

NORTH CAROLINA GENERAL STATUTES

Chapter 10B. Notaries.

Article 1. Notary Public Act.

Part 1. General Provisions.

§ 10B-1. Short title.

This Article is the “Notary Public Act” and may be cited by that name. (1991, c. 683, s. 2; 2005-391, s. 4.)

§ 10B-2. Purposes.

This Chapter shall be construed and applied to advance its underlying purposes, which are the following:

- (1) To promote, serve, and protect the public interests.
- (2) To simplify, clarify, and modernize the law governing notaries.
- (3) To prevent fraud and forgery.
- (4) To foster ethical conduct among notaries.
- (5) To enhance interstate recognition of notarial acts.
- (6) To integrate procedures for all of the following notarial acts:
 - a. Traditional paper.
 - b. Electronic notarization.
 - c. Remote electronic notarization. (1991, c. 683, s. 2; 1998-228, s. 1; 2005-391, s. 4; 2022-54, s. 2(a); 2023-57, s. 2.)

§ 10B-3. Definitions.

The following definitions apply in this Chapter:

- (1) Acknowledgment. - 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.
 - c. The individual did either of the following:
 - i. Indicated to the notary that the signature on the record was the individual’s signature.
 - ii. Signed the record while in the physical presence of the notary and while being personally observed signing the record by the notary.
- (2) Affirmation. - 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.
 - c. The individual made a vow of truthfulness on penalty of perjury, based on personal honor and without invoking a deity or using any form of the word “swear”.
- (3) Attest or attestation. - The completion of a certificate by a notary who has performed a notarial act.
- (4) Commission. - The empowerment to perform notarial acts and the written

- evidence of authority to perform those acts.
- (5) Credible witness. - An individual who is personally known to the notary and to whom all of the following also apply:
 - a. The notary believes the individual to be honest and reliable for the purpose of confirming to the notary the identity of another individual.
 - b. The notary believes the individual is not a party to or beneficiary of the transaction.
 - (6) Department. - The North Carolina Department of the Secretary of State.
 - (7) Director. - The Division Director for the North Carolina Department of the Secretary of State Notary Public Section.
 - (7a) Emergency video notarization. - An acknowledgement, affirmation, or oath notarization completed by a notary in compliance with the requirements of G.S. 10B-25. Emergency video notarization shall not include a verification proof as defined in G.S. 10B-3(28).
 - (8) Jurat. - A notary's certificate evidencing the administration of an oath or affirmation.
 - (9) Moral turpitude. - Conduct contrary to expected standards of honesty, morality, or integrity.
 - (10) Nickname. - A descriptive, familiar, or shortened form of a proper name.
 - (11) Notarial act, notary act, and notarization. - The act of taking an acknowledgment, taking a verification or proof or administering an oath or affirmation that a notary is empowered to perform under G.S. 10B-20(a).
 - (12) Notarial certificate and certificate. - 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.
 - (13) Notary public and notary. - A person commissioned to perform notarial acts under this Chapter. A notary is a public officer of the State of North Carolina and shall act in full and strict compliance with this act.
 - (14) Oath. - A notarial act which 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.
 - c. The individual made a vow of truthfulness on penalty of perjury while invoking a deity or using any form of the word "swear".
 - (15) Official misconduct. - Either of the following:
 - a. A notary's performance of a prohibited act or failure to perform a mandated act set forth in this Chapter or any other law in connection with notarization.
 - b. A notary's performance of a notarial act in a manner found by the Secretary to be negligent or against the public interest.
 - (16) Personal appearance and appear in person before a notary. - An individual and a notary are in close physical proximity to one another so that they may freely see and communicate with one another and exchange records back and forth during the notarization process.
 - (17) Personal knowledge or personally know. - Familiarity with an individual resulting from interactions with that individual over a period of time sufficient

to eliminate every reasonable doubt that the individual has the identity claimed.

- (18) Principal. - One of the following:
 - 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:
 - i. Identity and due execution of the record is being proven; or
 - ii. Signature is being identified as genuine.
 - c. In the case of an oath or affirmation, the individual who makes a vow of truthfulness on penalty of perjury.
- (19) Record. - Information that is inscribed on a tangible medium and called a traditional or paper record.
- (20) Regular place of work or business. - A location, office or other workspace, where an individual regularly spends all or part of the individual's work time.
- (21) Revocation. - The cancellation of the notary's commission stated in the order of revocation.
- (22) Satisfactory evidence. - Identification of an individual based on either of the following:
 - a. At least one current document issued by a federal, state, or federal or state-recognized tribal government agency bearing the photographic image of the individual's face and either the signature or a physical description of the individual.
 - b. The oath or affirmation of one credible witness who personally knows the individual seeking to be identified.
- (23) Seal or stamp. - A device for affixing on a paper record an image containing a notary's name, the words "notary public," and other information as required in G.S. 10B-37.
- (24) Secretary. - The North Carolina Secretary of State or the Secretary's designee.
- (25) Repealed by Session Laws 2006-59, s. 1, effective October 1, 2006, except as otherwise set forth in the act, and applicable to notarial acts performed on or after October 1, 2006.
- (26) Subscribing witness. - 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 or her execution of the record. A subscribing witness may give proof of the execution of the record as provided in subdivision (28) of this section.
- (27) Suspension and restriction. - The termination of a notary's commission for a period of time stated in an order of restriction or suspension. The terms "restriction" or "suspension" or a combination of both terms shall be used synonymously.
- (28) Verification or proof. - A notarial act in which a notary certifies that 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.
 - c. The individual was not a party to or beneficiary of the transaction.

- d. The individual took an oath or gave an affirmation and testified to one of the following:
 - i. The individual is a subscribing witness and the principal who signed the record did so while being personally observed by the subscribing witness.
 - ii. The individual is a subscribing witness and the principal who signed the record acknowledged his or her signature to the subscribing witness.
 - iii. The individual recognized either the signature on the record of the principal or the signature on the record of the subscribing witness and the signature was genuine. (1991, c. 683, s. 2; 1998-228, s. 2; 2005-391, s. 4; 2006-59, s. 1; 2020-3, s. 4.1(a).)

§ 10B-4. Rules.

The Secretary may adopt rules necessary to administer and enforce this Chapter in order to achieve the purposes of the Act. (2023-57, s. 4(a).)

Part 2. Commissioning.

§ 10B-5. Qualifications.

- (a) Except as provided in subsection (d) of this section, the Secretary shall commission as a notary any qualified person who submits an application in accordance with this Chapter.
- (b) A person qualified for a notarial commission shall meet all of the following requirements:
 - (1) Be at least 18 years of age or legally emancipated as defined in Article 35 of Chapter 7B of the General Statutes.
 - (2) Reside or have a regular place of work or business in this State.
 - (3) Reside legally in the United States.
 - (4) Speak, read, and write the English language.
 - (5) Possess a high school diploma or equivalent.
 - (6) Pass the course of instruction described in this Article, unless the person is a licensed member of the North Carolina State Bar.
 - (7) Purchase and keep as a reference the most recent manual approved by the Secretary that describes the duties and authority of notaries public.
 - (8) Submit an application containing no significant misstatement or omission of fact. The application form shall be provided by the Secretary and be available at the register of deeds office in each county. Every application shall include the signature of the applicant written with pen and ink, and the signature shall be acknowledged by the applicant before a person authorized to administer oaths.
 - (9) Repealed by Session Laws 2013-204, s. 1, effective July 1, 2013.
- (c) The notary shall be commissioned in his or her county of residence, unless the notary is not a North Carolina resident, in which case he or she shall be commissioned in the county of his or her employment or business.
- (d) The Secretary may deny an application for commission or recommission if any of the following apply to an applicant:
 - (1) Submission of an incomplete application or an application containing material misstatement or omission of fact.
 - (2) The applicant's conviction or plea of admission or nolo contendere to a felony or

any crime involving dishonesty or moral turpitude. In no case may a commission be issued to an applicant within 10 years after release from prison, probation, or parole, whichever is later.

- (3) A finding or admission of liability against the applicant in a civil lawsuit based on the applicant's deceit.
- (4) The revocation, suspension, restriction, or denial of a notarial commission or professional license by this or any other state or nation. In no case may a commission be issued to an applicant within five years after the completion of all conditions of any disciplinary order.
- (5) A finding that the applicant has engaged in official misconduct, whether or not disciplinary action resulted.
- (6) An applicant knowingly using false or misleading advertising in which the applicant as a notary represents that the applicant has powers, duties, rights, or privileges that the applicant does not possess by law.
- (7) A finding by a state bar or court that the applicant has engaged in the unauthorized practice of law.

(e) Notwithstanding subdivision (8) of subsection (b) of this section, the Secretary may allow applications for commissions to be submitted electronically, in the format prescribed by the Secretary. The Secretary shall establish a process for submission of the signature of the applicant prior to commissioning, which may include electronic submission. (Code, ss. 3304, 3305; Rev., ss. 2347, 2348; C.S., s. 3172; 1927, c. 117; 1959, c. 1161, s. 2; 1969, c. 563, s. 1; c. 912, s. 1; 1973, c. 680, s. 1; 1983, c. 427, ss. 1, 2; c. 713, s. 22; 1991, c. 683, s. 2; 1995, c. 226, s. 1; 1998-228, s. 3; 1999-337, s.3(a); 2001-450, s. 1; 2002-126, s. 29A.21; 2005-75, s. 1; 2005-391, s. 4; 2006-59, s. 2; 2009-227, s. 1; 2013-204, s. 1; 2023-57, s. 5(f).)

§ 10B-6. Application for commission.

Every application for a notary commission shall be made on paper with original signatures, or in another form determined by the Secretary, and shall include all of the following:

- (1) A statement of the applicant's personal qualifications as required by this Chapter.
- (2) A certificate or signed statement by the instructor evidencing successful completion of the course of instruction as required by this Chapter.
- (3) A notarized declaration of the applicant, as required by this Chapter.
- (4) Any other information that the Secretary deems appropriate.
- (5) The application fee required by this Chapter. (2005-391, s. 4.)

§ 10B-7. Statement of personal qualification.

- (a) The application for a notary commission shall include at least all of the following:
 - (1) The applicant's full legal name and the name to be used for commissioning, excluding nicknames.
 - (2) The applicant's date of birth.
 - (3) The mailing address for the applicant's residence, the street address for the applicant's residence, and the telephone number for the applicant's residence.
 - (4) The applicant's county of residence.
 - (5) The name of the applicant's employer, the street and mailing address for the applicant's employer, and telephone number for the applicant's employer.
 - (6) The applicant's last four digits of the applicant's social security number.
 - (7) The applicant's personal and business e-mail addresses.

- (8) A declaration that the applicant is a citizen of the United States or proof of the applicant's legal residency in this country.
- (9) A declaration that the applicant can speak, read, and writes in the English language.
- (10) A complete listing of any issuances, denials, revocations, suspensions, restrictions, and resignations of a notarial commission, professional license, or public office involving the applicant in this or any other state or nation.
- (11) A complete listing of any criminal convictions of the applicant, including any pleas of admission or nolo contendere, in this or any other state or nation.
- (12) A complete listing of any civil findings or admissions of fault or liability regarding the applicant's activities as a notary, in this or any other state or nation.

(b) The information provided in an application that relates to subdivisions (2), (3), (6), and (7) of subsection (a) of this section shall be considered confidential information and shall not be subject to disclosure under Chapter 132 of the General Statutes. (2005-391, s. 4; 2006-59, s. 3.)

§ 10B-8. Course of study and examination.

(a) Every applicant for an initial notary commission shall, within the three months preceding application, take a course of classroom instruction of not less than six hours approved by the Secretary and take a written examination approved by the Secretary. An applicant must answer at least eighty percent (80%) of the questions correctly in order to pass the exam. This subsection shall not apply to a licensed member of the North Carolina State Bar.

(b) Every applicant for recommissioning shall pass a written examination approved by and administered by or under the direction of the Secretary, unless the person is a licensed member of the North Carolina State Bar.

(c) The content of the course of instruction and the written examinations shall be notarial laws, procedures, and ethics.

(d) The Secretary may charge such fees as are reasonably necessary to pay the cost associated with developing and administering examinations permitted by this Chapter and for conducting the training of notaries and notary instructors. (2005-391, s. 4.)

§ 10B-9. Length of term and jurisdiction.

A person commissioned under this Chapter may perform notarial acts in any part of this State for a term of five years, unless the commission is earlier revoked or resigned. No commissions shall be effective prior to the administration of the oath of office. Any notarial acts performed before the administration of the oath of office, either the original commissioning or recommissioning, are invalid. (1891, c. 248; Rev., s. 2351; c.s., s. 3176; 1973, c. 680, s. 1; 1991, c. 683, s. 2; 2005-391, s. 4.)

§ 10B-10. Commission; oath of office.

(a) If the Secretary grants a commission to an applicant, the Secretary shall notify the appointee and shall instruct the appointee regarding the proper procedure for taking the oath at the register of deeds office in the county of the appointee's commissioning.

(b) Except as provided in subsection (b1) of this section, the appointee shall appear before the register of deeds no later than 45 days after commissioning and shall be duly qualified by taking the general oath of office prescribed in G.S. 11-11 and the oath prescribed for officers in G.S. 11-7.

(b1) A register of deeds may administer the required oath to such appointee using video conference technology provided the appointee is personally known to the register of deeds or the appointee provides satisfactory evidence of the appointee's identity to the register of deeds. As used in this subsection, video conference technology and satisfactory evidence are as defined in G.S. 10B-25.

(c) After the appointee qualifies by taking the oath of office required under subsection (b) of this section, the register of deeds shall place the notary record in a book designated for that purpose, or the notary record may be recorded in the Consolidated Document Book and indexed in the Consolidated Real Property Index under the notary's name in the grantor index. The notary record may be kept in electronic format so long as the signature of the notary public may be viewed and printed. The notary record shall contain the name and the signature of the notary as commissioned, the effective date and expiration date of the commission, the date the oath was administered, and the date of any restriction, suspension, revocation, or resignation. The record shall constitute the official record of the qualification of notaries public.

(d) The register of deeds shall deliver the commission to the notary following completion of the requirements of this section and shall notify the Secretary of the delivery.

(e) If the appointee does not appear before the register of deeds within the time prescribed in this section, the register of deeds must return the commission to the Secretary, and the appointee must reapply for commissioning. If the appointee reapplies within one year of the granting of the commission, the Secretary may waive the educational requirements of this Chapter. (Code, ss. 3304, 3305; Rev., ss. 2347, 2348; C.S., s. 3173; 1969, c. 912, s. 2; 1973, c. 680, s. 1; 1991, c. 683, s. 2; 2005-391, s. 4; 2006-59, s. 4; 2020-3, s. 4.1(b); 2020-74, s. 27(a); 2020-80, s. 2.9(a); 2022-54, s. 3(a); 2023-57, s. 1(c).)

§ 10B-11. Recommissioning.

(a) A commissioned notary may apply for recommissioning no earlier than 10 weeks prior to the expiration date of the notary's commission.

(b) A notary whose commission has not expired must comply with the following requirements to be recommissioned:

- (1) Submit a new application meeting the requirements of G.S. 10B-6, except for G.S. 10B-6(2).
- (2) Meet all the requirements of G.S. 10B-5(b), except for G.S. 10B-5(b)(5), (6), and (9).
- (3) Achieve a passing score on the written examination required under G.S. 10B-8(b). This requirement does not apply if the notary is a licensed member of the North Carolina State Bar, or if the notary has been continuously commissioned in North Carolina since July 10, 1991, and has never been disciplined by the Secretary.

(c) An individual may apply for recommissioning within one year after the expiration of the individual's commission. The individual must comply with the requirement of subsection (b) of this section. The individual must also fulfill the educational requirement under G.S. 10B-8(a), unless the Secretary waives that requirement. (1991, c. 683, s. 2; 1995, c. 226, s. 2; 2005-391, s. 4; 2006-59, s. 5.)

§ 10B-12. Notarized declaration.

The application for a notary public commission shall contain the following declaration to be executed by each applicant under oath:

Declaration of Applicant

I, _____ (name of applicant), solemnly swear or affirm under penalty of perjury that the information in this application is true, complete, and correct; that I understand the official duties and responsibilities of a notary public in this State, as described in the statutes; and that I will perform to the best of my ability all notarial acts in accordance with the law.

(signature of applicant)

(2005-391, s. 4.)

§ 10B-13. Application fee.

Every applicant for a notary commission shall pay to the Secretary a nonrefundable application fee of fifty dollars (\$50.00). (2005-391, s. 4.)

§ 10B-14. Instructor's certification.

