produce the electronic notary's electronic signature and electronic seal in a manner that is capable of independent verification.

(C) An electronic notary public shall take reasonable steps to ensure that no other individual may possess or access an electronic notarization system in order to produce the electronic notary public's electronic signature or electronic seal.

(D) An electronic notary public shall keep in his sole control all or any part of an electronic notarization system for which the exclusive purpose is to produce the electronic notary public's electronic signature and electronic seal.

(E) The Secretary of State shall promulgate regulations necessary to establish standards, procedures, practices, forms, and records relating to an electronic notary public's electronic signature and electronic seal. The electronic notary public's electronic seal and electronic signature must conform to all standards adopted by the Secretary of State.

HISTORY: 2021 Act No. 85 (S.631), Section 2, eff May 18, 2021.

Editor's Note

2021 Act No. 85, Sections 1, 6, provide as follows:

“SECTION 1. This act must be known and may be cited as the ‘South Carolina Electronic Notary Public Act’.”

“SECTION 6. This act takes effect upon approval by the Governor. Electronic online notary public

applications will not be accepted for processing until the administrative rules are in effect and vendors of technology are approved by the Secretary of State.”

**§ 26-2-90. Creation and maintenance of electronic journal for electronic notarial acts.**

(A) An electronic notary public shall create and maintain an electronic journal of each electronic notarial act. For every electronic notarial act, the electronic notary public shall record the following information in the electronic journal:

- (1) the date and time of the electronic notarial act;
- (2) the type of electronic notarial act;
- (3) the title or a description of the record being notarized, if any;
- (4) the printed full name of each principal;
- (5) if identification of the principal is based on personal knowledge, a statement to that effect;

(6) if identification of the principal is based on satisfactory evidence of his identity pursuant to Section 26-1-5(17), a description of the evidence relied upon and the name of any credible witness or witnesses;

(7) the address where the notarization was performed, if the notarization was not performed at the electronic notary public’s business address;

(8) if the notarial act is performed electronically, a description of the electronic notarization system used; and

(9) the fee, if any, charged by the electronic notary.

(B) An electronic notary public may not record a Social Security number in the electronic journal.

(C) An electronic notary public may not allow the electronic journal to be used by any other notary public and may not surrender the electronic journal to an employer upon the electronic notary public’s termination of employment.

(D) Any party to the notarized transaction or party with a legitimate interest in the transaction may inspect or request a copy of an entry or entries in the electronic notary public’s electronic journal, provided that:

(1) the party specifies the month, year, type of record, and name of the principal for the electronic notarial act, in a signed physical or electronic request;

(2) the electronic notary public does not surrender possession or control of the electronic journal;

(3) the party is shown or given a copy of only the entry or entries specified; and

(4) a separate new entry is made in the electronic journal, explaining the circumstances of the request and noting any related act of copy certification by the electronic notary public.

(E) An electronic notary public may charge a reasonable fee to recover any cost of providing a copy of an entry in the electronic journal of notarial acts. An electronic notary who has a reasonable and explainable belief that a person requesting information from the electronic notary’s electronic journal has a criminal or other inappropriate purpose may deny access to any entry or entries.

(F) All electronic notarial records required by statute or regulation may be examined and copied without restriction by a law enforcement officer in the course of an official investigation, subpoenaed by court order, or surrendered at the direction of the Secretary of State.

(G) The Secretary of State shall establish commercially reasonable standards for the preservation of electronic journals in the event of a resignation, revocation, or expiration of an electronic notary commission, or upon the death of an electronic notary. The

provisions of this subsection do not apply to a former electronic notary whose commission has expired if, within three months, the electronic notary commission is renewed.

HISTORY: 2021 Act No. 85 (S.631), Section 2, eff May 18, 2021.

Editor's Note

2021 Act No. 85, Sections 1, 6, provide as follows:

“SECTION 1. This act must be known and may be cited as the ‘South Carolina Electronic Notary Public Act’.”

“SECTION 6. This act takes effect upon approval by the Governor. Electronic online notary public applications will not be accepted for processing until the administrative rules are in effect and vendors of technology are approved by the Secretary of State.”

