

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

1 SB275

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4 ENROLLED, An Act,

5 Relating to attestations by notaries public; to add
6 Section 36-20-73.1 to the Code of Alabama 1975, to authorize
7 the use of remote notarization for acknowledgements; to ratify
8 certain actions taken pursuant to the Emergency Management Act
9 of 1955; to provide penalties for violations; and to provide
10 for exemptions; and in connection therewith would have as its
11 purpose or effect the requirement of a new or increased
12 expenditure of local funds within the meaning of Amendment 621
13 of the Constitution of Alabama of 1901, as amended by
14 Amendment 890, now appearing as Section 111.05 of the Official
15 Recompilation of the Constitution of Alabama of 1901.

16 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

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

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

24 (2) SIGNATORY. The person who is named on the
25 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

1 b. A process by which the notary public verifies the
2 identity of the signatory through a review of public or
3 private data sources.

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

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

7 (2) A description of the documents to which the
8 remote notarial act relates.

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

11 (4) A description of how the identification of the
12 signatory was verified.

13 (5) A clear image of any government issued
14 identification, if applicable.

15 (6) A clear image of the act of signing observed by
16 the notary public.

17 (f) The official date and time of the notarization
18 is the date and time the notary public witnessed the
19 signature, including the date and time the signature was
20 witnessed via two-way audio-video communication technology.

21 All documents used during the two-way audio-video
22 communication, shall be provided to the notary for his or her
23 authentication and original signature.

24 (g) Any action taken before July 1, 2021, allowing
25 for the remote notarization of signatures under the Emergency

1 Management Act of 1955, Chapter 9 of Title 31, is ratified and
2 confirmed.

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

6 (i) A notary who intentionally or fraudulently
7 violates this section shall be guilty of a Class C
8 misdemeanor.

9 Section 2. Although this bill would have as its
10 purpose or effect the requirement of a new or increased
11 expenditure of local funds, the bill is excluded from further
12 requirements and application under Amendment 621, as amended
13 by Amendment 890, now appearing as Section 111.05 of the
14 Official Recompilation of the Constitution of Alabama of 1901,
15 as amended, because the bill defines a new crime or amends the
16 definition of an existing crime.

17 Section 3. This act shall become effective July 1,
18 2021, following its passage and approval by the Governor, or
19 its otherwise becoming law.

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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB275

Senate 11-MAR-21

I hereby certify that the within Act originated in and passed the Senate, as amended.

Patrick Harris,
Secretary.

House of Representatives
Amended and passed 20-APR-21

Senate concurred in House amendment 20-APR-21

By: Senator Givhan