(a) The course of study required by G.S. 10B-5(b) shall be taught by an instructor certified under rules adopted by the Secretary. An instructor must meet the following requirements to be certified to teach a course of study for notaries public:

- (1) Complete and pass an instructor certification course of not less than six hours taught by the Director or other person approved by the Secretary.
- (2) Have at least one year of active experience as a notary public.
- (3) Maintain a current commission as a notary public.
- (4) Possess the current notary public guidebook.
- (5) Pay a nonrefundable fee of fifty dollars (\$50.00).

(b) Certification to teach a course of study for notaries shall be effective for two years. A certification may be renewed by passing a recertification course taught by the Director or other person approved by the Secretary and by paying a nonrefundable fee of fifty dollars (\$50.00).

(c) The following individuals may be certified to teach a course of study for notaries public without paying the fee required by this section, and they may renew their certification without paying the renewal fee, so long as they remain actively employed in the capacities named:

- (1) Registers of deeds.
- (2) Clerks of court.
- (3) The Director and other duly authorized employees of the Secretary.

(d) Former registers of deeds and clerks of court who have been certified as notary public instructors must apply for commissioning as a notary public but are exempt from the education requirements of G.S. 10B-8 after successful completion of an examination administered by the Secretary.

(e) Assistant and deputy registers of deeds and assistant and deputy clerks of court must have a regular notary commission prior to receiving a certification or recertification as a notary public instructor.

(f) The Secretary may suspend or revoke the certification of a notary instructor for violating the provisions of this Chapter or any of the administrative rules implementing it. (1991, c. 683, s. 2; 1998-212, s. 29A.9(a); 1998-228, s. 4; 1999-337, s. 3(b); 2005-391, s. 4.)

§ 10B-15: Reserved for future codification purposes.

§ 10B-16: Reserved for future codification purposes.

§ 10B-17: Reserved for future codification purposes.

§ 10B-18: Reserved for future codification purposes.

§ 10B-19: Reserved for future codification purposes.

Part 3. Notarial Acts, Powers, and Limitations.

§ 10B-20. Powers and limitations.

- (a) A notary may perform any of the following notarial acts:
 - (1) Acknowledgments.
 - (2) Oaths and affirmations.
 - (3) Repealed by Session Laws 2006-59, s. 6, effective October 1, 2006, and except as otherwise set forth in the act, applicable to notarial acts performed on or after October 1, 2006.
 - (4) Verifications or proofs.
- (b) A notarial act shall be attested by all of the following:
 - (1) The signature of the notary, exactly as shown on the notary's commission.
 - (2) The legible appearance of the notary's name exactly as shown on the notary's commission. The legible appearance of the 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.
 - (3) The clear and legible appearance of the notary's stamp or seal.
 - (4) A 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 shall not perform a notarial act if any of the following apply:
 - (1) Except as authorized in Part 4A of Article 2 of this Chapter, the principal or subscribing witness is not in the notary's presence at the time the notarial act is performed. However, nothing in this Chapter shall require a notary to complete the notarial certificate attesting to the notarial act in the presence of the principal or subscribing witness.
 - (2) The principal or subscribing witness is not personally known to the notary or identified by the notary through satisfactory evidence.
 - (2a) The credible witness is not personally known to the notary.
 - (3), (4) Repealed by Session Laws 2006-59, s. 8, effective October 1, 2006, and except as otherwise set forth in the act, applicable to notarial acts performed on or after October 1, 2006.
 - (5) The notary is a signer of, party to, or beneficiary of the record, that is to be notarized. However, a disqualification under this subdivision shall not apply to a notary who is named in a record solely as (i) the trustee in a deed of trust, (ii) the drafter of the record, (iii) the person to whom a registered document should be mailed or sent after recording, or (iv) 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. A notary who is an employee of a party shall not be disqualified under this subdivision solely because of the notary's employment by a party to the record or solely because the notary

owns stock in a party to the record.

- (6) The 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 G.S. 10B-31, 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 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.

(e) If a principal is physically unable to sign or make a mark on a record presented for notarization, that principal may designate another person as his or her designee, who shall be a disinterested party, 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 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.

(f) A notarial act performed in another jurisdiction in compliance with the laws of that jurisdiction is valid to the same extent as if it had been performed by a notary commissioned under this Chapter if the notarial act is performed by a notary public of that jurisdiction or by any person authorized to perform notarial acts in that jurisdiction under the laws of that jurisdiction, the laws of this State, or federal law.

(g) Persons authorized by federal law or regulation to perform notarial acts may perform the acts for persons serving in or with the Armed Forces of the United States, their spouses, and their dependents.

(h) The Secretary and register of deeds in the county in which a notary qualified may certify to the commission of the notary.

(i) A notary public who is not an attorney licensed to practice law in this State who advertises the person's services as a notary public in a language other than English, by radio, television, signs, pamphlets, newspapers, other written communication, or in any other 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 shall be of conspicuous size, if in writing, and shall state: "I AM NOT AN ATTORNEY LICENSED TO PRACTICE LAW IN THE STATE OF NORTH CAROLINA, AND I MAY NOT GIVE LEGAL ADVICE OR ACCEPT FEES FOR LEGAL ADVICE." 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 is prohibited from representing or advertising that the notary public is an "immigration consultant" or expert on immigration matters unless the notary public is an accredited representative of an

organization recognized by the Board of Immigration Appeals pursuant to Title 8, Part 292, section 2(a-e) of the Code of Federal Regulations (8 C.F.R. § 292.2(a-e)).

(k) A notary public who is not an attorney licensed to practice law in this State is prohibited from rendering any service that constitutes the unauthorized practice of law. A nonattorney notary shall not assist another person in drafting, completing, selecting, or understanding a record or transaction requiring a notarial act.

(l) A notary public required to comply with the provisions of subsection (i) of this section shall prominently post at the notary public's place of business a schedule of fees established by law, which a notary public may charge. The fee schedule shall be written in English and in the non-English language in which the notary services were solicited and shall contain the notice required in subsection (i) of this section, unless the notice is otherwise prominently posted at the notary public's place of business.

(m) If notarial certificate wording is not provided or indicated for a record, a notary who is not also a licensed attorney shall not determine the type of notarial act or certificate to be used. This does not prohibit a notary from offering the selection of certificate forms recognized in this Chapter or as otherwise authorized by law.

(n) A notary shall 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.

(o) Before signing a notarial certificate and except as provided in this subsection, a notary shall cross out or mark through all blank lines or spaces in the certificate. However:

- (1) Notwithstanding the provisions of this section, a notary shall not be required to complete, cross out, or mark through blank lines or spaces in the notary certificate form provided for in G.S. 47-43 indicating when and where a power of attorney is recorded if that recording information is not known to the notary at the time the notary completes and signs the certificate;
- (2) A notary's failure to cross out or mark through blank lines or spaces in a notarial certificate shall not affect the sufficiency, validity, or enforceability of the certificate or the related record; and
- (3) A notary's failure to cross out or mark through blank lines or spaces in a notarial certificate shall not be grounds for a register of deeds to refuse to accept a record for registration.

(p) Except as provided herein, a notary shall maintain the confidentiality of a principal's documents and information at all times. A notary may disclose confidential information in response to any of the following:

- (1) A valid subpoena.
- (2) A court order.
- (3) A warrant.
- (4) A written request from the Department made in connection with an administrative, civil, or criminal investigation into the conduct of a notary pursuant to G.S. 10B-60 or the conduct of a licensee or third-party vendor pursuant to G.S. 10B-134.23(c).

(5) A written request from all principals to a specific notarial transaction.

(q) Any journal entries or communication technology recordings, as defined in Article 2 of this Chapter, created by a notary in the course of performing a notarial act are not public records under G.S. 132-1. (1866, c. 30; 1879, c. 128; Code, s. 3307; Rev., ss. 2350, 2351a, 2352; C.S., ss. 3175, 3177, 3179; 1951, c. 1006, s. 1; 1953, c. 836; 1961, c. 733; 1967, c. 24, s. 22; c. 984; 1973, c. 680, s. 1; 1977, c. 375, s. 5; 1991, c. 683, s. 2; 1998-228, s. 5; 2001-450, s. 2; 2001-487,

s. 121; 2005-391, s. 4; 2006-59, ss. 6-12; 2006-199, s. 1; 2011-183, s. 7; 2013-204, s. 1.1; 2022-54, s. 2(b); 2023-57, ss. 2, 4(b); 2024-27, s. 3.)

§ 10B-21. Notaries ex officio.

(a) The clerks of the superior court may act as notaries public in their several counties by virtue of their offices as clerks and may certify their notarial acts only under the seals of their respective courts. Assistant and deputy clerks of superior court, by virtue of their offices, may perform the following notarial acts and may certify these notarial acts only under the seals of their respective courts:

- (1) Oaths and affirmations.
- (2) Verifications or proofs.

Upon completion of the course of study provided for in G.S. 10B-5(b), assistant and deputy clerks of superior court may, by virtue of their offices, perform all other notarial acts and may certify these notarial acts only under the seals of their respective courts. A course of study attended only by assistant and deputy clerks of superior court may be taught at any mutually convenient location agreed to by the Secretary and the Administrative Office of the Courts.

(b) Registers of deeds may act as notaries public in their several counties by virtue of their offices as registers of deeds and may certify their notarial acts only under the seals of their respective offices. Assistant and deputy registers of deeds, by virtue of their offices, may perform the following notarial acts and may certify these notarial acts only under the seals of their respective offices:

- (1) Oaths and affirmations.
- (2) Verifications or proofs.

Upon completion of the course of study provided for in G.S. 10B-5(b), assistant and deputy registers of deeds may, by virtue of their offices, perform all other notarial acts and may certify these notarial acts only under the seals of their respective offices. A course of study attended only by assistant and deputy registers of deeds may be taught at any mutually convenient location agreed to by the Secretary and the North Carolina Association of Registers of Deeds.

(c) The Director may act as a notary public by virtue of the Director's employment in the Department of the Secretary and may certify a notarial act performed in that capacity under the seal of the Secretary.

(d) Unless otherwise provided by law, a person designated a notary public by this section may charge a fee for a notarial act performed in accordance with G.S. 10B-31. The fee authorized by this section is payable to the governmental unit or agency by whom the person is employed.

(e) Nothing in this section shall authorize a person to act as a notary public other than in the performance of the official duties of the person's office unless the person complies fully with the requirements of G.S. 10B-5. (1833, c. 7, ss. 1, 2; R.C., c. 75, s. 3; Code, s. 3306; Rev., s. 2349; C.S., s. 3174; 1973, c. 680, s. 1; 1991, c. 683, s. 2; 1998-228, s. 8.; 2005-391, s. 4.)

§ 10B-22. False certificate; foreign language certificates.

(a) A notary shall not execute a notarial certificate containing information known or believed by the notary to be false.

(b) A notary shall 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 those instances, the notary shall execute only the English language

certificate. (2005-391, s. 4.)

§ 10B-23. Improper records.

(a) A notary shall not notarize a signature on a record without a notarial certificate indicating what type of notarial act was performed. However, a notary may administer an oath or affirmation without completing a jurat.

(b) A notary shall neither certify, notarize, nor authenticate a photograph. A notary may notarize an affidavit regarding and attached to a photograph. (2005-391, s. 4; 2006-59, s. 13.)

§ 10B-24. Testimonials.

A notary shall not use the official notary title or seal in a manner intended to endorse, promote, denounce, or oppose any product, service, contest, candidate, or other offering. This section does not prohibit a notary public from performing a notarial act upon a record executed by another individual. (2005-391, s. 4.)

§ 10B-25. (Expires June 30, 2024 - see note) Emergency video notarization.

(a) Notwithstanding any other provision of law, a notary may perform an emergency video notarization using video conference technology provided all of the requirements of this section are satisfied. A notary who is not satisfied that the principal's identity has been proven by satisfactory evidence shall not be required to complete an emergency video notarization. An emergency video notarization shall not change any originality verification requirements for recording with a register of deeds, clerk of superior court, or other government or private office in this State. Nothing in this section shall apply to any notarization under Article 20 of Chapter 163 of the General Statutes.

(b) As used in this section, video conference technology is electronic communication that:

- (1) Occurs in real time.
- (2) Allows direct interaction between the principal seeking the notary's services and the notary so that each can communicate simultaneously by sight and sound through an electronic device or process.
- (3) Includes audio with sound clear enough that each participant in the notarial act can hear and understand all other participants.
- (4) Has sufficient quality to allow a clear and unobstructed visual observation of the face of each participant, and any identification provided by the principal for a sufficient time to allow the notary to determine if it is satisfactory evidence. The notary shall determine if the time is sufficient.
- (5) Is not prerecorded video or audio or both.
- (6) May be capable of recording by means of one of the following:
 - a. The video conference technology's recording and storage services.
 - b. An independent video recording device.
 - c. Electronically saved screenshots clearly showing each participant's face, identification presented by the principal, and the notarized document.

(c) The requirement of personal appearance, appear in person before a notary, physical presence, and presence, as those terms are used in this Chapter, are satisfied for the purpose of an emergency video notarization if the notary is physically present in North Carolina, the principal verifies to the notary that he or she is physically present in North Carolina at the time of the notarization, the principal identifies the county where he or she is located at the time of the notarial act, and the principal and notary use video conference technology that complies with the

requirements of this section.

(d) A notary who has personal knowledge of a principal may rely on the video conference technology to verify the principal's identity unless the notary, in the notary's sole discretion, requires satisfactory evidence. A notary who does not have personal knowledge of a principal shall require satisfactory evidence of the principal's identity. The requirement of satisfactory evidence, as that term is used in this Chapter, is satisfied for the purpose of an emergency video notarization if identification of the principal is based on at least one document that meets all of the following:

- (1) Is current.
- (2) Is issued by a federal, state, or federal or state-recognized tribal government agency.
- (3) Bears a photographic image of the principal's face.
- (4) Has both the principal's signature and a physical description of the principal.

(e) The notary shall use video conference technology to observe each principal sign each document that is to be notarized. The principal shall verbally state what documents are being signed for the notarial record. After the document is signed by the principal, the principal or the principal's designee shall do the following:

- (1) If an original wet-signed notarization on an original wet-signed document is not required, transmit a legible copy of the signed document to the notary by fax or other electronic means on the same day it was signed. The notary shall notarize the document on the same day the notary receives the document, and the notary shall transmit the notarized document back to the principal or the principal's designee by physical delivery, fax, or other electronic means on the same day the notary signed the document.
- (2) If an original wet-signed notarization on an original wet-signed document is required, transmit a legible copy of the signed document by fax or other electronic means to the notary on the same day on which the document was signed and also deliver the original signed document to the notary by mail or other physical method. The notary shall compare the original document with the document transmitted by fax or other electronic means. If the faxed or electronic document is the same as the document received by mail or physical delivery, the notary shall notarize the wet signature on the original document and date the notarial act as of the date of the act observed using video conference technology and promptly transmit the original wet-notarized original document to the principal or the principal's designee by mail or other physical delivery as directed by the principal.

(f) If the notarial act is an oath or affirmation, the notary shall administer the oath or affirmation to the affiant using video conference technology.

(g) An acknowledgement or jurat certificate for an emergency video notarization shall include all of the following:

- (1) The North Carolina county in which the notary public was located during the emergency video notarization.
- (2) The North Carolina county in which the principal stated he or she was physically located during the emergency video notarization.
- (3) The following statement:

I signed this notarial certificate on _____ (Date) according to the emergency video notarization requirements contained in G.S. 10B-25.

(h) If an acknowledgement or jurat certificate provided to a notary does not include the statement required by subsection (g) of this section, the notary shall insert the statement. By making or giving a notarial certificate using emergency video notarization, whether or not stated in the certificate, a notary certifies compliance with all the requirements of this section.

(i) A notary who performs an emergency video notarization shall record information about the notarization in a notary journal that is the exclusive property of the notary. The journal shall be retained by the notary for at least 10 years and may be maintained in electronic form. The notary shall keep the journal in a secure location and shall not allow another person to make entries in the journal. A notary may surrender the journal to the notary's employer upon termination of employment, but the notary shall also keep and maintain an accurate copy of the journal.

(j) At a minimum, for each emergency video notarization, the notary shall include the following information in the journal:

- (1) The time of day when the notary observed the signing of the document by each principal and was presented with the principal's acceptable form of identification.
- (2) The date of the completion of the emergency video notarization notarial certificate.
- (3) The last and first name of each principal.
- (4) The type of notarial act performed.
- (5) The type of document notarized or proceeding performed.
- (6) The type of acceptable form of identification presented including, if applicable, the issuing agency and identification number on the identification presented.
- (7) The type of video conference technology used during the emergency video notarization.
- (8) A statement that the notary and each principal could see and hear each other.
- (9) Whether any other person was present with the principal at the time of signature and if so, the name of that person.

(k) A third party involved in a transaction that utilizes an emergency video notarization may require additional information to be included in the journal kept by the notary under subsection (j) of this section such as inclusion of a recording in the notary's journal or the method used by the notary to determine that a wet-signed original document is the same as the faxed or electronically submitted document.