### **§ 26-2-100. Safeguarding of electronic journal, public key certificate, and electronic seal.**

(A) An electronic notary public shall keep his electronic journal, public key certificate, and electronic seal secure. The electronic notary public may not allow another person to use his electronic journal, public key certificate, or electronic seal.

(B) An electronic notary public shall attach his public key certificate and electronic seal to the electronic notarial certificate of an electronic record in a manner that renders any subsequent change or modification to the electronic record to be evident.

(C) An electronic notary public shall immediately notify the appropriate law enforcement agency and the Secretary of State of any theft or vandalism of the electronic notary public's electronic journal, public key certificate, or electronic seal. An electronic notary public immediately shall notify the Secretary of State of the loss or use by another person of the electronic notary public's electronic journal, public key certificate, or electronic seal.

(D) Upon the resignation, revocation, or expiration of an electronic notary commission or the death of an electronic notary, the electronic notary or his personal representative shall erase, delete, or destroy the coding, disk, certificate, card software, file, or program that enables electronic affixation of the electronic notary's official electronic signature. The provisions of this subsection do not apply to a former electronic notary who renews his commission within three months of the expiration of his previous commission.

HISTORY: 2021 Act No. 85 (S.631), Section 2, eff May 18, 2021.

Editor's Note

2021 Act No. 85, Sections 1, 6, provide as follows:

“SECTION 1. This act must be known and may be cited as the ‘South Carolina Electronic Notary Public Act’.”

“SECTION 6. This act takes effect upon approval by the Governor. Electronic online notary public applications will not be accepted for processing until the administrative rules are in effect and vendors of technology are approved by the Secretary of State.”

### **§ 26-2-110. Requirements of electronic notarization system.**

(A) An electronic notarization system shall comply with this chapter and any regulations promulgated by the Secretary of State pursuant to Section 26-2-190.

(B) An electronic notarization system shall require access to the system by a password or other secure means of authentication.

(C) An electronic notarization system shall enable an electronic notary public to affix the electronic notary public's electronic signature in a manner that attributes the signature to the electronic notary public.

(D) An electronic notarization system shall render every electronic notarial act tamper evident.

(E) Except as provided in subsection (F), if the commission of an electronic notary public expires or is resigned or revoked, or if the electronic notary dies or is adjudicated as incompetent, then the electronic notary public or his personal representative or

guardian shall, within three months, dispose of all or any part of the electronic notarization system that had been in the electronic notary's sole control for which the exclusive purpose was to perform electronic notarial acts.

(F) A former electronic notary public whose previous commission expired need not comply with subsection (E) if this individual, within three months after commission expiration, is recommissioned as a notary public and reregistered to perform electronic notarial acts.

HISTORY: 2021 Act No. 85 (S.631), Section 2, eff May 18, 2021.

Editor's Note

2021 Act No. 85, Sections 1, 6, provide as follows:

“SECTION 1. This act must be known and may be cited as the ‘South Carolina Electronic Notary Public Act’.”

“SECTION 6. This act takes effect upon approval by the Governor. Electronic online notary public applications will not be accepted for processing until the administrative rules are in effect and vendors of technology are approved by the Secretary of State.”

### **§ 26-2-120. Electronic notary solution providers; registration with Secretary of State.**

(A) Any person or entity wishing to provide an electronic notarization system to electronic notaries public in this State must complete and submit a registration form to the Secretary of State for review.

(B) An electronic notarization system shall comply with all regulations promulgated by the Secretary of State.

(C) An electronic notary solution provider must be registered with the Secretary of State pursuant to this chapter before making available to South Carolina electronic notaries public any updates or subsequent versions of the electronic notary solution provider's electronic notarization system.

HISTORY: 2021 Act No. 85 (S.631), Section 2, eff May 18, 2021.

Editor's Note

2021 Act No. 85, Sections 1, 6, provide as follows:

“SECTION 1. This act must be known and may be cited as the ‘South Carolina Electronic Notary Public Act’.”

“SECTION 6. This act takes effect upon approval by the Governor. Electronic online notary public applications will not be accepted for processing until the administrative rules are in effect and vendors of technology are approved by the Secretary of State.”

### **§ 26-2-130. Electronic notary public to utilize current registered devices.**

(A) An electronic notary public shall take reasonable steps to ensure that any registered device used to create the electronic notary public's electronic signature is current and has not been revoked or terminated by its issuing or registering authority.

