

1 SB275  
2 210116-3  
3 By Senator Givhan  
4 RFD: Judiciary  
5 First Read: 25-FEB-21

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4 ENGROSSED

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7 A BILL  
8 TO BE ENTITLED  
9 AN ACT

10  
11 Relating to attestations by notaries public; to add  
12 Section 36-20-73.1 to the Code of Alabama 1975, to authorize  
13 the use of remote notarization for acknowledgements; to ratify  
14 certain actions taken pursuant to the Emergency Management Act  
15 of 1955; to provide for civil penalties for violations; and to  
16 provide for exemptions.

17 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

18 Section 1. Section 36-20-73.1 is added to the Code  
19 of Alabama 1975, to read as follows:

20 (a) For the purposes of this section, the following  
21 terms shall have the following meanings:

22 (1) ORIGINAL SIGNATURE. A signature signed directly  
23 onto a document in wet ink by a person who is named on the  
24 document.

25 (2) SIGNATORY. The person who is named on the  
26 document and is to sign the document.

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

4 (c) For purposes of this article, and subject to  
5 subsections (d) to (f), inclusive, an individual may  
6 personally appear before an acknowledging notary by either of  
7 the following:

8 (1) Physically appearing before the notary.

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

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

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

22 (2)a. The presentation of two valid forms of  
23 government issued identification, one of which shall include  
24 the face and signature of the signatory; and

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

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

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

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

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

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

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

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

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

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

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

1                   (i) A notary who intentionally or fraudulently  
2 violates the provisions of this section shall be assessed by  
3 the Secretary of State a civil penalty in an amount up to  
4 fifty thousand dollars (\$50,000). In the assessment of the  
5 civil penalty under this subsection, the Secretary of State  
6 shall consider damages or costs incurred by a signatory due to  
7 the fraudulent or wrongful activity.

8                   Section 2. This act shall become effective July 1,  
9 2021, following its passage and approval by the Governor, or  
10 its otherwise becoming law.

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Senate

Read for the first time and referred to the Senate  
committee on Judiciary..... 25-FEB-21

Read for the second time and placed on the calen-  
dar..... 03-MAR-21

Read for the third time and passed as amended .... 11-MAR-21

Yeas 28  
Nays 0

Patrick Harris,  
Secretary.