(l) As a public official, a notary shall maintain the confidentiality of a principal's documents at all times.

(m) The Secretary may issue interpretive guidance or issue emergency or temporary rules as necessary to ensure the integrity of the emergency video notarization measures provided for in this section.

(n) This section shall expire at 12:01 A.M. on July 1, 2025; provided, however, all notarial acts made in accordance with this section and while this section is in effect shall remain effective and shall not need to be reaffirmed. (2020-3, s. 4.1(c); 2020-74, s. 27(b); 2020-80, s. 2.9(b); 2021-3, s. 2.10(a); 2022-54, s. 3(b); 2023-57, s. 1(a); 2024-47, s. 2(a).)

§ 10B-26: Reserved for future codification purposes.

§ 10B-27: Reserved for future codification purposes.

§ 10B-28: Reserved for future codification purposes.

§ 10B-29: Reserved for future codification purposes.

Part 4. Fees.

§ 10B-30. Imposition and waiver of fees.

(a) For performing a notarial act, a notary may charge up to the maximum fee specified in this Chapter.

(b) A notary shall not discriminatorily condition the fee for a notarial act on any attribute of the principal that would constitute unlawful discrimination.

(c) Nothing in this Chapter shall compel a notary to charge a fee.

(d) A notary may not charge any fee for witnessing and affixing a notarial seal to an absentee ballot application or certificate under G.S. 163-231. (2005-391, s. 4; 2013-381, s. 4.7; 2017-6, s. 3; 2018-146, ss. 3.1(a), (b), 6.1.)

§ 10B-31. Fees for notarial acts.

The maximum fees that may be charged by a notary for notarial acts are as follows:

(1) For acknowledgments, jurats, verifications or proofs, ten dollars (\$10.00) per notarized principal signature.

(2) For oaths or affirmations without a signature, ten dollars (\$10.00) per person, except for an oath or affirmation administered to a credible witness to vouch for the identity of a principal or subscribing witness.

(3) For an electronic acknowledgement or, jurats, fifteen dollars (\$15.00) per electronically notarized principal signature.

(3a) For an electronic oath or affirmation without a signature, fifteen dollars (\$15.00) per person, except for an oath or affirmation administered to a credible witness to vouch for the identity of a principal or subscribing witness.

(4) For remote notarization under Part 4A of Article 2 of this Chapter, twenty-five dollars (\$25.00) per notarized principal signature.

(5) For any notarial act under this Chapter, actual mileage at the federal business mileage rate if the travel reimbursement is agreed to by the principal in writing prior to the travel. (Code, s. 3749; 1889, c. 446; 1895, c. 296; 1903, c. 734; Rev., s. 2800; C.S., s. 3178; 1973, c. 680, s. 1; 1977, c. 429, ss. 1, 2; 1981, c. 872; 1991, c. 683, s. 2; 1998-228, s. 6; 2005-328, s. 1; 2005-391, s. 4; 2006-59, s. 14; 2022-54, s. 3(e); 2023-57, s. 5.5(a).)

§ 10B-32. Notice of fees.

Notaries who charge for their notarial services shall conspicuously display in their places of business, or present to each principal outside their places of business, an English-language schedule of fees for notarial acts. No part of any notarial fee schedule shall be printed in smaller than 10-point type. (2005-391, s. 4.)

§ 10B-33: Reserved for future codification purposes.

§ 10B-34: Reserved for future codification purposes.

Part 5. Signature and Seal.

§ 10B-35. Official signature.

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 G.S. 10B-20(b)(1) and (b)(2). The notary shall affix the official signature only after the notarial act is performed. The notary shall not sign a paper record using the facsimile stamp or an electronic or other printing method. (2005-391, s. 4; 2006-59, s. 15.)

§ 10B-36. Official seal.

(a) A notary shall keep an official seal or stamp that is the exclusive property of the notary. The notary shall keep the seal in a secure location. A notary shall not allow another person to use or possess the seal, and shall not surrender the seal to the notary's employer upon termination of employment.

(b) The seal shall be affixed only after the notarial act is performed. The notary shall place the image or impression of the seal near the notary's signature on every paper record notarized. The seal and the notary's signature shall appear on the same page of a record as the text of the notarial certificate.

(c) A notary shall do the following within 10 days of discovering that the notary's seal has been lost or stolen:

- (1) Inform the appropriate law enforcement agency in the case of theft or vandalism.
- (2) Notify the appropriate register of deeds and the Secretary in writing and signed in the official name in which he or she was commissioned.

(d) Repealed by Session Laws 2023-57, s. 4(d), effective July 1, 2023.

(e) A vendor or manufacturer shall not provide a notary seal to a purchaser claiming to be a notary, unless the purchaser presents a notary commission issued by the Secretary and one of the following applies:

- (1) In the case of a purchaser appearing in person, the vendor or manufacturer identifies this individual as the person named in the commission, through either personal knowledge or satisfactory evidence of identity.
- (2) In the case of a purchaser ordering a seal by mail or delivery service, the vendor or manufacturer confirms the notary's standing as a commissioned notary as established by rules issued by the Secretary. Such rules may include the establishment of an internet site or other means maintained by the Secretary for this purpose. (1973, c. 680, s. 1; 1991, c. 683, s. 2; 1998-228, s. 7; 2005-391, s. 4; 2006-59, s. 16; 2023-57, ss. 4(d), (e).)

§ 10B-37. Seal image.

(a) A notary shall affix the notary's official seal near the notary's official signature on the notarial certificate of a record.

(b) A notary's official seal shall include all of the following elements:

- (1) The notary's name exactly as commissioned.
- (2) The words "Notary Public".
- (3) The county of commissioning, including the word "County" or the abbreviation "Co."
- (4) The words "North Carolina" or the abbreviation "N.C." or "NC".

(c) The notary seal may be either circular or rectangular in shape. Upon receiving a

commission or a recommission on or after October 1, 2006, a notary shall not use a circular seal that is less than 1 1/2 inches, nor more than 2 inches in diameter. The rectangular seal shall not be over 1 inch high and 2 1/2 inches long. The perimeter of the seal shall contain a border that is visible when impressed.

(c1) Alterations to any information contained within the seal as embossed or stamped on the record are prohibited.

(d) A notarial seal, as it appears on a record, may contain the permanently imprinted, handwritten, or typed date the notary's commission expires.

(e) Any reference in the General Statutes to the seal of a notary shall include the stamp of a notary, and any reference to the stamp of a notary shall include the seal of the notary.

(f) The failure of a notarial seal to comply with the requirements of this section shall not affect the sufficiency, validity, or enforceability of the notarial certificate, but shall constitute a violation of the notary's duties. (2005-391, s. 4; 2006-59, s. 17; 2013-204, s. 1.2.)

§ 10B-38. Journal.

Each notary may maintain a journal of all notarial acts performed in the manner required for that type of notarial act and in accordance with rules adopted by the Secretary. (2023-57, s. 4(f); 2023-124, s. 4.1.)

§ 10B-39: Reserved for future codification purposes.

Part 6. Certificate Forms.

§ 10B-40. Notarial certificates in general.

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

(a1) By making or giving a notarial certificate, whether or not stated in the certificate, a notary certifies as follows:

- (1) As to an acknowledgment, all those things described in G.S. 10B-3(1).
- (2) As to an affirmation, all those things described in G.S. 10B-3(2).
- (3) As to an oath, all those things described in G.S. 10B-3(14).
- (4) As to a verification or proof, all those things described in G.S. 10B-3(28).

(a2) In addition to the certifications under subsection (a1) of this section, by making or giving a notarial certificate, whether or not stated in the certificate, a notary certifies to all of the following:

- (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 provision 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 acting involuntarily, under duress, or undue influence.
- (3) The notary was not prohibited from acting under G.S. 10-20(c).

(a3) 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, shall not invalidate an otherwise sufficient notarial certificate.

(b) A notarial certificate for the acknowledgment taken by a notary of a principal who is an individual acting in his or her own right or who is an individual acting in a representative or fiduciary capacity is sufficient and shall be accepted in this State if it is substantially in the form set forth in G.S. 10B-41, if it is substantially in a form otherwise prescribed by the laws of this State, or if it includes all of the following:

- (1) Identifies the state and county in which the acknowledgment occurred.
- (2) Names the principal who appeared in person before the notary.
- (3) Repealed by Session Laws 2006-59, s. 18, effective October 1, 2006, and except as otherwise set forth in the act, applicable to notarial acts performed on or after October 1, 2006.
- (4) Indicates that the principal appeared in person before the notary and the principal acknowledged that he or she signed the record.
- (5) States the date of the acknowledgment.
- (6) Contains the signature and seal or stamp of the notary who took the acknowledgment.
- (7) States the notary's commission expiration date.

(c) 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 shall be accepted in this State if it is substantially in the form set forth in G.S. 10B-42, if it is substantially in a form otherwise prescribed by the laws of this State, or if it includes all of the following:

- (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) Repealed by Session Laws 2006-59, s. 18, effective October 1, 2006.
- (4) Names the principal whose signature on the record is to be verified or proven.
- (5) 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.
- (6) States the date of the verification or proof.
- (7) Contains the signature and seal or stamp of the notary who took the verification or proof.
- (8) States the notary's commission expiration date.

(c1) A notarial certificate for the verification or proof of the signature of a principal or a subscribing witness by a nonsubscribing witness taken by a notary is sufficient and shall be accepted in this State if it is substantially in the form set forth in G.S. 10B-42.1, if it is substantially in a form otherwise prescribed by the laws of this State, or if it includes all of the following:

- (1) Identifies the state and county in which the verification or proof occurred.
- (2) Names the nonsubscribing witness who appeared in person before the notary.
- (3) Names the principal or subscribing witness whose signature on the record is to be verified or proven.
- (4) Indicates that the nonsubscribing witness certified to the notary under oath or by affirmation that the nonsubscribing witness is not a party to or beneficiary of

the transaction and that the nonsubscribing witness recognizes the signature of either the principal or the subscribing witness and that the signature is genuine.

(5) States the date of the verification or proof.

(6) Contains the signature and seal or stamp of the notary who took the verification or proof.

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

(d) A notarial certificate for an oath or affirmation taken by a notary is sufficient and shall be accepted in this State if it is substantially in the form set forth in G.S. 10B-43, if it is substantially in a form otherwise prescribed by the laws of this State, or if it includes all of the following:

(1) Repealed by Session Laws 2006-59, s. 18, effective October 1, 2006.

(2) Names the principal who appeared in person before the notary unless the name of the principal otherwise is clear from the record itself.

(3) Repealed by Session Laws 2006-59, s. 18, effective October 1, 2006.

(4) 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.

(5) States the date of the oath or affirmation.

(6) Contains the signature and seal or stamp of the notary who took the oath or affirmation.

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

(e) Any notarial certificate made in another jurisdiction shall be sufficient in this State if it is made in accordance with federal law or the laws of the jurisdiction where the notarial certificate is made.

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

(g) Nothing in this Chapter shall be deemed to authorize the use of a notarial certificate authorized by this Part in place of or as an alternative to a notarial certificate required by any other provision of the General Statutes outside of Chapter 47 of the General Statutes that prescribes the specific form or content for a notarial certificate including G.S. 31-11.6, Chapter 32A of the General Statutes, and G.S. 90-321. However, any statute that permits or requires the use of a notarial certificate contained within Chapter 47 of the General Statutes may also be satisfied by the use of a notarial certificate permitted by this Part. Any form of acknowledgment or probate authorized under Chapter 47 of the General Statutes shall be conclusively deemed in compliance with the requirements of this section.

(h) If an individual signs a record and purports to be acting in a representative or fiduciary capacity, that individual is also deemed to represent to the notary that he or she is signing the record with proper authority to do so and also is signing the record on behalf of the person or entity represented and identified therein or in the fiduciary capacity indicated therein. In performing a notarial act in relation to an individual described under this subsection, a notary is under no duty to verify whether the individual acted in a representative or fiduciary capacity or, if so, whether the individual was duly authorized so to do. A notarial certificate may include any of the following:

(1) A statement that an individual signed a record in a particular representative or fiduciary capacity.

- (2) A statement that the individual who signed the record in a representative or fiduciary capacity had due authority so to do.
- (3) A statement identifying the represented person or entity or the fiduciary capacity. (2005-391, s. 4; 2006-59, s. 18.)

§ 10B-41. Notarial certificate for an acknowledgment.

(a) When properly completed by a notary, a notarial certificate that substantially complies with the following form may be used and shall be sufficient under the law of this State to satisfy the requirements for a notarial certificate for the acknowledgment of a principal who is an individual acting in his or her own right or who is an individual acting in a representative or fiduciary capacity. The authorization of the form in this section does not preclude the use of other forms.

_____ County, North Carolina

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she signed the foregoing document: name(s) of principal(s).

Date: _____ Official Signature of Notary

Notary's printed or typed name, Notary Public

(Official Seal) My commission expires: _____

(b) Repealed by Session Laws 2006-59, s. 19, effective October 1, 2006, and except as otherwise set forth in the act, applicable to notarial acts performed on or after October 1, 2006.

(c) The notary's printed or typed name as shown in the form provided in subsection (a) of this section is not required if 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. (2005-391, s. 4; 2006-59, s. 19.)

§ 10B-42. Notarial certificate for a verification or of subscribing witness.

(a) When properly completed by a notary, a notarial certificate in substantially the following form may be used and shall be sufficient under the law of this State to satisfy the requirements for a notarial certificate for the verification or proof of the signature of a principal by a subscribing witness. The authorization of the form in this section does not preclude the use of other forms.

_____ County, North Carolina

I certify that (name of subscribing witness) personally appeared before me this day and certified to me under oath or by affirmation that he or she is not a grantee or beneficiary of the transaction, signed the foregoing document as a subscribing witness, and either (i) witnessed (name of principal) sign the foregoing document or (ii) witnessed (name of principal) acknowledge his or her signature on the already-signed document.

Date: _____ Official Signature of Notary

Notary's printed or typed name, Notary Public

(Official Seal) My commission expires: _____

(b) Repealed by Session Laws 2006-59, s. 20, effective October 1, 2006, except as otherwise set forth in the act, and applicable to notarial acts performed on or after October 1, 2006.

(c) The notary's printed or typed name as shown in the form provided in subsection (a) of this section is not required if 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. (2005-391, s. 4; 2006-59, s. 20.)

§ 10B-42.1. Notarial certificate for a verification of nonsubscribing witness.

(a) When properly completed by a notary, a notarial certificate in substantially the following form may be used and shall be sufficient under the law of this State to satisfy the requirements for a notarial certificate for the verification or proof of the signature of a principal or subscribing witness by a nonsubscribing witness. The authorization of the form in this section does not preclude the use of other forms.

_____ County, North Carolina

I certify (name of nonsubscribing witness) personally appeared before me this day and certified to me under oath or by affirmation that he or she is not a grantee or beneficiary of the transaction, that (name of nonsubscribing witness) recognizes the signature of (name of the principal or the subscribing witness) and that the signature is genuine.

Date: _____ Official Signature of Notary

Notary's printed or typed name, Notary Public

(Official Seal) My commission expires: _____

(b) The notary's printed or typed name as shown in the form provided in subsection (a) of this section is not required if 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. (2006-59, s. 21.)

§ 10B-43. Notarial certificate for an oath or affirmation.

(a) When properly completed by a notary, a notarial certificate that substantially complies with either of the following forms may be used and shall be sufficient under the law of this State to satisfy the requirements for a notarial certificate for an oath or affirmation. The authorization of the forms in this section does not preclude the use of other forms.

_____ County, North Carolina

Signed and sworn to before me this day by (name of principal).

Date: _____ Official Signature of Notary

Notary's printed or typed name, Notary Public

(Official Seal) My commission expires: _____

-OR-

_____ County, North Carolina

Sworn to and subscribed before me this day by (name of principal).

Date: _____ Official Signature of Notary

Notary's printed or typed name, Notary Public

(Official Seal) My commission expires: _____

(b) Repealed by Session Laws 2006-59, s. 22, effective October 1, 2006, except as otherwise set forth in the act, and applicable to notarial acts performed on or after October 1, 2006.

(c) The notary's printed or typed name as shown in the form provided in subsection (a) of this section is not required if 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.

(d) In either of the forms provided under subsection (a) of this section all of the following shall apply:

- (1) The name of the principal may be omitted if the name of the principal is located near the jurat, and the principal who so appeared before the notary is clear from the record itself.
- (2) The words “affirmed” or “sworn to or affirmed” may be substituted for the words “sworn to”. (2005-391, s. 4; 2006-59, s. 22.)

§ 10B-44: Reserved for future codification purposes.

§ 10B-45: Reserved for future codification purposes.

§ 10B-46: Reserved for future codification purposes.

§ 10B-47: Reserved for future codification purposes.