(B) If the registration of the device used to create electronic signatures either expires or is changed during the electronic notary public's term of office, then the electronic notary public shall cease performing electronic notarizations until:

(1) a new device is duly issued or registered to the electronic notary public; and

(2) an electronically signed notice is sent to the Secretary of State that includes the starting and expiration dates of any new registration term and any other new information at variance with the information in the most recently executed electronic registration form.

HISTORY: 2021 Act No. 85 (S.631), Section 2, eff May 18, 2021.

Editor's Note

2021 Act No. 85, Sections 1, 6, provide as follows:

“SECTION 1. This act must be known and may be cited as the ‘South Carolina Electronic Notary Public Act’.”

“SECTION 6. This act takes effect upon approval by the Governor. Electronic online notary public applications will not be accepted for processing until the administrative rules are in effect and vendors of technology are approved by the Secretary of State.”

**§ 26-2-140. Liability, sanctions, and remedies for improper performance of electronic notarial acts; termination of electronic notary public's registration.**

(A) The liability, sanctions, and remedies for the improper performance of electronic notarial acts, or for providing false or misleading information in registering to perform electronic notarial acts, by an electronic notary public are the same as provided by law for the improper performance of nonelectronic notarial acts.

(B)(1) The Secretary of State may terminate an electronic notary public's registration for one or more of the following reasons:

(a) the submission of an electronic registration form containing a material misstatement or omission of fact;

(b) the failure to maintain the capability to perform electronic notarial acts; or

(c) official misconduct by the electronic notary public.

(2) If the Secretary of State terminates an electronic notary public's registration, then the Secretary of State shall send written notice by certified mail to the electronic notary public at his last known address. A person who has had his electronic notary public registration terminated has thirty days from the receipt of the notice to appeal the termination by filing a request for a contested case hearing with the South Carolina Administrative Law Court.

(3) Neither resignation nor expiration of a notary commission or of an electronic notary public registration precludes or terminates an investigation by the Secretary of State into an electronic notary public's conduct. The investigation may be pursued to a conclusion, when it must be made a matter of public record whether the finding would have been grounds for the termination of the electronic notary public's commission or registration.

HISTORY: 2021 Act No. 85 (S.631), Section 2, eff May 18, 2021.

Editor's Note

2021 Act No. 85, Sections 1, 6, provide as follows:

“SECTION 1. This act must be known and may be cited as the ‘South Carolina Electronic Notary Public Act’.”

“SECTION 6. This act takes effect upon approval by the Governor. Electronic online notary public applications will not be accepted for processing until the administrative rules are in effect and vendors of technology are approved by the Secretary of State.”

**§ 26-2-150. Unlawful acts; penalties.**

(A) It is unlawful for a person to knowingly:

(1) act as or otherwise impersonate an electronic notary public, if that person is not an electronic notary public;

(2) obtain, conceal, damage, or destroy the coding, disk, certificate, card, token, program, software, or hardware that is intended exclusively to enable an electronic notary public to produce a registered electronic signature, electronic seal, or single element combining the required features of an electronic signature and electronic seal; or

(3) solicit, coerce, or in any way influence an electronic notary public to commit official misconduct.

(B) A person who violates the provisions of subsection (A) is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars, imprisoned for not more than one year, or both.

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

HISTORY: 2021 Act No. 85 (S.631), Section 2, eff May 18, 2021.

Editor's Note

2021 Act No. 85, Sections 1, 6, provide as follows:

“SECTION 1. This act must be known and may be cited as the ‘South Carolina Electronic Notary Public Act’.”

“SECTION 6. This act takes effect upon approval by the Governor. Electronic online notary public

applications will not be accepted for processing until the administrative rules are in effect and vendors of technology are approved by the Secretary of State.”

**§ 26-2-160. Applicability of Chapter 1 of this title.**

The provisions contained in Chapter 1 of this title, with regard to notarial certificates, are applicable for the purposes of this chapter.

HISTORY: 2021 Act No. 85 (S.631), Section 2, eff May 18, 2021.

Editor’s Note

2021 Act No. 85, Sections 1, 6, provide as follows:

“SECTION 1. This act must be known and may be cited as the ‘South Carolina Electronic Notary Public Act’.”

“SECTION 6. This act takes effect upon approval by the Governor. Electronic online notary public applications will not be accepted for processing until the administrative rules are in effect and vendors of technology are approved by the Secretary of State.”

**§ 26-2-170. Electronic evidence of authenticity of official electronic signature and electronic seal.**

Electronic evidence of the authenticity of the official electronic signature and electronic seal of an electronic notary public of this State, if required, must be attached to, or logically associated with, a notarized electronic document transmitted to another state or nation and must be in the form of an electronic certificate of authority signed by the Secretary of State in conformance with any current and pertinent international treaties, agreements, and conventions subscribed to by the government of the United States.

HISTORY: 2021 Act No. 85 (S.631), Section 2, eff May 18, 2021.

Editor’s Note

2021 Act No. 85, Sections 1, 6, provide as follows:

“SECTION 1. This act must be known and may be cited as the ‘South Carolina Electronic Notary Public Act’.”

“SECTION 6. This act takes effect upon approval by the Governor. Electronic online notary public applications will not be accepted for processing until the administrative rules are in effect and vendors of technology are approved by the Secretary of State.”

**§ 26-2-180. Electronic certificate of authority.**

(A) An electronic certificate of authority evidencing the authenticity of the official electronic signature and electronic seal of an electronic notary public of this State shall substantially contain the following words:

“Certificate of Authority for an Electronic Notarial Act

I, \_\_\_\_\_ [name, title, jurisdiction of commissioning official] certify that \_\_\_\_\_ [name of electronic notary], the person named as an electronic notary public in the attached or associated document, was indeed registered as an electronic notary public for the State of South Carolina and authorized to act as such at the time of the document’s electronic notarization.

To verify this Certificate of Authority for an Electronic Notarial Act, I have included herewith my electronic signature this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.  
[Electronic signature and electronic seal of the commissioning official]”.

(B) The Secretary of State may charge ten dollars for issuing an electronic certificate of authority.

HISTORY: 2021 Act No. 85 (S.631), Section 2, eff May 18, 2021.

Editor’s Note

2021 Act No. 85, Sections 1, 6, provide as follows:

“SECTION 1. This act must be known and may be cited as the ‘South Carolina Electronic Notary Public Act’.”

“SECTION 6. This act takes effect upon approval by the Governor. Electronic online notary public applications will not be accepted for processing until the administrative rules are in effect and vendors of technology are approved by the Secretary of State.”

**§ 26-2-190. Regulations.**

The Secretary of State may promulgate and enforce any regulations and create and enforce any policies and procedures necessary for the administration of this chapter.

HISTORY: 2021 Act No. 85 (S.631), Section 2, eff May 18, 2021.

Editor’s Note

2021 Act No. 85, Sections 1, 6, provide as follows:

“SECTION 1. This act must be known and may be cited as the ‘South Carolina Electronic Notary Public Act’.”

“SECTION 6. This act takes effect upon approval by the Governor. Electronic online notary public applications will not be accepted for processing until the administrative rules are in effect and vendors of technology are approved by the Secretary of State.”

**§ 26-2-200. Applicability of chapter to wills and trusts.**

This chapter does not apply to wills and trusts in South Carolina.

HISTORY: 2021 Act No. 85 (S.631), Section 4, eff May 18, 2021.

Code Commissioner’s Note

At the direction of the Code Commissioner, pursuant to the authority to codify permanent law, the provisions of Section 4 and Section 5 of 2021 Act No. 85 were codified as Section 26-2-200 and Section 26-2-210, respectively.

Editor’s Note

2021 Act No. 85, Sections 1, 6, provide as follows:

“SECTION 1. This act must be known and may be cited as the ‘South Carolina Electronic Notary Public Act’.”

“SECTION 6. This act takes effect upon approval by the Governor. Electronic online notary public applications will not be accepted for processing until the administrative rules are in effect and vendors of technology are approved by the Secretary of State.”

**§ 26-2-210. Requirement that a licensed South Carolina attorney supervise a closing.**

Nothing in this chapter contravenes the South Carolina law that requires a licensed South Carolina attorney to supervise a closing.

HISTORY: 2021 Act No. 85 (S.631), Section 5, eff May 18, 2021.