§ 10B-48: Reserved for future codification purposes.

§ 10B-49: Reserved for future codification purposes.

Part 7. Changes in Status.

§ 10B-50. Change of address.

(a) Within 45 days after the change of a notary’s residence, business, or any mailing address or telephone number, the notary shall send to the Secretary by an online notification to the extent it is made available by the Secretary, fax, e-mail, or certified mail, return receipt requested, a signed notice of the change, giving both old and new mailing and email addresses or telephone numbers.

(b) Information provided by a notary in accordance with this section shall be treated as if submitted in an application under G.S. 10B-7 or G.S. 10B-106. (1991, c. 683, s. 2; 1995, c. 226, s. 3; 2005-391, s. 4; 2023-57, s. 5(a).)

§ 10B-51. Change of name.

(a) Within 45 days after the legal change of a notary’s name, the notary shall send to the Secretary by an online notification to the extent it is made available by the Secretary, fax, e-mail, or certified mail, return receipt requested, a signed notice of the change. The notice shall include both the notary’s former name and the notary’s new name.

(b) A notary with a new name may continue to use the former name in performing notarial acts until all of the following steps have been completed:

- (1) The notary receives a confirmation of Notary’s Name Change from the Secretary.
- (2) The notary obtains a new seal bearing the new name exactly as that name appears in the confirmation from the Secretary.
- (3) The notary appears before the register of deeds to which the commission was delivered within 45 days of the effective date of the change to be duly qualified by taking the general oath of office prescribed in G.S. 11-11 and the oath prescribed for officers in G.S. 11-7 under the new name and to have the notary public record changed to reflect the new commissioned name.

(c) Upon completion of the requirements in subsection (b) of this section, the notary shall use the new name. (1991, c. 683, s. 2; 1995, c. 226, s. 3; 2005-391, s. 4; 2023-57, s. 5(b).)

§ 10B-52. Change of county.

(a) A notary who has moved to another county in North Carolina remains commissioned until the current commission expires, is not required to obtain a new seal, and may continue to notarize without changing his or her seal.

(b) When a notary who has moved applies to be recommissioned, if the commission is granted the, Secretary shall issue a notice of recommissioning. The commission applicant shall then do all of the following:

- (1) Obtain a new seal bearing the new county exactly as in the notice of recommissioning.
- (2) Appear before the register of deeds to which the commission was delivered within 45 days of recommissioning, to be duly qualified by taking the general oath of office prescribed in G.S. 11-11 and the oath prescribed for officers in G.S. 11-7 under the new county and to have the notary public record changed to reflect the new county name. (1991, c. 683, s. 2; 1995, c. 226; s. 3; 2005-391, s. 4.)

§ 10B-53. Change of both name and county.

Within 45 days after the legal change of a notary's name, and if the notary has also moved to a different county than as last commissioned, the notary shall submit to the Secretary a recommissioning application and fee pursuant to this Chapter. The notary may continue to perform notarial acts under the notary's previous name and seal until all of the following steps have been completed:

- (1) The notary receives a transmittal receipt of reappointment due to name and county change from the Secretary.
- (2) The notary obtains a new seal bearing the new name and county exactly as those items appear in the transmittal receipt.
- (3) The notary appears before the register of deeds to which the commission was delivered within 45 days of recommissioning to be duly qualified by taking the general oath of office prescribed in G.S. 11-11 and the oath prescribed for officers in G.S. 11-7 under the new name and county and to have the notary public record changed to reflect the new name and county. (1991, c. 683, s. 2; 1995, c. 226, s. 3; 2005-391, s. 4.)

§ 10B-54. Resignation.

(a) A notary who resigns the notary's commission shall send to the Secretary by an online notification to the extent it is made available by the Secretary, fax, e-mail, or certified mail, return receipt requested, a signed notice indicating the effective date of resignation.

(b) Notaries who cease to reside in or to maintain a regular place of work or business in this State, or who become permanently unable to perform their notarial duties, shall resign their commissions and shall deliver their seals to the Secretary by hand delivery, certified mail, return receipt requested, or other means offered by the United States Postal Service allowing confirmation of delivery by signature. (2005-391, s. 4; 2023-57, s. 5(c).)

§ 10B-55. Disposition of seal; death of notary.

(a) When a notary commission has expired, has been revoked, or the notary has resigned, the notary shall deliver the notary's seal to the Secretary within 45 days of the expiration, resignation, or revocation. Delivery shall be accomplished by hand delivery, courier service, certified mail, return receipt requested, or other means offered by the United States Postal

Service allowing confirmation of delivery by signature. The Secretary shall destroy any seal received under this subsection.

(b) A notary whose commission has expired and whose previous commission or application was not revoked or denied by this State, is not required to deliver the seal to the Secretary as provided under subsection (a) of this section if the notary intends to apply to be recommissioned and is recommissioned within three months after the notary's commission expires.

(c) If a notary dies while commissioned or before fulfilling the disposition of seal requirements in this section, the notary's estate shall, as soon as is reasonably practicable and no later than the closing of the estate, notify the Secretary in writing of the notary's death and deliver the notary's seal to the Secretary for destruction. A personal representative who is not a notary does not have to comply with the provisions of this subsection if he or she provides a statement under oath in any enforcement proceeding that he or she was unaware that the decedent was a commissioned notary public at the time of death. (2005-391, s. 4; 2013-204, s. 1.3; 2023-57, s. 5(d).)

§ 10B-56: Reserved for future codification purposes.

§ 10B-57: Reserved for future codification purposes.

§ 10B-58: Reserved for future codification purposes.

§ 10B-59: Reserved for future codification purposes.

Part 8. Enforcement, Sanctions, and Remedies.

§ 10B-60. Enforcement and penalties.

(a) The Secretary may issue a warning, restriction, suspension, or revocation for a violation of this Chapter, rules adopted pursuant to this Chapter, and on any ground for which an application, registration, certification, approval, or license may be denied. Any period of restriction, suspension, or revocation shall not extend the expiration date of a commission, registration, certification, approval, or license issued pursuant to this Chapter.

(b) Except as otherwise permitted by law, a person who commits any of the following acts is guilty of a Class 1 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.
- (3) Performing a notarial act before the person had taken the oath of office.

(c) A notary shall be guilty of a Class 1 misdemeanor if the notary does any of the following:

- (1) Takes an acknowledgment or administers an oath or affirmation without the principal appearing in person before the notary.
- (2) Takes a verification or proof without the subscribing witness appearing in person before the notary.
- (3) Takes an acknowledgment or administers an oath or affirmation without personal knowledge or satisfactory evidence of the identity of the principal.
- (4) Takes a verification or proof without personal knowledge or satisfactory evidence of the identity of the subscribing witness.

- (d) A notary shall be guilty of a Class I felony if the notary does any of the following:
- (1) Takes an acknowledgment or a verification or a proof, or administers an oath or affirmation if the notary knows it is false or fraudulent.
 - (2) Takes an acknowledgment or administers an oath or affirmation without the principal appearing in person before the notary if the notary does so with the intent to commit fraud.
 - (3) Takes a verification or proof without the subscribing witness appearing in person before the notary if the notary does so with the intent to commit fraud.
- (e) It is a Class I felony for any person to perform notarial acts in this State with the knowledge that the person is not commissioned under this Chapter.
- (f) Any person who without authority obtains, uses, conceals, defaces, or destroys the seal or notarial records of a notary is guilty of a Class I felony.
- (g) For purposes of enforcing this Chapter and Article 34 of Chapter 66 of the General Statutes, the following provisions are applicable:
- (1) Law enforcement agents of the Department of the Secretary of State have statewide jurisdiction and have all of the powers and authority of law enforcement officers and may conduct any investigation within or outside of this State as the Secretary deems necessary to determine whether any person has violated or is about to violate any provision of this Chapter or the rules adopted pursuant to this Chapter. The agents have the authority to assist law enforcement agencies in their investigations and to initiate and carry out, on their own or in coordination with other law enforcement agencies, investigations of violations.
 - (2) Any party to a transaction requiring a notarial certificate for verification and any attorney licensed in this State who is involved in such a transaction in any capacity, whether or not the attorney is representing one of the parties to the transaction, may execute an affidavit and file it with the Secretary of State, setting forth the actions which the affiant alleges constitute violations. Upon receipt of the affidavit, law enforcement agents of the Department shall initiate and carry out, on their own or in coordination with other law enforcement agencies, investigations of violations.
 - (3) The Secretary may refer such evidence as is available pertaining to violations of this Chapter or other criminal acts involving a notarization under this Chapter to the proper district attorney, who may, with or without such a referral, institute the appropriate criminal proceedings. Upon receipt of a referral, the district attorney may request that a duly employed attorney of the Secretary prosecute or assist in the prosecution of the criminal proceedings on behalf of the State. Upon approval of the Secretary, the employee may be appointed as a special prosecutor for the district attorney to prosecute or assist in the prosecution of the criminal proceedings without receiving compensation from the district attorney. Such a special prosecutor shall have all the powers and duties prescribed by law for district attorneys and such other powers and duties as are lawfully delegated to the special prosecutor by the district attorney for the prosecution for which appointed.
 - (4) The files and records of the Secretary related to criminal investigations and enforcement proceedings undertaken pursuant to this Chapter are subject to the provisions of G.S. 132-1.4. The files and records of the Secretary relating

to noncriminal investigations and enforcement proceedings undertaken pursuant to this Chapter shall not be subject to inspection and examination pursuant to G.S. 132-6 while the investigations or proceedings are pending, except as provided by G.S. 1A-1.

(5) Any information obtained by the Secretary from any law enforcement agency, administrative agency, or regulatory organization on a confidential or otherwise restricted basis in the course of an investigation or enforcement proceeding undertaken pursuant to this Chapter shall be confidential and exempt from G.S. 132-6 to the same extent that it is confidential in the possession of the providing agency or organization.

(h) Resignation or expiration of a notarial commission does not terminate or preclude an investigation into a notary's conduct by the Secretary, who may pursue the investigation to a conclusion, whereupon it may be a matter of public record whether or not the finding would have been grounds for disciplinary action.

(i) The Secretary may seek injunctive relief against any person who violates the provisions of this Chapter. Nothing in this Chapter diminishes the authority of the North Carolina State Bar.

(j) Any person who knowingly solicits, coerces, or in any material way influences a notary to commit official misconduct, is guilty as an aider and abettor and is subject to the same level of punishment as the notary.

(k) The sanctions and remedies of this Chapter supplement other sanctions and remedies provided by law, including, but not limited to, forgery and aiding and abetting.

(l) The Secretary shall notify the North Carolina State Bar (State Bar) of any final decision finding a violation of subsection (a) of this section by a notary who is also an attorney-at-law licensed under Chapter 84 of the General Statutes. The Secretary shall endeavor to provide a copy of any court order rendered under subsection (b), (c), (d), (e), (f), or (j) of this section to the State Bar in cases where the notary is an attorney-at-law licensed under Chapter 84 of the General Statutes. Any referral by the Secretary to the State Bar under this subsection shall be considered a showing of professional unfitness under G.S. 84-28(d), and the State Bar shall administer discipline accordingly.

(m) A vendor or manufacturer who fails to comply with G.S. 10B-36(e) shall be subject to a fine of one thousand dollars (\$1,000) for each violation. Such violation shall not preclude the civil liability of the vendor or manufacturer to parties injured by failure to comply with G.S. 10B-36(e).

(n) Any person who knowingly creates, manufactures, or distributes a notary seal for the purpose of allowing a person to act as a notary without being commissioned and registered in accordance with this Chapter shall be guilty of a Class G felony. (1991, c. 683, s. 2; 1993, c. 539, ss. 6-8, 1121; 1994 Ex. Sess., c. 24, s. 14(c); 1995, c. 226, s. 4; 2001-450, s. 3; 2005-391, s. 4; 2006-59, s. 23; 2013-204, s. 1.4; 2013-387, s. 5; 2022-54, s. 7; 2023-57, ss. 2, 5(e).)

§ 10B-61: Reserved for future codification purposes.

§ 10B-62: Reserved for future codification purposes.

§ 10B-63: Reserved for future codification purposes.

§ 10B-64: Reserved for future codification purposes.

Part 9. Validation of Notarial Acts.

§ 10B-65. Acts of notaries public in certain instances validated.

(a) Any acknowledgment taken and any instrument notarized by a person prior to qualification as a notary public but after commissioning or recommissioning as a notary public, or by a person whose notary commission has expired, is validated. The acknowledgment and instrument have the same legal effect as if the person qualified as a notary public at the time the person performed the act.

(b) All documents bearing a notarial seal and that contain any of the following errors are validated and given the same legal effect as if the errors had not occurred:

- (1) The date of the expiration of the notary's commission is stated, whether correctly or erroneously.
- (2) The notarial seal does not contain a readable impression of the notary's name, contains an incorrect spelling of the notary's name, or does not bear the name of the notary exactly as it appears on the commission, as required under G.S. 10B-37.
- (3) The notary's signature does not comport exactly with the name on the notary commission or on the notary seal, as required by G.S. 10B-20.
- (4) The notarial seal contains typed, printed, drawn, or handwritten material added to the seal, fails to contain the words "North Carolina" or the abbreviation "NC", or contains correct information except that instead of the abbreviation for North Carolina contains the abbreviation for another state.
- (5) The date of the acknowledgement, the verification or proof, or the oath or affirmation states the correct day and month but lacks a year or states an incorrect year.

(c) All deeds of trust in which the notary was named in the document as a trustee only are validated.

(d) All notary acknowledgments performed before July 1, 2013, bearing a notarial seal are validated.

(e) This section applies to notarial acts performed on or before April 1, 2021. (1945, c. 665; 1947, c. 313; 1949, c. 1; 1953, c. 702; 1961, cc. 483, 734; 1965, c. 37; 1969, c. 83; c. 716, s. 1; 1971, c. 229, s. 1; 1973, c. 680, s. 1; 1977, c. 734, s. 1; 1979, c. 226, s. 2; c. 643, s. 1; 1981, c. 164, ss. 1, 2; 1983, c. 205, s. 1; 1985, c. 71, s. 1; 1987, c. 277, s. 9; 1989, c. 390, s. 9; 1991, c. 683, s. 2; 1997-19, s. 1; 1997-469, s. 2; 1998-228, s. 10; 1999-21, s. 2; 2001-154, s. 1; 2002-159, s. 27; 2003-38, s. 1; 2004-199, s. 6.; 2005-391, s. 4; 2008-194, s. 5; 2013-204, s. 1.5; 2021-91, s. 4(a).)

§ 10B-66. Certain notarial acts validated.

(a) Any acknowledgment taken and any instrument notarized by a person whose notarial commission was revoked on or before January 30, 1997, is hereby validated.

(b) This section applies to notarial acts performed on or before August 1, 1998. (2005-391, s. 4.)

§ 10B-67. Erroneous commission expiration date cured.

An erroneous statement of the date that the notary's commission expires shall not affect the sufficiency, validity, or enforceability of the notarial certificate or the related record if the notary is, in fact, lawfully commissioned at the time of the notarial act. This section applies to notarial acts whenever performed. (2006-59, s. 24; 2013-204, s. 1.6.)

§ 10B-68. Technical defects cured.

(a) Technical defects, errors, or omissions in a notarial certificate shall not affect the sufficiency, validity, or enforceability of the notarial certificate or the related instrument or document.

(b) Defects in the commissioning or recommissioning of a notary that are approved by the Department are cured. This subsection applies to commissions and recommissions issued on or after December 1, 2005.

(c) As used in this section, a technical defect includes those cured under G.S. 10B-37(f) and G.S. 10B-67. Other technical defects include, but are not limited to, the absence of the legible appearance of the notary's name exactly as shown on the notary's commission as required in G.S. 10B-20(b), the affixation of the notary's seal near the signature of the principal or subscribing witness rather than near the notary's signature, minor typographical mistakes in the spelling of the principal's name, the failure to acknowledge the principal's name exactly as signed by including or omitting initials, or the failure to specify the principal's title or office, if any. (2006-59, s. 24; 2006-199, s. 2; 2013-204, s. 1.7.)

§ 10B-69. Official forms cured.

(a) The notarial certificate contained in a form issued by a State agency prior to April 1, 2021, is deemed to be a valid certificate so long as the certificate complied with the law at the time the form was issued.

(b) The notarization using a certificate under subsection (a) of this section is deemed valid if executed in compliance with the law at the time the form was issued. (2006-59, s. 24; 2013-204, s. 1.8; 2021-91, s. 4(b).)

§ 10B-70. Certain notarial acts for local government agencies validated.

(a) Any acknowledgment taken and any instrument notarized for a local government agency by a person prior to qualification as a notary public but after commissioning or recommissioning as a notary public, by a person whose notary commission has expired, or by a person who failed to qualify within 45 days of commissioning as required by G.S. 10B-10, is hereby validated. The acknowledgment and instrument shall have the same legal effect as if the person qualified as a notary public at the time the person performed the act. This section shall apply to notarial acts performed for a local government agency on or after October 31, 2006, and before June 30, 2007.