Code Commissioner’s Note

At the direction of the Code Commissioner, pursuant to the authority to codify permanent law, the provisions of Section 4 and Section 5 of 2021 Act No. 85 were codified as Section 26-2-200 and Section 26-2-210, respectively.

Editor’s Note

2021 Act No. 85, Sections 1, 6, provide as follows:

“SECTION 1. This act must be known and may be cited as the ‘South Carolina Electronic Notary Public Act’.”

“SECTION 6. This act takes effect upon approval by the Governor. Electronic online notary public applications will not be accepted for processing until the administrative rules are in effect and vendors of technology are approved by the Secretary of State.”

**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 Section 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 Section 49-61; 1972 (57) 2374; 1985 Act No. 14, Section 1.

#### **§ 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 Section 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 the 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 Section 49-69; 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 Section 49-69; 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 Section 49-69; 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 the 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 Section 49-69; 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 Section 49-69; 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 Section 49-69; 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 Section 49-69; 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.

HISTORY: 2004 Act No. 279, Section 1.

## **TITLE 30. PUBLIC RECORDS**

### **CHAPTER 5. RECORING 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, it must be acknowledged or proved by the method described in subsection (A)(1), (A)(2), or (B).

(A)(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 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.

(B) A deed or other instrument must be signed by the grantor, mortgagor, vendor, or lessor and the signing must be acknowledged by the grantor, mortgagor, vendor, or lessor in the presence of two witnesses, taken before some officer within this State competent to administer an oath. If the acknowledgment is taken without the limits of this State, it may be taken before:

(1) 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;

(2) a commissioner of deeds of this State;

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

(4) a justice of the peace who shall append to the certificate his official seal;

(5) 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;

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

(7) 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.

(C) Where the instrument is acknowledged by the grantor or maker, the form of acknowledgement must be in substance as follows:

“South Carolina,  
\_\_\_\_\_ County.

I (here give the name of the official and his official title), do hereby certify that (here give the name of the grantor or maker), personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and (where an official seal is required by law) official seal this the \_\_\_\_ day of \_\_\_\_ (year).

\_\_\_\_\_  
Signature of Officer”

(D) The submission of a land development plan or land use plan is not a prerequisite and must not be required before the execution of a deed transferring undeveloped real property. A local governmental entity may still require the grantee to file a plat at the time the deed is recorded.

HISTORY: 1962 Code Section 60-51; 1952 Code Section 60-51; 1942 Code Section 3632; 1932 Code Section 3632; Civ. C. '22 Section 2176; Civ. C. '12 Section 1352; Civ. C. '02 Section 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, Section 8(10); 1994 Act No. 382, Section 1; 2016 Act No. 144 (H.3972), Section 2, eff March 14, 2016; 2018 Act No. 250 (H.4673), Section 2, eff May 18, 2018.

## **CHAPTER 6. UNIFORM REAL PROPERTY ELECTRONIC RECORDING ACT**

### **§ 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.

HISTORY: 2008 Act No. 210, Section 2, eff May 13, 2008.

## **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 Section 8-507; 1952 Code Sections 8-572 to 8-574; 1942 Code Section 7902; 1932 Code Section 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 Section 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 Section 8-508; 1952 Code Section 8-576; 1942 Code Section 7902; 1932 Code Section 7902; 1928 (35) 1271; 1951 (47) 363, 513; 1952 (47) 1932.

**SOUTH CAROLINA CODE OF REGULATIONS  
CHAPTER 113. SECRETARY OF STATE  
ARTICLE 4. ELECTRONIC NOTARIES PUBLIC**

**113-400. Registration.**

A. A notary public shall register to perform electronic notarial acts with the Secretary of State before performing notarial acts electronically.

B. The term of registration as an electronic notary shall coincide with the term of the notary's commission pursuant to Section 26-2-20(B). An electronic notary may commence performing electronic notarial duties upon receipt of confirmation of registration as an electronic notary public from the Secretary of State.

HISTORY: Added by SCSR 46-6 Doc. No. 5104, eff June 24, 2022.

**113-410. Application for Registration as an Electronic Notary.**

A. A notary public must submit the application for registration electronically with the Secretary of State. This electronic application shall include:

- (1) The notary's full legal name and the name under which the notary public's commission was issued, if different;
- (2) The residential address of the notary public and the county in which the notary

public's commission is enrolled pursuant to Section 26-1-50;

(3) The email address of the notary;

(4) Proof of the successful completion of the electronic notary course of instruction, including the date of completion and name of the course of instruction on the duties of an electronic notary as approved by the Secretary of State;

(5) The expiration date of the notary public's commission;

(6) The disclosure of all license or commission revocations or other disciplinary actions against the notary public;

(7) A description of the notary technology that the notary public intends to use to perform notarial acts with respect to electronic notarizations, including the name of the electronic notary system provider. The description must include:

(a) The technology to be used in attaching an electronic notarial certificate, signature, or seal to an electronic document;

(b) The technology used to maintain the electronic journal; and

(c) The technology used to render electronic records tamper-evident;

(8) If the device used to create the registrant's electronic signature was issued or registered through a licensed certification authority, then the application must include:

(a) The name of that authority;

(b) The source of the license; and

(c) The starting and expiration dates of the device's term of registration; and

(9) A copy of the notary public's electronic signature, electronic notarial certificate and electronic seal, along with any necessary instructions or techniques supplied by the vendor or notary public that allows the signature and stamp to be read and authenticated.

B. The Secretary of State may exempt from disclosure under the Freedom of Information Act the residential address and email address of the notary, except as otherwise required by statute, regulation, or court order.

HISTORY: Added by SCSR 46-6 Doc. No. 5104, eff June 24, 2022.

### **113-420. Course of Instruction.**

A. Before each registration to perform electronic notarial acts, a notary public shall complete a course of instruction approved by the Secretary of State, and pass an examination of this course.

B. The Secretary of State, or his designee, will administer the training course and testing for applicants for electronic notary public registration.

C. The content of the course shall include notarial rules, procedures, and ethical obligations pertaining to electronic notarization as provided in the South Carolina Electronic Notary Public Act or in any other law or official guideline of this State.

HISTORY: Added by SCSR 46-6 Doc. No. 5104, eff June 24, 2022.

### **113-430. Electronic Notary Signature and Electronic Notary Seal.**

A. An electronic notary signature must meet all of the following requirements.

(1) The electronic notary signature shall be independently verifiable and unique to the electronic notary;

(2) The electronic notary signature shall be retained under the electronic notary's sole control;

(3) When the electronic notary performs an electronic notarization, the electronic signature used by the electronic notary must be accessible by and attributable solely to the electronic notary to the exclusion of all other persons and entities for the entire time necessary to perform the electronic notarization;

(4) The electronic notary signature shall be attached or logically associated with the document, linking the data in such a manner that any subsequent alterations to the underlying document or electronic notary certificate are observable through visual examination; and

(5) An image of the electronic notary's handwritten signature shall appear on any visual or printed representation of an electronic notary certificate regardless of the technology being used to affix the electronic notary's electronic signature.

B. An electronic notary seal must meet all of the following requirements:

(1) The electronic notary seal shall be independently verifiable and unique to the electronic notary;

(2) The electronic notary seal shall be retained under the electronic notary's sole control;

(3) When the electronic notary performs an electronic notarization, the electronic seal used by the electronic notary shall be accessible by and attributable solely to the electronic notary to the exclusion of all other persons and entities for the entire time necessary to perform the electronic notarization;

(4) The electronic notary seal shall be attached or logically associated with the document, linking the data in such a manner that any subsequent alterations to the underlying document or electronic notary certificate are observable through visual examination;

(5) An image of the electronic notary's electronic seal shall appear on any visual or printed representation of the electronic notary certificate regardless of the technology being used to affix the electronic notary's electronic seal;

(6) The perimeter of the electronic notary seal may contain a border such that the physical appearance of the seal replicates the appearance of an inked seal on paper; and

(7) The electronic notary seal must have, within its border, the electronic notary public's name exactly as commissioned, the title "Notary Public", the words "State of South Carolina", the electronic notary public's registration number indicating that the electronic notary public may perform electronic notarial acts, and the expiration date of the electronic notary public's commission.

HISTORY: Added by SCSR 46-6 Doc. No. 5104, eff June 24, 2022.