(b) Any electronic document filed in the Mecklenburg County Register of Deeds office that purports to be notarized in the Commonwealth of Virginia and that contains the typed name of a Virginia notary together with the notary's expiration date shall be given the same legal effect as if the person performed a lawful notarization in Virginia. (2007-484, s. 27; 2008-194, s. 4.)

§ 10B-71. Certain notarial acts validated when recommissioned notary failed to again take oath.

Any acknowledgment taken and any instrument notarized by a person who after recommissioning failed to again take the oath as a notary public is validated. The acknowledgment and instrument have the same legal effect as if the person qualified as a notary public at the time the person performed the act. This section applies to notarial acts performed on or after May 15, 2004, and before April 1, 2021. (2009-358, s. 1; 2013-204, s. 1.9; 2021-91, s. 4(c).)

§ 10B-72: Repealed by Session Laws 2021-91, s. 5, effective October 1, 2021.

- § 10B-73. Reserved for future codification purposes.
- § 10B-74. Reserved for future codification purposes.
- § 10B-75. Reserved for future codification purposes.
- § 10B-76. Reserved for future codification purposes.
- § 10B-77. Reserved for future codification purposes.
- § 10B-78. Reserved for future codification purposes.
- § 10B-79. Reserved for future codification purposes.
- § 10B-80. Reserved for future codification purposes.
- § 10B-81. Reserved for future codification purposes.
- § 10B-82. Reserved for future codification purposes.
- § 10B-83. Reserved for future codification purposes.
- § 10B-84. Reserved for future codification purposes.
- § 10B-85. Reserved for future codification purposes.
- § 10B-86. Reserved for future codification purposes.
- § 10B-87. Reserved for future codification purposes.
- § 10B-88. Reserved for future codification purposes.
- § 10B-89. Reserved for future codification purposes.
- § 10B-90. Reserved for future codification purposes.
- § 10B-91. Reserved for future codification purposes.
- § 10B-92. Reserved for future codification purposes.
- § 10B-93. Reserved for future codification purposes.
- § 10B-94. Reserved for future codification purposes.
- § 10B-95. Reserved for future codification purposes.

§ 10B-96. Reserved for future codification purposes.

§ 10B-97. Reserved for future codification purposes.

§ 10B-98. Reserved for future codification purposes.

§ 10B-99. Presumption of regularity.

(a) In the absence of evidence of fraud on the part of the notary, or evidence of a knowing and deliberate violation of this Article by the notary, the courts shall grant a presumption of regularity to notarial acts so that those acts may be upheld, provided there has been substantial compliance with the law. Nothing in this Chapter modifies or repeals the common law doctrine of substantial compliance in effect on November 30, 2005.

(b) A notarial act shall be deemed valid if it complies with the law as it existed on or before December 1, 2005. This section applies to notarial acts whenever performed. (2006-59, s. 24; 2006-199, s. 4; 2013-204, s. 1.10.)

Article 2. Electronic Notary Act.

Part 1. General Provisions.

§ 10B-100. Short title.

This Article is the Electronic Notary Public Act and may be cited by that name. (2005-391, s. 4.)

§ 10B-101. Definitions.

The following definitions apply in this Article:

- (1) Electronic. - Relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.
- (2) Electronic document. - Information that is created, generated, sent, communicated, received, or stored by electronic means.
- (3) Electronic notarial act and electronic notarization. - An official act by an electronic notary public that involves electronic documents and the personal appearance of the principal.
- (4) Electronic notary public and electronic notary. - A notary public who has registered with the Secretary the capability of performing electronic notarial acts and remote electronic notarial acts in conformance with this Article.
- (5) Electronic notary seal and electronic seal. - Information within a notarized electronic document that includes the notary's name, jurisdiction, and commission expiration date, and generally corresponds to data in notary seals used on paper documents.
- (6) Electronic signatures. - An electronic symbol or process attached to or logically associated with an electronic document and executed or adopted by a person with the intent to sign the document.
- (7) Notary's electronic signature. - Those forms of electronic signature which have been approved by the Secretary as authorized in G.S. 10B-125, as an acceptable means for an electronic notary to affix the notary's official signature to an electronic record that is being notarized.

- (8) Repealed by Session Laws 2023-57, s. 7(a), effective July 1, 2024.
(9) Remote electronic notarial act. - As defined in G.S. 10B-134.1. (2005-391, s. 4; 2022-54, s. 2(c); 2023-57, ss. 2, 7(a).)

§ 10B-102. Scope of this Article.

(a) Article 1 of this Chapter applies to all acts authorized under this Article unless the provisions of Article 1 directly conflict with the provisions of this Article, in which case provisions of Article 2 shall control.

(b) When conducting a remote electronic notarization, the electronic notary shall comply with the requirements of Article 1 of this Chapter. (2005-391, s. 4; 2022-54, s. 2(d); 2023-57, ss. 2, 7(b).)

§ 10B-103. Reserved for future codification purposes.

§ 10B-104. Reserved for future codification purposes.

Part 2. Registration.

§ 10B-105. Qualifications.

(a) A person qualified for electronic notary registration shall meet all of the following requirements:

- (1) Hold a valid commission as a notary public in the State of North Carolina.
- (2) Except as otherwise provided, abide by all the provisions of Article 1 of this Chapter.
- (3) Satisfy the requirements of G.S. 10B-107.
- (4) Submit an electronic registration form containing no significant misstatement or omission of fact.

(b) The Secretary may deny a registration as an electronic notary as authorized in G.S. 10B-5(d). (2005-391, s. 4; 2022-54, s. 2(e); 2023-57, ss. 2, 7(c).)

§ 10B-106. Registration with the Secretary of State.

(a) A notary shall register the capability to notarize electronically or remotely with the Secretary in accordance with rules adopted by the Secretary before performing notarial acts pursuant to this Article.

(b) Registration as an electronic notary shall include authorization to perform remote electronic notarial acts if the electronic notary complies with all requirements of this Article and the rules related to remote electronic notarial acts.

(c) Before performing electronic notarial acts, an electronic notary shall register the capability to notarize electronically by notifying the Secretary of all technology the electronic notary will use to create an electronic signature and also all licensed platforms, if any, that the electronic notary will use to perform remote electronic notarizations.

(c1) The term of registration as an electronic notary shall coincide with the term of the notary's commission under Article 1 of this Chapter.

(c2) A notary may renew an electronic notary registration at the same time that the notary applies for recommissioning under the requirements of Article 1 of this Chapter.

(d) An electronic form shall be used by an electronic notary in registering with the Secretary and it shall include, at least all of the following:

- (1) The applicant's full legal name and the name to be used for commissioning, excluding nicknames.

- (2) The state and county of commissioning of the registrant.
- (3) The expiration date of the registrant's notary commission.
- (4) Proof of successful completion of the course of instruction on electronic notarization as required by this Article.
- (5) Repealed by Session Laws 2023-57, s. 7(d), effective July 1, 2024.
- (6) If the device used to create the registrant's electronic signature was issued or registered through a licensed certification authority, the name of that authority, the source of the license, the starting and expiration dates of the device's term of registration, and any revocations, annulments, or other premature terminations of any registered device of the registrant that was due to misuse or compromise of the device, with the date, cause, and nature of each termination explained in detail.
- (7) The e-mail address of the registrant.

The information provided in a registration that relates to subdivision (7) of this section shall be considered confidential information and shall not be subject to disclosure under Chapter 132 of the General Statutes, except as provided by rule.

(e) The electronic registration form for an electronic notary shall be transmitted electronically to the Secretary and shall include any decrypting instructions, codes, keys, or software that allow the registration to be read.

(f) Within 10 business days after the change of any registration information required of an electronic notary, including any changes involving a licensed platform, the notary shall electronically transmit to the Secretary a notice of the change of information signed in the official name in which the electronic notary was commissioned. (2005-391, s. 4; 2006-59, s. 25; 2006-259, ss. 1, 3; 2022-54, s. 2(f); 2023-57, s. 7(d).)

§ 10B-107. (Effective July 1, 2024) Course of instruction.

(a) Before performing electronic or remote electronic notarial acts, a notary shall take a course of instruction of least four hours approved by the Secretary and pass an examination of this course, which shall be in addition to the educational requirements provided in Article 1 of this Chapter.

(b) The content of the course and the basis for the examination shall be notarial laws, procedures, technology, and ethics as pertaining to electronic notarization and remote electronic notarization. (2005-391, s. 4; 2023-57, s. 7(e).)

§ 10B-108. Fees for registration.

The fee payable to the Secretary for registering or reregistering as an electronic notary is fifty dollars (\$50.00), which shall be in addition to the fee required in G.S. 10B-13. All funds received by the Secretary under this section shall be deposited into the General Fund. (2005-391, s. 4.)

§ 10B-109: Reserved for future codification purposes.

§ 10B-110: Reserved for future codification purposes.

§ 10B-111: Reserved for future codification purposes.

§ 10B-112: Reserved for future codification purposes.

§ 10B-113: Reserved for future codification purposes.

§ 10B-114: Reserved for future codification purposes.

Part 3. Electronic Notarial Acts, Powers, and Limitations.

§ 10B-115. Types of electronic notarial acts.

The following types of notarial acts may be performed electronically:

- (1) Acknowledgments;
- (2) Jurats;
- (3) Verifications or proofs; and
- (4) Oaths or affirmations. (2005-391, s. 4.)

§ 10B-116. Prohibitions.

An electronic notarization shall not be performed if the signer of the electronic document:

- (1) Is not in the presence of the electronic notary at the time of notarization; and
- (2) Is not personally known to the notary or identified by the evidence in accordance with other provisions of this Chapter; or
- (3) For any reason set forth in G.S. 10B-20. (2005-391, s. 4.)

§ 10B-117. Notarial components of electronic document.

In performing an electronic or remote electronic notarial act, all of the following components shall be attached to, or logically associated with, the electronic document by the electronic notary, all of which shall be immediately perceptible and reproducible in the electronic record to which the notary's electronic signature is attached:

- (1) The notary's name, state, and county of commissioning exactly as stated on the commission issued by the Secretary.
- (2) The words "Electronic Notary Public" or Electronic Notary Public Utilizing Communication Technology.
- (3) The words State of North Carolina.
- (4) The expiration date of the commission.
- (5) The notary's electronic signature.
- (6) The completed wording of one of the following notarial certificates:
 - a. Acknowledgment.
 - b. Jurat.
 - c. Verification or proof.
 - d. Repealed by Session Laws 2022-54, s. 2(g), effective July 1, 2024. (2005-391, s. 4; 2022-54, s. 2(g); 2023-57, ss. 2, 7(f).)

§ 10B-118. Repealed by Session Laws 2022-54, s. 2(h), as amended by Session Laws 2023-57, s. 2, effective July 1, 2024.

§ 10B-119: Reserved for future codification purposes.

§ 10B-120: Reserved for future codification purposes.

§ 10B-121: Reserved for future codification purposes.

§ 10B-122: Reserved for future codification purposes.

§ 10B-123: Reserved for future codification purposes.

§ 10B-124: Reserved for future codification purposes.

Part 4. Electronic Notary Records, Maintenance, and Disposition.

§ 10B-125. Electronic signature, electronic seal.

(a) The notary's electronic signature in combination with the electronic notary seal shall be used only for the purpose of performing electronic notarial acts.

(b) The Secretary shall adopt rules necessary to establish standards, procedures, practices, forms, and records relating to a notary's electronic signature and electronic seal. The notary's electronic seal and electronic signature shall conform to any standards adopted by the Secretary. (2005-391, s. 4.)

§ 10B-126. Security measures.

(a) A notary shall safeguard the notary's electronic signature, the notary's electronic seal, and all other notarial records. Notarial records shall be maintained by the notary, and the notary shall not surrender or destroy the records except as required by a court order or as allowed under rules adopted by the Secretary.

(b) When not in use, the notary shall keep the notary's electronic signature, electronic seal, and all other notarial records secure, under the exclusive control of the notary, and shall not allow them to be used by any other notary or any other person.

(c) A notary shall do the following within 10 days of discovering that the notary's electronic seal or electronic signature has been stolen, lost, damaged, compromised, or otherwise rendered incapable of affixing a legible image:

- (1) Inform the appropriate law enforcement agency in the case of theft or vandalism.
- (2) Notify the appropriate register of deeds and the Secretary in writing and signed in the official name in which he or she was commissioned.

(d) The Secretary may adopt rules necessary to insure the integrity, security, and authenticity of electronic notarizations.

(e) The Secretary may require an electronic notary to create and to maintain a record, journal, or entry of each electronic notarial act. The rule-making authority contained in this subsection shall become effective 18 months after December 1, 2005.

(f) The failure of an electronic notary to produce within the time period set out in the Department's request any record required by a rule adopted under this section shall result in the suspension of the electronic notary's power to act as a notary under the provision of this Chapter until the Secretary reinstates the notary's commission.

(g) Upon resignation, revocation, or expiration of an electronic notary commission, or death of the notary, all notarial records required by statute or rule shall be delivered to an approved custodian selected by the notary. (2005-391, s. 4; 2023-57, s. 8(a).)

§ 10B-127. (Effective July 1, 2024) Maintenance of electronic device.

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

(b) If an electronic notary contracts with an approved provider of an electronic seal and electronic signature or licensed platform for a device used to create electronic signatures or for

electronic notarization or remote electronic notarization services, and the contract either expires or is changed during the electronic notary's term of office, the notary shall cease performing electronic and remote electronic notarizations until:

- (1) A new contract is executed or a new device is duly issued or registered to the notary; and
- (2) An electronically signed notice is sent to the Secretary that shall include the starting and expiration dates of any new registration or contract term and any other new information at variance with information in the most recently executed electronic registration form. (2005-391, s. 4; 2023-57, s. 8(b).)

§ 10B-128. Disposition of records.

(a) Upon compliance with G.S. 10B-127 and except as provided in subsection (b) of this section, when an electronic notary's commission expires or is resigned or revoked, or when an electronic notary dies, the notary or the notary's duly authorized representative shall (i) erase, delete, or destroy the coding, disk, certificate, card, software, file, or program that enables electronic affixation of the notary's official electronic signature and (ii) notify the Secretary within 45 days.

(b) A former electronic notary whose previous commission or application was not revoked or denied by the Secretary need not erase, delete, or destroy the coding, disk, certificate, card, software, file, or program enabling electronic affixation of the official electronic signature if he or she is recommissioned and reregistered as an electronic notary using the same electronic signature and the same licensed platform, if any, within three months after commission expiration. (2005-391, s. 4; 2023-57, s. 8(c).)

§ 10B-129: Reserved for future codification purposes.

§ 10B-130: Reserved for future codification purposes.

§ 10B-131: Reserved for future codification purposes.

§ 10B-132: Reserved for future codification purposes.

§ 10B-133: Reserved for future codification purposes.

Part 4A. Remote Electronic Notarization.

§ 10B-134. (Reserved)

§ 10B-134.1. Definitions.

The following definitions shall apply in this Article:

- (1) Communication technology. - An electronic device, process, or system that allows an electronic notary and a remotely located principal to communicate with each other simultaneously by sight and sound using audiovisual technology and that makes reasonable accommodations for remotely located principals with vision, hearing, or speech impairments.
- (2) Communication technology recording. - The simultaneous, synchronous audio

- and visual recording of the notarial act.”
- (3) Credential analysis. - A process or service through which a third-party vendor performs a remote analysis of the characteristics and security features of each identification of the remotely located principal pursuant to G.S. 10B-3(22)a.
 - (3a) Custodial services. - Services approved by the Secretary and selected by the notary to provide long-term storage of the electronic journal and communications technology recordings.
 - (3b) Custodian. - The person providing the custodial services. The custodian may but need not be the same as the depository.
 - (3c) Depository. - The person or platform providing the depository services.
 - (3d) Depository services. - Storage services provided by the platform of the electronic journal entries and communications technology recordings as they are entered.
 - (4) Electronic journal. - A secure record of remote electronic notarial acts that contains the information required under G.S. 10B-134.15.
 - (4a) Geolocation. - Identification of the geographical location of a remotely located principal or device used by a remotely located principal through the use of global positioning systems or other digital information processed via the internet.
 - (5) Identity proofing. - A process or service through which a third-party vendor affirms the identity of a remotely located principal through review of personal information from public or proprietary data sources.
 - (6) Platform. - The online platform utilizing the communication technology, credential analysis, and identity proofing and including communication technology recordings, geolocation, electronic journals, and depository services in order to perform the remote electronic notarial act.
 - (7) Remote electronic notarial certificate. - The portion of a notarized electronic document that is completed by the electronic notary and contains all of the following:
 - a. The electronic notary’s electronic signature and the electronic notary’s electronic seal.
 - b. The facts attested to by the electronic notary in a particular notarization.
 - c. A statement in the acknowledgement, jurat, or verification certificate identifying where the remotely located principal was physically located at the time of the remote electronic notarization.
 - d. A statement that the notarization is a remote electronic notarization performed using communication technology by an electronic notary.
 - (8) Remote electronic notarization or remote electronic notarial act. - A notarial act performed by means of communication technology.
 - (9) Repealed by Session Laws 2023-57, s. 9(a), effective July 1, 2024.
 - (10) Remotely located principal. - A principal who is not in the physical presence of the electronic notary and who is located at the time of the remote electronic notarial act in any of the following places:
 - a. Inside the United States.
 - b. Outside the United States and physically on the military installation or vessel named in the military orders assigning the member to active duty for more than 120 days, provided the remotely located principal is a member, spouse of a member, or dependent of a member of the

Armed Forces of the United States.

c. Outside the United States at any of the following locations:

1. United States Embassy.
2. United States Consulate.
3. United States Diplomatic Mission.

(10a) Self-attestation. - A remotely located principal's written, verbal, or electronic declaration and confirmation of that remotely located principal's geographical location at the time of the remote electronic notarial act given under penalty of perjury.