#### **113-440. Employers of Electronic Notaries.**

A. Neither the employer of an electronic notary public nor any of the employer's employees or agents shall use or permit the use of an electronic notary seal or signature by anyone other than the electronic notary public to whom it is registered.

B. Upon the cessation of employment of an electronic notary public, the employer of the notary must do the following, if applicable:

(1) Relinquish any and all control of the electronic notary public's electronic notary seal conveyed by the employer's provision of an electronic notarization system as part of the electronic notary's employment;

(2) Transfer possession of the electronic notary seal to the electronic notary public; and

(3) Eliminate the ability of any other person to use the former employee's electronic notary seal if the electronic notarization system used by the employer does not permit transfer of possession of the electronic notary seal.

HISTORY: Added by SCSR 46-6 Doc. No. 5104, eff June 24, 2022.

#### **113-450. Rejection of Electronic Notary Public Application.**

The Secretary of State may reject an application for registration as an electronic notary public for failure to comply with any of the requirements of the South Carolina Electronic Notary Public Act. In addition, the Secretary of State may reject an application

for registration as an electronic notary public for the following reasons:

- A. If the application is incomplete or contains any misstatement or omission of fact;
- B. If there is a pending inquiry by the Secretary of State's Office or law enforcement into the applicant's alleged failure to comply with any of the statutes, regulations or policies governing notaries public and electronic notaries public;
- C. If there has been a finding against or an admission of liability by the applicant in any legal proceeding or disciplinary action based on the applicant's conduct as a notary public or an electronic notary public; or
- D. The applicant has been convicted of a criminal offense involving fraud, theft, forgery, or breach of trust.

HISTORY: Added by SCSR 46-6 Doc. No. 5104, eff June 24, 2022.

### **113-460. Change of Registration Information.**

A. An electronic notary public shall notify the Office of the Secretary of State of any changes in the information submitted in the notary public's application for registration within thirty (30) days following the change in information.

B. Notifications to the Office of the Secretary of State as required by this section must be made in a form or manner prescribed by the Secretary of State and must be accompanied by a fee of ten dollars.

C. Failure to timely notify the Secretary of State as required under this section may subject the electronic notary public to having his or her registration terminated.

D. Nothing herein shall be construed to prohibit an electronic notary public from receiving, installing, or using hardware and/or software updates to the technologies that the electronic notary public identified in the electronic notary public's application if the hardware or software update does not result in technologies that are materially different from the technologies that the electronic notary public identified previously.

HISTORY: Added by SCSR 46-6 Doc. No. 5104, eff June 24, 2022.

### **113-470. Access and Use of Electronic Notary Seal and Electronic Signature.**

A. The electronic notary public's electronic signature and seal shall remain within the exclusive control of the electronic notary public. Access to electronic notary signatures and electronic notary seals must be protected by the use of a biometric verification, password authentication, token authentication, or other form of authentication approved by the Secretary of State according to the South Carolina Electronic Notary Public Act.

B. An electronic notary public shall not disclose any access information used to affix the electronic notary public's electronic signature or electronic seal to electronic records except:

- (1) When requested by the Secretary of State's Office or a law enforcement officer;
- (2) When required by court order or subpoena; or
- (3) Pursuant to an agreement to facilitate electronic notarizations with a vendor or other technology provider identified in an application submitted under the South Carolina Electronic Notary Public Act.

C. An electronic notary public must replace an electronic seal or signature under any of the following circumstances:

- (1) The electronic notary public's registration has expired.
- (2) The electronic seal or signature is for any reason no longer valid or capable of authentication.
- (3) The electronic notary public has changed any of the following information, or the following information has changed for any reason:



- (a) The electronic notary public's name;
- (b) The electronic notary public's jurisdiction;
- (c) The electronic notary public's registration number; or
- (d) The expiration date of notary public commission.

HISTORY: Added by SCSR 46-6 Doc. No. 5104, eff June 24, 2022.

### **113-480. Electronic Notary Journal Preservation.**

A. An electronic notary journal shall be created and stored in a computer or other electronic storage device or process that protects the electronic journal against unauthorized access by password, biometric verification, token, or other form of authentication.

B. An electronic notary journal is the exclusive property of the notary public and no employer or vendor of e-notary services may retain control of a notary public's electronic record for any reason.