(11) Tamper-evident. - Any change, interference, or alteration to a record that is patently plain and obvious.

(12) Third-party vendor. - Any person providing credential analysis, identity proofing, or custodial services to electronic notaries. (2022-54, s. 1; 2023-57, ss. 2, 9(a); 2024-47, s. 4.)

§ 10B-134.2. Reserved for future codification purposes.

§ 10B-134.3. Types of remote electronic notarial acts; prohibitions.

(a) Upon registration with the Secretary under this Article, an electronic notary may perform any of the notarial acts listed in G.S. 10B-115 by means of communication technology in accordance with this Part. An electronic notary may perform any authorized remote notarial act with respect to electronic documents.

(b) An electronic notary shall not perform a remote electronic notarial act if any of the following applies:

- (1) The remotely located principal's identity cannot be verified under G.S. 10B-134.11.
- (2) Any reason set forth in G.S. 10B-20.
- (3) Any reason set forth in G.S. 10B-134.9.
- (4) The notarial act would be a verification or proof.

(c) Notwithstanding subsection (a) of this section, an electronic notary shall not perform any remote electronic notarial act with regard to any of the following documents:

- (1) A self-proved will executed pursuant to Article 4A of Chapter 31 of the General Statutes.
- (2) A revocable or irrevocable trust or any other document amending the same except for a certification of trust or similar document.
- (3) Repealed by Session Laws 2023-57, s. 9(b), effective July 1, 2024.
- (4) A codicil to a will.
- (5) Any document related to the relinquishment of parental rights under Article 3 of Chapter 48 of the General Statutes.
- (6) Mail-in absentee ballots issued under Article 20 of Chapter 163 of the General Statutes.

(d) The prohibitions in subsection (c) of this section shall not apply when, at the time the remote electronic notarial act is performed, the remotely located principal meets the description in G.S. 10B-134.1(10)b.

(e) No remotely notarized power of attorney may be used by the attorney-in-fact with any other remotely notarized document to convey title to, or transfer any interest in, a remotely located principal's real property. A power of attorney executed by a remotely located principal

under this Part shall be recorded in at least one county register of deeds office in this State. This subsection does not apply to powers of attorney executed by a remotely located principal described in G.S. 10B-134.1(10)b. (2022-54, s. 1; 2023-57, ss. 2, 9(b).)

§ 10B-134.4. Reserved for future codification purposes.

§ 10B-134.5. Use of communication technology.

(a) The communication technology used by an electronic notary to perform remote electronic notarial acts for remotely located principals shall comply with all of the following requirements:

- (1) Host the meeting between the electronic notary and the remotely located principal in real time.
- (2) Allow direct interaction between the remotely located principal seeking the electronic notary's services and the electronic notary so that each can communicate simultaneously by sight and sound through communication technology.
- (3) Include audio with sound clear enough that each participant in the remote electronic notarial act can hear and understand all other participants.
- (4) Have sufficient video quality to allow a clear and unobstructed visual observation of the face of each participant and the document presented by the remotely located principal during credential analysis for a sufficient time to allow the electronic notary to verify the remotely located principal's identity under G.S. 10B-134.11. The electronic notary shall determine if the time is sufficient.
- (5) Not include prerecorded video or audio or both.
- (6) Be capable of recording using the communication technology's recording and storage services.
- (7) Be capable of geolocating the remotely located principal to corroborate the location of the remotely located principal.

(b) The electronic notary shall take reasonable steps to provide that the communication technology used in a remote electronic notarization is secure from unauthorized interception. An electronic notary shall select one or more tamper-evident technologies to perform remote electronic notarial acts with respect to electronic documents. In addition to any requirements of this Article or established by the Secretary, the communication technology shall provide automated backup of the communication technology recording.

(c) No person may require an electronic notary to perform any remote electronic notarial act using communication technology that the electronic notary has not selected. (2022-54, s. 1; 2023-57, ss. 2, 9(c).)

§ 10B-134.6. Reserved for future codification purposes.

§ 10B-134.7. Authority to perform remote electronic notarial acts.

(a) An electronic notary may perform a remote electronic notarial act authorized under this Part only while the electronic notary is physically located in this State.

(b) A remote electronic notarization performed by an electronic notary of this State under this Part is governed by the laws of this State. (2022-54, s. 1; 2023-57, ss. 2, 9(d).)

§ 10B-134.8. Reserved for future codification purposes.

§ 10B-134.9. Requirements and procedures for remote electronic notarial acts.

(a) All of the following shall occur prior to the performance of a remote electronic notarial act:

- (1) The electronic notary shall inform the participants that North Carolina law requires that a communication technology recording be made of the remote electronic notarization.
- (2) The remotely located principal does not appear in the judgment of the electronic notary to be incompetent, lacking in understanding of the nature and consequences of the transaction requiring the notarial act, or acting involuntarily, under duress, or undue influence.
- (3) The electronic notary shall verify the identity of the remotely located principal as provided in G.S. 10B-134.11. If the remotely located principal is a member of the Armed Forces of the United States, or the spouse or dependent of the member, as described in G.S. 10B-134.1(10)b., the electronic notary may rely on that remotely located principal's written, verbal, or electronic declaration and confirmation under penalty of perjury as to remotely located principal's location and military or familial status.
- (4) The electronic notary shall ask the remotely located principal if the remotely located principal would like an attorney to participate in the remote notarization, and allow for such if so requested.
- (5) The remotely located principal shall verbally state what documents are being signed for the notarial record or describe the general nature of the transaction.
- (6) The location of the remotely located principal shall be verified by geolocation via communication technology or by self-attestation.

(b) In addition to the prohibitions contained in G.S. 10B-134.3 and G.S. 10B-20, an electronic notary shall refuse to perform a remote electronic notarial act if any of the following applies:

- (1) The electronic notary has reasonable grounds to believe the remotely located principal appears in the judgment of the electronic notary to be incompetent, lacking in understanding of the nature and consequences of the transaction requiring the notarial act, or acting involuntarily, under duress, or undue influence.
- (2) The electronic notary becomes aware that the communication technology is not secure.
- (3) The electronic signature of the remotely located principal cannot be attached to the electronic document for signature.
- (4) Unless an oath that is not associated with a document is being administered, the electronic notary's electronic notarial certificate and seal cannot be attached to the electronic document using an electronic technology that renders any subsequent change or modification to the document evident.

(c) Except as provided in subsection (d) of this section, if the remote electronic notarial act is an oath or affirmation, the electronic notary shall administer the oath or affirmation to the remotely located principal utilizing a licensed platform.

(d) In judicial actions or proceedings, any notary public commissioned by the Secretary, whether or not registered as an electronic notary, may administer an oath or affirmation to a principal that does not require remote electronic notarization of a record or a notarial certificate and seal when done in person, provided all of the following apply:

- (1) The notary is physically located in this State at the time the oath or affirmation is administered to the remotely located principal.
- (2) Communication technology is utilized. The notary shall not be required to select the medium of communication technology or to retain a communication technology recording of the performance of each remote oral oath or affirmation.
- (3) All requirements of this Article relating to the identity proofing of the witness are satisfied.

(e) Any non-material failure of the electronic notary to comply with the requirements of the remote electronic notarization does not invalidate the notarial act or the electronic record that was remotely notarized. An aggrieved person is not prevented from using failures in the remote electronic notarization process, along with other grounds, to challenge the validity or enforceability of the remote electronic notarization based on fraud, forgery, impersonation, duress, incompetence, undue influence, minority, illegality, unconscionability, or another basis not related to the remote electronic notarial act or constructive notice provided by recording of the electronic record.

(f) Except as herein provided by G.S. 10B-20(p), information gained from a remotely located principal in the course of performing a remote electronic notarization shall be treated as confidential by the electronic notary. (2022-54, s. 1; 2023-57, ss. 2, 9(e); 2024-47, s. 4.)

§ 10B-134.10. Reserved for future codification purposes.

§ 10B-134.11. Verification of identity; identity proofing; credential analysis.

(a) Prior to the remote electronic notarial act, the electronic notary shall verify each remotely located principal's identity through one of the following methods:

- (1) The remotely located principal creating the electronic signature is personally known to the electronic notary.
- (2) All of the following:
 - a. Credential analysis, by a third-party vendor approved by the Secretary, of a current document issued by a federal, state, or federal or state-recognized tribal government agency bearing the photographic image of the individual's face and either the signature or a physical description of the individual.
 - b. Identity proofing by a third-party vendor approved by the Secretary.
 - c. Comparison, by the electronic notary, of the current document issued by a federal, state, or federal or state-recognized tribal government agency bearing the photographic image of the individual's face and either the signature or a physical description of the individual presented by the remotely located principal during credential analysis and the image of the remotely located principal via the communication technology.

(b) Notwithstanding subsection (a) of this section, an electronic notary may require the remotely located principal to provide additional information or identification credentials necessary to confirm the identity of the remotely located principal. (2022-54, s. 1; 2023-57, ss. 2, 9(f).)

§ 10B-134.12. Reserved for future codification purposes.

§ 10B-134.13. Electronic notarization and remote electronic notarization.

When conducting a remote electronic notarization, the electronic notary shall comply with the requirements of this Chapter. Each remote electronic notarization shall include a communication technology recording. There shall be no requirement that the communication technology recording further include any transactions other than the remote electronic notarial act unless the Secretary specifies a requirement to also record interactions of those particular transactions. (2022-54, s. 1; 2023-57, ss. 2, 9(g).)

§ 10B-134.14. Reserved for future codification purposes.

§ 10B-134.15. Electronic journal of remote electronic notarial acts.

(a) Notwithstanding G.S. 10B-38, an electronic notary who performs a remote electronic notarization shall enter information about the remote electronic notarization in an electronic journal. The electronic journal shall be the exclusive property of the electronic notary. The electronic notary shall not allow another person to make entries in the electronic journal.

(b) The Secretary shall adopt rules specifying the content and secure storage of the electronic journal. The rules adopted by the Secretary shall comply with all of the following:

- (1) Allow for electronic and paper mediums of the electronic journal.
- (2) Require retention for 10 years after the remote electronic notarization.
- (3) Allow a party involved in a transaction that utilizes remote electronic notarization to require additional information regarding that transaction be included in the electronic journal.
- (4) Authorize a third-party vendor, including a licensed platform, to act as a depository or custodian of electronic journals.
- (5) Specify to whom the electronic journal shall be delivered upon resignation, revocation, or expiration of a notary commission or death or adjudication of incompetency of an electronic notary.

(c) An electronic notary may surrender the electronic journal to the electronic notary's employer upon termination of employment if the electronic journal consists of remote electronic notarizations made in the conduct of the employer's business, but the electronic notary shall also keep and maintain an accurate backup copy of the journal for 10 years after the last remote electronic notarization entered into the electronic journal.

(d) Except as provided in subsection (c) of this section, the notary shall not surrender or destroy the electronic journal or the communication technology recordings of remote electronic notarial acts except as required by a court order or as allowed under rules adopted by the Secretary. (2022-54, s. 1; 2023-57, ss. 2, 9(h); 2023-124, s. 4.2.)

§ 10B-134.16. Reserved for future codification purposes.

§ 10B-134.17. Security measures by notary; surrender of journal; etc.

(a) An electronic notary shall comply with all of the following security requirements:

- (1) All records of journal entries and communication technology recordings shall be securely stored in a depository under the control of the electronic notary or with a custodian duly appointed under the terms of this Part. If a custodian is appointed, the custodian shall be a third-party vendor approved by the Secretary.
- (2) Take reasonable steps to ensure that the communication technology recordings are

secure from unauthorized interception during transmission between participants involved in a electronic notarial act. The communication technology used by the electronic notary shall employ data protection safeguards consistent with generally accepted information security standards.

(b) Within 10 calendar days of discovering any permanent loss of data, unauthorized use, loss of use, or compromise of security of the electronic journal or the communication technology recordings of remote electronic notarial acts, the remote electronic notary shall do both of the following:

- (1) Inform the appropriate law enforcement agency in the case of theft, tampering, or vandalism.
- (2) Notify the register of deeds in the county of the electronic notary's commissioning under G.S. 10B-10 and the Secretary in writing and signed in the official name in which the electronic notary was commissioned. The notice shall indicate whether there was any permanent loss of data, unauthorized use, loss of use, or compromise of security of the electronic journal or the communication technology recordings of remote electronic notarial acts.

(c) The failure of an electronic notary to produce within the time period set out in the Secretary's request any record required by a rule adopted under this Part shall result in the suspension of the electronic notary's power to act as a notary under the provisions of this Chapter until the Secretary reinstates the notary's commission. (2022-54, s. 1; 2023-57, ss. 2, 9(i).)

§ 10B-134.18. Reserved for future codification purposes.

§ 10B-134.19. Platform licensure by Secretary.

(a) An electronic notary shall use only a communication technology through a platform licensed by the Secretary.

(b) The Secretary shall review and issue platform licenses to qualified applicants. The applicant shall complete and submit an application on a form prescribed by the Secretary and pay a licensing fee of five thousand dollars (\$5,000).

(c) The application shall set forth at least all of the following:

- (1) The name and address of the applicant and its registered agent.
- (2) The names of all officers or directors directly involved in the operation, management, or control of the platform and all employees who exercise substantial influence or control over the platform.
- (3) The proposed technology to address identity verification requirements, geolocation, and explanations regarding security governance and the designation of a chief security officer or its equivalent.
- (4) Any other information the Secretary may deem necessary.

(d) The Secretary shall conduct a background investigation on the applicant and persons described in subdivision (2) of subsection (c) of this section as deemed necessary by the Secretary. The background investigation shall include a criminal history record check, to which the applicant and person described in subdivision (2) of subsection (c) of this section must consent.

(e) The Secretary shall award a license only to applicants who are of good moral character and who provide a communication technology capable of all of the following:

- (1) A manner of ensuring that the electronic record presented for remote electronic

notarization is the same record electronically signed by the remotely located principal.

- (2) Securely creating and storing, or transmitting securely to be securely stored, the communication technology recording, keeping confidential the questions asked as part of any identity proofing and the means and methods used to generate the credential analysis.
- (3) A manner of ensuring that real-time communications are secure from unauthorized interception, access, or viewing.
- (4) Reasonable security measures to prevent unauthorized access to all of the following:
 - a. The live transmission of the remote electronic notarial act.
 - b. Any communication technology recording of the remote electronic notarial act.
 - c. The verification methods and credentials used to verify the identity of the remotely located principal.
 - d. The electronic documents presented for remote electronic notarization.
- (5) Geolocation of the remotely located principal when the remotely located principal is conducting the remote electronic notarization via a device capable of identifying the geographic location of the remotely located principal at the time of the remote electronic notarization.

(f) No platform license is assignable or transferable without the approval of the Secretary and shall be renewed annually in a manner set by the Secretary and upon payment of a fee of five thousand dollars (\$5,000).

(g) Each platform licensee shall collect a five dollar (\$5.00) per remote notarial act fee and remit fees collected at least monthly to the Secretary in a manner determined by the Secretary. All fees so remitted to the Secretary shall be placed in a nonreverting agency reserve account to be used by the Secretary in the implementation and enforcement of this Part. (2022-54, s. 1; 2023-57, ss. 2, 9(j); 2024-47, s. 5.)

§ 10B-134.20. Reserved for future codification purposes.

§ 10B-134.21. Rules.

(a) The Secretary shall adopt rules necessary to establish standards, procedures, practices, forms, and records relating to remote electronic notarial acts to implement this Part, including at least all of the following:

- (1) Any additional educational requirements for electronic notaries regarding remote electronic notarizations.
- (2) The contents and security of the electronic journal.
- (3) The security standards, features, qualifications, measures, storage, and any other matter related to communication technology, credential analysis, identity proofing, and depository and custodial services.
- (4) The requirements of secure storage of all communication technology recordings, the electronic journal, and any other documentation under the control of the electronic notary regarding the electronic notarial act.
- (5) Any necessary actions upon notification of permanent loss of data, unauthorized use, loss of use, or compromise of security of the electronic journal or the communication technology recordings of remote electronic notarial acts.

(b) The Secretary may utilize emergency and temporary rulemaking as needed to implement this Part. (2022-54, s. 1; 2023-57, ss. 2, 9(k).)

§ 10B-134.22. Reserved for future codification purposes.

§ 10B-134.23. Standards for services provided to electronic notaries; enforcement.

(a) All licensees and third-party vendors shall meet all standards established by the Secretary under this Part for the provision of services to electronic notaries in this State for remote electronic notarization services. If the Secretary has not adopted rules establishing standards for a service, a licensee or third-party vendor may not furnish that service to an electronic notary public until the Secretary has determined that the provided service meets security standards generally accepted within the industry for that service.

(b) The Secretary may adopt rules establishing, supplementing, or amending third-party vendor guidelines for standards and processes for identity proofing and credential analysis services so that third-party vendors interacting with electronic notaries satisfy the security qualifications of establishing the identity of the remotely located principal.

(c) The Secretary, in the Secretary's discretion, may do any one or more of the following if a licensee or third-party vendor violates this Part or the rules adopted by the Secretary under this Part:

- (1) Require a licensee or third-party vendor to provide an electronic notary with proof that a remote electronic notarization issue was caused in whole or in part by the licensee or third-party vendor's technology.
- (2) Issue a letter of warning, suspension, or revocation to the licensee or third-party vendor. The Secretary may require the licensee or third-party vendor to provide proof that it has come into compliance to reinstate any license or use of a third-party vendor's services.
- (3) Restrict use of a licensee or third-party vendor's technology by electronic notaries until it has come into compliance.
- (4) Assess a civil penalty of not more than one thousand dollars (\$1,000) per violation against any licensee or third-party vendor that violates a provision of this Part. In determining the amount of a penalty, the Secretary shall give due consideration to aggravating and mitigating factors presented to the Secretary by the licensee or third-party vendor and electronic notaries.
- (5) Any other appropriate remedy.

(d) A licensee or third-party vendor whose technology is restricted, suspended, discontinued, revoked, or not renewed for any reason shall work with electronic notaries using the services of that licensee or third-party vendor to ensure access and, if necessary, ease transition to a different licensee or third-party vendor and may not deny its electronic notary customers access.

(e) A licensee or third-party vendor is liable to any person who suffers damages from a remote electronic notarial act if both of the following apply:

- (1) The damage is proximately caused by a service provided by the licensee or third-party vendor that failed to meet any standard under this Part.
- (2) The person damaged was a party to, or in privity with a party to, the remote electronic notarial act proximately causing the damage.

(f) An electronic notary who exercised reasonable care in selecting and using a licensee or third-party vendor in connection with a remote electronic notarial act shall not be liable for any damages resulting from the licensee's or third-party vendor's failure to comply with the

requirements of this Part. Any provision in a contract between the electronic notary and a licensee or third-party vendor that attempts to waive the immunity conferred by this subsection shall be null, void, and of no effect. (2022-54, s. 1; 2023-57, ss. 2, 9(l).)

§ 10B-134.24. Reserved for future codification purposes.

§ 10B-134.25. Real estate transactions.

(a) Nothing in this Part shall be construed to alter or supersede the law as set forth in Chapter 84 of the General Statutes, G.S. 10B-20(i) through (k), G.S. 75-1.1, or any opinion or ruling by a North Carolina court of competent jurisdiction or the North Carolina State Bar ruling pertaining to the unauthorized practice of law in this State, including the requirements that a licensed North Carolina attorney shall supervise a residential real estate closing under Authorized Practice Advisory Opinion 2002-1 issued by the North Carolina State Bar and perform all services defined as the practice of law for real property located in this State.

(b) An electronic notary who is not a licensed North Carolina attorney is prohibited from rendering services or advice that constitutes the practice of law in this State. (2022-54, s. 1; 2023-57, ss. 2, 9(m).)

§ 10B-134.26. Reserved for future codification purposes.

Part 5. Certificate Forms.

§ 10B-135. Validity of notarial certificates.

The provisions contained in Article 1, Part 6, of this Chapter, with regard to notarial certificate forms, are applicable for the purposes of this Article. (2005-391, s. 4.)

§ 10B-136. Form of evidence of authority of electronic notarial act.

Electronic evidence of the authenticity of the official electronic signature and electronic seal of an electronic notary of this State, if required, shall be attached to, or logically associated with, a notarized electronic document transmitted to another state or nation and shall be in the form of an electronic certificate of authority signed by the Secretary in conformance with any current and pertinent international treaties, agreements, and conventions subscribed to by the government of the United States. (2005-391, s. 4.)

§ 10B-137. Certificate of authority for electronic notarial act.

(a) An electronic certificate of authority evidencing the authenticity of the official electronic signature and electronic seal of an electronic notary of this State shall contain substantially 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 North 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 seal) of commissioning official)

(b) The Secretary may charge ten dollars (\$10.00) for issuing an electronic certificate of authority. (2005-391, s. 4.)

§ 10B-138: Reserved for future codification purposes.

§ 10B-139: Reserved for future codification purposes.

§ 10B-140: Reserved for future codification purposes.

§ 10B-141: Reserved for future codification purposes.

§ 10B-142: Reserved for future codification purposes.

§ 10B-143: Reserved for future codification purposes.

§ 10B-144: Reserved for future codification purposes.

Part 6. Enforcement.

§ 10B-145. Restriction or revocation of registration.

The Secretary or the Secretary's designee shall have the authority to warn, restrict, suspend, or revoke an electronic notary registration for a violation of this Chapter and on any ground for which electronic notary registration may be denied under this Chapter. (2005-391, s. 4.)

§ 10B-146. Wrongful manufacture, distribution, or possession of software or hardware.

(a) Any person who knowingly creates, manufactures, or distributes software for the purpose of allowing a person to act as an electronic notary without being commissioned and registered in accordance with this act shall be guilty of a Class G felony.

(b) Any person who wrongfully obtains, conceals, damages, or destroys the certificate, disk, coding, card, program, software, file, or hardware enabling an electronic notary to affix an official electronic signature is guilty of a Class I felony. (2005-391, s. 4.)

NORTH CAROLINA ADMINISTRATIVE CODE

CHAPTER 7 - NOTARY PUBLIC DIVISION

SECTION .0100 - GENERAL PROVISIONS

18 NCAC 07A .0101 LOCATION AND HOURS

History Note: Authority G.S. 143A-23;

Eff. February 1, 1976;

Amended Eff. August 1, 2000; January 1, 1995; September 1, 1986;

Repealed Eff. April 1, 2007.

18 NCAC 07 .0102 GENERAL PURPOSE

History Note: Authority G.S. 10A-4; 10A-6; 10A-9(f); 10A-13;

Eff. February 1, 1976;
Amended Eff. January 1, 1995;
Repealed Eff. September 1, 2000.

18 NCAC 07 .0103 NOTARIES PUBLIC DEPUTY

History Note: Authority G.S. 10-1;
Eff. February 1, 1976;
Amended Eff. September 1, 1986;
Repealed Eff. January 1, 1995.

SECTION .0200 - APPOINTMENT OF NOTARIES PUBLIC

18 NCAC 07 .0201 REQUIREMENTS FOR INITIAL APPOINTMENT

History Note: Authority G.S. 10-1;
Eff. February 1, 1976;
Amended Eff. September 1, 1986; January 1, 1983;
Repealed Eff. January 1, 1995.

18 NCAC 07A .0202 INVESTIGATIONS

History Note: Authority G.S. 10A-4(c); 10A-13(d);
Eff. February 1, 1976;
Amended Eff. January 1, 1995;
Repealed Eff. April 1, 2007.

18 NCAC 07 .0203 DISQUALIFICATION

History Note: Authority N. C. Const. Art. VI, Sec. 8;
Eff. February 1, 1976;
Repealed Eff. September 1, 1986.

18 NCAC 07A .0204 DISPOSITION OF COMMISSIONS

18 NCAC 07A .0205 FEE

18 NCAC 07A .0206 REQUIREMENTS FOR REAPPOINTMENT

18 NCAC 07A .0207 REVOCATION OF COMMISSIONS

18 NCAC 07A .0208 CERTIFICATES OF AUTHORITY

History Note: Authority G.S. 10A-6; 10A-7; 10A-8; 10A-9(f); 10A-13(d); 147-37; 150B-19(5);
Eff. February 1, 1976;
Amended Eff. August 1, 2000; January 1, 1995; September 1, 1976;
Repealed Eff. April 1, 2007.

SECTION .0300 - NOTARY PUBLIC EDUCATION PROGRAM

18 NCAC 07A .0301 APPROVED COURSE OF STUDY

18 NCAC 07A .0302 INSTRUCTORS

18 NCAC 07A .0303 APPROVED MANUAL

History Note: Authority G.S. 10A-4(b)(3); 10A-7;
Eff. September 1, 1986;
Amended Eff. August 1, 2000; March 1, 1996;
Repealed Eff. April 1, 2007.

SUBCHAPTER 07B – GENERAL REQUIREMENTS

SECTION .0100 – GENERAL PROVISIONS

18 NCAC 07B .0101 SCOPE

The rules in this Subchapter implement Chapter 10B of the General Statutes, the Notary Public and Electronic Notary Acts. The rules govern the qualification, commissioning, notarial acts, conduct and discipline of notaries as Constitutional officers of the State.

History Note: Authority G.S. 10B-2; 10B-14(f); 10B-102; 10B-125(b);

Eff. April 1, 2007;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016.

18 NCAC 07B .0102 DEFINITIONS

(a) The definitions in G.S. 10B-3 apply to this Subchapter.

(b) For purposes of Chapter 10B of the General Statutes and Subchapters 07B and 07C of this Chapter:

(1) “Applicant” means an individual who seeks appointment or reappointment to the office of notary public;

(2) “Appoint” or “Appointment” means the naming of an individual to the office of notary public after determination that the individual has complied with Chapter 10B of the General Statutes and Subchapter 07B of this Chapter. For the purposes of these Rules, the terms “appoint”, “reappoint”, “appointment”, “reappointment”, “commission”, “recommission”, “commissioning”, and “recommissioning” all refer to the term “commission” as defined in G.S. 10B-3(4) or to the process of acquiring or maintaining such commission;

(3) “Appointee” means an individual who has been appointed or reappointed to the office of notary public but has not yet taken the oath of office to be commissioned;

(4) “Commissioning date” means the date of commissioning or recommissioning as entered on a commission certificate;

(5) “Crime” means a crime or:

(A) Attempt to commit a crime;

(B) Accessory to commission of a crime;

(C) Aiding and abetting of a crime;

(D) Conspiracy to commit a crime; or

(E) Solicitation to commit a crime.

(6) “Division” means the Notary Public Section of the North Carolina Department of the Secretary of State.

History Note: Authority G.S. 10B-14(f);

Eff. April 1, 2007;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016.

18 NCAC 07B .0103 OPERATING HOURS AND GENERAL CONTACT INFORMATION

(a) Mailing Address. The mailing address for the Division of Certification and Filing, Notary Public Section is P.O. Box 29626, Raleigh, NC 27626-0626.

(b) Hours. Office hours for the public are 8:00 a.m. to 4:00 p.m. Monday through Friday with the exception of state holidays.

(c) Contacting the Division. In addition to contacting the Division by mail as provided in Paragraph (a) of this Rule, contact with the Division may be by:

(1) On-line information service: The Department provides on-line information services at its website: www.sosnc.gov.

(2) Electronic Mail: For basic information the Notary Public Section may be contacted by email at notary@sosnc.gov. Electronic mail shall not be used for filing applications.

(3) Telephone Number: The telephone number for Notary Customer Service is (919) 814-5400.

(4) Fax Number: To send information to the Notary Public Section via fax, the number is 919-814-5597.

History Note: Authority G.S. 10B-14(f); 147-34;

Eff. April 1, 2007;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;

Amended Eff. February 1, 2021; October 1, 2019.

18 NCAC 07B .0104 FORMS (TRANSFERRED TO 18 NCAC 07B .0401 EFF. JUNE 1, 2023)

18 NCAC 07B .0105 RESERVED FOR FUTURE CODIFICATION

18 NCAC 07B .0106 WAIVER

The Director may waive any rule in this Subchapter that is not statutorily required based on the factors set forth in Rule .0901 of this Chapter.

History Note: Authority G.S. 10B-14(f); 147-36;

Eff. April 1, 2007;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016.

18 NCAC 07B .0107 RESERVED FOR FUTURE CODIFICATION

18 NCAC 07B .0108 RESERVED FOR FUTURE CODIFICATION

18 NCAC 07B .0109 RESERVED FOR FUTURE CODIFICATION

18 NCAC 07B .0110 PUBLIC INFORMATION

(a) The information that the Department shall make available on individual notaries public include:

- (1) Full legal name;
- (2) County of Commission;
- (3) Employer's Name;
- (4) Employer's street and mailing addresses;
- (5) Employer's phone number;
- (6) Status of Commission;
- (7) Disciplinary action, if any.

(b) A request for confidential notary information shall be in writing and shall include documentation of the right of the requestor to receive the confidential notary information, including:

- (1) Authorization of the notary that the person is an agent of the notary authorized to request and receive the information;
- (2) Subpoena or court order;
- (3) Statement of authority from a law enforcement or government agency; or
- (4) N.C. State Bar applicant "Release of Information" form.

History Note: Authority G.S. 10B-2; 10B-7(b); 10B-14(f);

Eff. April 1, 2007;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;

Transferred from 18 NCAC 07B .1001 Eff. June 1, 2023.

SECTION .0200 – FEES PAID TO THE DIVISION

18 NCAC 07B .0201 US CURRENCY

Filers shall tender fees in U.S. dollars and cents.

History Note: Authority G.S. 10B-14(f); 25-3-506; 147-37;

Eff. April 1, 2007;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;

Transferred from 18 NCAC 07B .0105(a) Eff. June 1, 2023; Amended Eff. July 1, 2024.

18 NCAC 07B .0202 ONLINE FEE PAYMENT

Filers who tender fees online shall pay by:

- (1) an automated clearinghouse debit account (ACH);
- (2) a credit card; or
- (3) a debit card.

History Note: Authority G.S. 10B-14(f); 25-3-506; 147-37;

Eff. April 1, 2007;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;

Transferred from 18 NCAC 07B .0105(b) Eff. June 1, 2023; Amended Eff. July 1, 2024.

18 NCAC 07B .0203 FEES PAID IN PERSON

Filers who tender fees in person shall pay with:

(1) one of the following types of checks, made payable to the N.C. Department of the Secretary of State:

- (a) a personal or business check; or
 - (b) a cashier's check;
- (2) cash;
 - (3) money order; or
 - (4) a credit or debit card.

History Note: Authority G.S. 10B-4; Eff. July 1, 2024.

18 NCAC 07B .0204 FEES PAID BY USPS OR BY DELIVERY SERVICE

Filers who tender fees through delivery by United States Postal Service (USPS) or by a designated delivery service authorized pursuant to 26 U.S.C. 7502(f)(2) shall pay using one of the following methods, made payable to the N.C. Department of the Secretary of State:

- (1) a personal or business check;
- (2) a money order; or
- (3) a cashier's check.

History Note: Authority G.S. 10B-4; Eff. July 1, 2024.

18 NCAC 07B .0205 FEE FOR DISHONORED PAYMENT

Pursuant to G.S. 25-3-506, the Department may charge a thirty-five dollar (\$35.00) processing fee to a filer if a tendered payment is dishonored by a bank or financial institution.

History Note: Authority G.S. 10B-14(f); 25-3-506; 147-37;

Eff. April 1, 2007;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;

Transferred from 18 NCAC 07B .0105(c) Eff. June 1, 2023; Amended Eff. July 1, 2024.

18 NCAC 07B .0206 FILING NOT PROCESSED IF PAYMENT DISHONORED

The Department shall not continue to process a filing for which processing has not been completed if the Department receives notice that a payment has been dishonored.

History Note: Authority G.S. 10B-4; Eff. July 1, 2024.

18 NCAC 07B .0207 DEPARTMENT ACTIONS UPON DISHONORED PAYMENT

If the Department has received notice that a tendered payment has been dishonored, regardless of whether the Department has completed processing the filing:

- (1) the filing shall be deemed incomplete;
- (2) the filing shall be voided if payment is not made in full within 15 calendar days of the dishonor pursuant to Rule .0208 of this Section; and
- (3) if any information has been posted on the Department's website indicating that commissioning, registration, licensure, or approval has occurred, the Department shall:
 - (a) remove the information from the website; or
 - (b) annotate the entry as incomplete or void.