C. An electronic notary journal shall be retained for at least ten (10) years after the last notarial act chronicled in the journal.

D. An electronic notary journal shall be tamper-evident.

E. A notary public shall not allow a record entry to be deleted or altered in content or sequence by the electronic notary public or any other person after a record of the electronic notarization is entered and stored.

F. An electronic notary journal must be capable of providing tangible or electronic copies of any entry made in the journal.

G. Upon the death or adjudication of incompetency of a current or former notary public who is registered to perform notarial acts with respect to electronic records, the electronic notary's personal representative or guardian or any other person knowingly in possession of a journal shall:

(1) comply with the retention requirements of this section;

(2) transmit the journal to a third person contracted to act as a repository to provide the storage required by this section; or

(3) transmit the journal in an industry-standard readable data storage device to the electronic notary public's notary technology provider.

HISTORY: Added by SCSR 46-6 Doc. No. 5104, eff June 24, 2022.

### **113-490. Application for Electronic Notary Providers.**

Electronic notarization system providers applying to the Secretary of State for designation as a registered electronic notarization system provider must complete and submit electronically an application to the Secretary of State for review and approval before authorizing any electronic notary seals, digital certificates or electronic signatures for use by electronic notaries public in this State. The application must include the following information:

A. The legal name of the technology provider;

B. The mailing address of the technology provider;

C. The physical address of the technology provider;

D. A designated contact person for the technology provider;

E. The phone number, physical address, and email address of the contact person for the technology provider;

F. The name of the technology provided;

G. A description of the technology used, including hardware and software specifications and requirements for the provider's electronic notarization system; and

H. A plan for the retention and disposition of records created, generated, or retained

in conjunction with the use of the technology, including any electronic journal or records created or retained during an electronic notarization, in the event the technology provider no longer engages in the business of providing electronic or online notary technology.

HISTORY: Added by SCSR 46-6 Doc. No. 5104, eff June 24, 2022.

### **113-500. Requirements for Systems and Providers.**

Each electronic notarization system provider must:

A. Provide a free and readily available viewer/reader to enable all parties relying on the electronically notarized record or document to view the electronic notary public's electronic signature and the electronic notary seal without incurring any cost;

B. Comply with the laws, policies, and rules that govern South Carolina notaries public;

C. Provide an electronic notarization system that complies with the technical specifications of the rules and standards that govern electronic notarization processes and procedures in South Carolina;

D. Verify that a notary public is registered to act as a South Carolina electronic notary public prior to authorizing an electronic notary seal and electronic signature for that notary public;

E. Notify the Secretary of State of the name of each notary public who enrolls in the provider's electronic notarization system within five days after enrollment by means prescribed by the Secretary of State;

F. Provide prorated fees to align the usage and cost of the electronic notarization system with the commission term limit of the electronic notary public purchasing the electronic notary seal and electronic signature;

G. Suspend the use of any electronic notarization system for any notary public whose commission has been revoked, suspended, or canceled by the Secretary of State, within 10 calendar days of receipt of notification from the Secretary of State;

H. Submit an exemplary of the electronic notary public's electronic signature and the electronic notary seal to the Secretary for each electronic notary public who subscribes to the provider's electronic notarization system;

I. Require access to the system by a password or other secure means of authentication;

J. Enable a notary public to affix the notary's electronic signature in a manner that attributes such signature to the notary as evidenced by a digital certificate and render every electronic notarial act tamper-evident; and

K. Respond to a request for information from the Office of the Secretary of State within the time directed. Any request for information shall be sent to the contact person designated by the provider upon registration, or as updated pursuant to Regulation 113-510.

HISTORY: Added by SCSR 46-6 Doc. No. 5104, eff June 24, 2022.

### **113-510. Electronic Notarization System Provider Changes.**

A. An electronic notarization system provider shall notify the Secretary of State's Office within 30 days of any changes, modifications or updates to information previously submitted to the Secretary of State. Notifications to the Office of the Secretary of State as required by this section must be made in a form or manner prescribed by the Secretary of State.

B. An electronic notarization system provider must be registered with the Secretary of State at the time it makes available to South Carolina electronic notaries any updates or subsequent versions of the provider's electronic notarization system.

HISTORY: Added by SCSR 46-6 Doc. No. 5104, eff June 24, 2022.