History Note: Authority G.S. 10B-4; Eff. July 1, 2024.

18 NCAC 07B .0208 NOTICE TO FILER OF DISHONORED PAYMENT

Upon receipt of notice of dishonor of a tendered payment, the Department shall notify a filer orally or in writing that:

- (1) the payment the filer tendered has been dishonored; and
- (2) the filing shall:
 - (a) not be processed or deemed completed until the filer has tendered in full the payment and the fee in Rule .0205 of this Section; and
 - (b) be voided if payment and fees are not tendered in full within 15 calendar days of the date the Department orally or in writing notifies the filer of the dishonor.

History Note: Authority G.S. 10B-4; Eff. July 1, 2024.

SECTION .0300 –INITIAL APPOINTMENT

18 NCAC 07B .0301 INITIAL COMMISSION (TRANSFERRED TO 18 NCAC 07C .0201 EFF. JUNE 1, 2023)

18 NCAC 07B .0302 TIMING OF FILING OF INITIAL APPLICATION (PARAGRAPH (A) TRANSFERRED TO 18 NCAC 07C .0202 AND PARAGRAPH (B) TRANSFERRED TO 18 NCAC 07C .0502 EFF. JUNE 1, 2023)

18 NCAC 07B .0301 FORM USE REQUIRED

In submitting a filing, a filer shall:

- (1) use a form in Section .0400 of this Subchapter; or
- (2) if there is not a form for the filer's purpose in Section .0400 of this Subchapter, provide in writing the information required by G.S. Chapter 10B or the rules in this Chapter.

History Note: Authority G.S. 10B-4; 10B-14(a),(f); 10B-106; 10B-125; 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23; Eff. July 1, 2024.

18 NCAC 07B .0302 MODE OF FILING

Filers shall submit filings electronically by means established by the Department unless paper filing is permitted pursuant to:

- (1) Chapter 10B of the General Statutes; or
- (2) Rule .0303 of this Section.

History Note: Authority G.S. 10B-4; 10B-6; 10B-106; 10B-125; 10B-134.19; 10B-134.21; Eff. July 1, 2024.

18 NCAC 07B .0303 PAPER FILINGS PERMITTED

Paper filings shall be permitted:

- (1) where the Department has not established electronic means for submittal of a filing; or
- (2) in the case of a traditional notary public:
 - (a) initial applications;
 - (b) recommissioning applications; and
 - (c) affidavits, criminal records, and other documents required to be submitted with applications by notary, electronic notary, or notary instructor applicants pursuant to Chapter 10B of the General Statutes or the rules in this Chapter.

History Note: Authority G.S. 10B-4; 10B-5(e); Eff. July 1, 2024.

18 NCAC 07B .0304 INAPPLICABLE QUESTIONS

If a question or item is not applicable to a filer, the filer shall not leave the question or item blank but shall respond “not applicable” or “N/A.”

History Note: Authority G.S. 10B-4; 10B-5(e); 10B-6; 10B- 106; 10B-125; 10B-134.19; 10B-134.21; Eff. July 1, 2024.

18 NCAC 07B .0305 RESPONSE TO QUESTIONS AND REQUESTS FOR INFORMATION

A filer shall respond to departmental requests for information within the time and in the manner specified based upon the Department’s consideration of:

- (1) the nature of the information requested;
- (2) the urgency of the Department’s need for the information; and
- (3) the ease of production by the recipient of the request.

History Note: Authority G.S. 10B-4; 10B-126; 10B-134.17; 10B-134.19; 10B-134.21; Eff. July 1, 2024.

18 NCAC 07B .0306 ATTACHMENTS

If a form does not include enough space to provide a complete and accurate response to a question or request for information from the Department, a filer shall include an attachment with the form.

History Note: Authority G.S. 10B-4; 10B-6; 10B-106; 10B- 125; 10B-134.19; 10B-134.21; Eff. July 1, 2024.

18 NCAC 07B .0307 NOTICE OF ATTACHMENT

A filer shall:

- (1) make a note at the location of a question or request for information that an attachment has been added in order to fully respond. Note: An example is “See Attachment 1”; and
- (2) identify on the attachment to which question or request for information the additional information relates.

History Note: Authority G.S. 10B-4; 10B-6; 10B-106; 10B- 125; 10B-134.19; 10B-134.21; Eff. July 1, 2024.

18 NCAC 07B .0308 SIGNATURE FOR ENTITY

(a) If a person is signing a form or other document for a technology provider or other business entity:

- (1) the signer shall be duly authorized by law or the entity to sign; and
 - (2) the signer shall state the signer’s title, position, and authorization to sign.
- (b) For purposes of this Rule, “duly authorized by law” means as required by G.S. 55D-

10(b)(5) for an entity, by the owner for a sole proprietorship, or by a general partner for a general partnership.

History Note: Authority G.S. 10B-4; 10B-6; 10B-106; 10B- 125; 10B-134.19; 10B-134.21; Eff. July 1, 2024.

18 NCAC 07B .0309 FORM PREPARER SIGNATURE REQUIRED

A form preparer signing for a technology provider or other business entity shall:

- (1) sign in the space provided for a preparer’s signature on a form; or
- (2) document and note “form preparer” next to the signature in the space provided for a preparer’s signature on a form.

History Note: Authority G.S. 10B-4; 10B-125; 10B-126; 10B- 134.17; 10B-134.19; 10B-134.21; Eff. July 1, 2024.

18 NCAC 07B .0310 INCOMPLETE FILINGS

The Department shall consider a filing incomplete for:

- (1) failure to provide information required pursuant to Chapter 10B of the General Statutes or the rules in this Chapter;
- (2) lack of a signature required by Chapter 10B of the General Statutes or the rules in this Chapter; or
- (3) lack of a notarial act where required by Chapter 10B or the rules in this Chapter.

History Note: Authority G.S. 10B-4; 10B-125; 10B-126; 10B- 134.17; 10B-134.19; 10B-134.21; Eff. July 1, 2024.

18 NCAC 07B .0311 REJECTION OF INCOMPLETE FILINGS

The Department shall reject a filing if it is incomplete and not remedied by the filer within the time specified by the Department.

History Note: Authority G.S. 10B-4; 10B-134.19; Eff. July 1, 2024.

18 NCAC 07B .0312 FILING DATE OF DOCUMENT

A form or document is deemed filed on the day that it is deemed complete and shall not relate back to the date the filing was received.

History Note: Authority G.S. 10B-4; Eff. July 1, 2024.

SECTION .0400 – FORMS

18 NCAC 07B .0401 GENERAL

All forms issued pursuant to Chapter 10B of the General Statutes may be found on the Department’s website or, where not available through the website, may be obtained by contacting the Department using one of the means set out in Section .0100 of this Subchapter. set out in Rule .0103 of this Subchapter.

History Note: Authority G.S. 10B-2; 10B-14(f); Eff. April 1, 2007;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016; Transferred from 18 NCAC 07B .0104 Eff. June 1, 2023; Amended Eff. July 1, 2024.

18 NCAC 07B .0402 REAPPOINTMENT TEST (TRANSFERRED TO 18 NCAC 07C .0603 EFF. JUNE 1, 2023)

18 NCAC 07B .0403 APPLICATION AFTER REAPPOINTMENT DENIAL BASED ON

FAILING TEST (TRANSFERRED TO 18 NCAC 07C .0504 EFF. JUNE 1, 2023)

18 NCAC 07B .0402 CONTACT INFORMATION

For purposes of the rules in this Section, unless otherwise indicated, “contact information” means:

- (1) for an individual who is identified pursuant to G.S. 10B-134.19(c)(2):
 - (a) the full name of the individual;
 - (b) the following addresses:
 - (i) residential address;
 - (ii) business address;
 - (iii) mailing address;
 - (c) business telephone numbers;
 - (d) business email addresses;
 - (e) any other names by which the individual is known, including nicknames;
- (2) for a business entity:
 - (a) the name of the entity on record with the Secretary of State, formation or filing office in its state, federally recognized tribe, or country of formation;
 - (b) the name of the state, federally recognized tribe, or country of formation;
 - (c) the street address, and the mailing address if different, of the entity’s principal office;
 - (d) the street address, and the mailing address if different, of the entity’s registered office;
 - (e) the principal office telephone number of the entity;
 - (f) the email address of the entity;
 - (g) the URL for the entity’s website, if any;
 - (h) the name of an individual who is designated by the entity as the primary contact between the Department and the entity, and for that individual:
 - (i) title and position;
 - (ii) telephone number;
 - (iii) mailing address if different from the addresses provided in Sub-Items (2)(c) and (d) of this Item;
 - (iv) primary email address;
 - (v) secondary email address, if applicable;
 - (i) the name of an individual designated as the secondary contact between the Department and the entity if the individual named in Sub-Item (2)(h) of this Item is not available; and
 - (j) the information in Sub-Item (2)(h) of this Item for the secondary contact individual named in Sub-Item (i) of this Item; or
- (3) for a registered agent listed on an application filed pursuant to G.S. 10B-134.19:
 - (a) the name of the registered agent;
 - (b) the registered office address for the registered agent and mailing address if different; and
 - (c) a business email address for the registered agent.

History Note: Authority G.S. 10B-4; 10B-134.21; Eff. July 1, 2024.

18 NCAC 07B .0403 CERTIFICATE OF APPOINTMENT FORM

The certificate of appointment form includes:

- (1) space for the entry by the Register of Deeds in the county of the commission to enter:
 - (a) the name of the individual administering the oath;
 - (b) the title of the individual administering the oath;
 - (c) the name of the appointee who appeared before the individual and took the oath; and

(d) the signature of the individual who administers the oath; and

(2) space for the signature of the notary public after the oath has been administered.

History Note: Authority G.S. 10B-4; Eff. July 1, 2024.

SECTION .0500 - COMMISSIONS

18 NCAC 07B .0501 APPOINTMENT AND ISSUANCE OF COMMISSIONING CERTIFICATE (TRANSFERRED TO 18 NCAC 07C .0401 EFF. JUNE 1, 2023)

18 NCAC 07B .0502 COMMISSIONING CERTIFICATE DATE (PARAGRAPH (A) TRANSFERRED TO 18 NCAC 07C .0402 AND PARAGRAPH (B) TRANSFERRED TO 18 NCAC 07C .0203 EFF. JUNE 1, 2023)

18 NCAC 07B .0503 OATH OF OFFICE AND DELIVERY OF COMMISSIONING CERTIFICATE (TRANSFERRED TO 18 NCAC 07C .0406 EFF. JUNE 1, 2023)

18 NCAC 07B .0504 REAPPOINTMENT IF OATH NOT TAKEN WITHIN 45 DAYS (TRANSFERRED TO 18 NCAC 07C .0505 EFF. JUNE 1, 2023)

18 NCAC 07B .0505 TERM OF OFFICE (TRANSFERRED TO 18 NCAC 07C .0409 EFF. JUNE 1, 2023)

SECTION .0600 – REJECTIONS, DENIALS, DISCIPLINE, AND ENFORCEMENT

18 NCAC 07B .0601 FACTORS CONSIDERED IN DISCIPLINARY ACTIONS

When determining whether to deny an application or take disciplinary action against a notary, the Director may consider a variety of factors including:

(1) Nature, number and severity of any acts, offenses, official misconduct or crimes under consideration;

(2) Evidence pertaining to the honesty, credibility, truthfulness, and integrity of the applicant or notary public;

(3) Actual or potential monetary or other harm to the general public, group, individual, or client;

(4) History of complaints received by the Department;

(5) Prior disciplinary record or warning from the Department;

(6) Evidence in mitigation;

(7) Evidence in aggravation;

(8) Occupational, vocational, or professional license disciplinary record;

(9) Evidence of rehabilitation. NOTE: Examples include reference letters and proof of class attendance;

(10) Criminal record;

(11) Reports from law enforcement agencies;

(12) Willfulness;

(13) Negligence.

History Note: Authority G.S. 10B-14(f); 10B-60;

Eff. April 1, 2007;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;

Transferred from 18 NCAC 07B .0901 Eff. June 1, 2023.

18 NCAC 07B .0602 GENERAL APPLICATION DENIAL

(a) Unqualified applicant. The Director shall deny the application of an applicant for a notary public commission who does not qualify for office based on the factors set forth in Chapter 10B of the General Statutes and this Subchapter.

(b) Current disciplinary action. The Director shall deny an application if the application is submitted before the expiration of a period of suspension or revocation of a commission previously held by the applicant.

(c) Information regarding convictions and judgments.

(1) The Director shall deny an application which contains false information about the applicant’s criminal record or record of civil lawsuit findings or admissions of liability based on the applicant’s deceit; or

(2) The Director may deny an application which contains misleading information, including:

(A) The applicant’s criminal record, including whether all charges were dismissed or consolidated or whether all terms and conditions of a judgment have been completed;

(B) Misstatement or omission of a nonmaterial fact;

(C) Whether a civil lawsuit included findings based on the applicant’s deceit; or

(D) Whether, in a civil lawsuit or settlement of a civil lawsuit, an applicant made admissions of liability related to the applicant’s deceit.

(d) Applicant notarization. The Director shall deny an application if the applicant notarizes his or her own signature.

(e) The Director shall deny an application if the applicant:

(1) Leaves three or more sections of the application incomplete;

(2) Fails to submit an application for initial appointment within 90 days of class; or

(3) Fails to submit complete and correct information on an application for initial appointment or reappointment after three submissions by the applicant.

History Note: Authority G.S. 10B-5; 10B-14(f);

Eff. April 1, 2007;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;

Transferred from 18 NCAC 07B .0902 Eff. June 1, 2023.

18 NCAC 07B .0603 EXECUTED DOCUMENT VIOLATIONS

The Director shall revoke the commission of a notary who performs a notarial act knowing that the document or information contained in it is false or fraudulent, or that the intent of the executed document is dishonest. Acts of fraud or dishonesty include:

(1) Notarizing a blank DMV vehicle title document;

(2) Embezzlement;

(3) Forgery;

(4) Fraud;

(5) Identity theft;

(6) Impersonation of a law enforcement officer;

(7) Receiving stolen goods or property; and

(8) Theft.

History Note: Authority G.S. 10B-2; 10B-5(d); 10B-14(f); 10B-60;

Eff. April 1, 2007;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;

Transferred from 18 NCAC 07B .0903 Eff. June 1, 2023.

18 NCAC 07B .0604 COMPLETE AND LAWFUL NOTARIAL ACT VIOLATIONS

(a) The Director may take disciplinary action against a notary for an offense relating to failure to meet the statutory requirements for a notarial act.

(b) Offenses relating to failure to meet the statutory requirements for a complete and lawful notarial act include:

- (1) Incomplete attestation;
- (2) Improper acknowledgment language;
- (3) Incorrect signature;
- (4) Incorrect expiration date;
- (5) Failure to administer an oath or affirmation;
- (6) Failure to verify identification;
- (7) Failure to require personal appearance;
- (8) Notarization of a document in which the notary is a named, interested, or signed party;
- (9) Notarization of a “non-signature” or a copy of a signature;
- (10) Charging a fee in excess of that which is set by law, including fees for mileage or travel;
- (11) Acting as a notary when not commissioned;
- (12) Unauthorized use of a seal.

History Note: Authority G.S. 10B-2; 10B-14(f); 10B-60;

Eff. April 1, 2007;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;

Transferred from 18 NCAC 07B .0904 Eff. June 1, 2023.

18 NCAC 07B .0605 OTHER VIOLATIONS

The Director may take disciplinary action against a notary for violation of Chapter 10B of the General Statutes or this Subchapter, including failure to provide information required by Rule .0107 of this Subchapter.

History Note: Authority G.S. 10B-2; 10B-14(f); 10B-60;

Eff. April 1, 2007;

Amended Eff. May 1, 2008;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;

Transferred from 18 NCAC 07B .0905 Eff. June 1, 2023.

18 NCAC 07B .0606 MINIMUM SANCTION

(a) If a notary commits a combination of acts of official misconduct, the notary shall receive, at a minimum, the maximum penalty of the lesser of the acts committed.

(b) Nothing in this Section shall restrict the Secretary from using any other statutory penalty available.

History Note: Authority G.S. 10B-2; 10B-14(f); 10B-60;

Eff. April 1, 2007;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;

Transferred from 18 NCAC 07B .0906 Eff. June 1, 2023.

18 NCAC 07B .0607 APPEAL PROCEDURES

(a) Applicants for commissioning or recommissioning whose applications have been denied and notaries who have received disciplinary action by the Director have the right to file a petition for a contested case hearing pursuant to Article 3 of Chapter 150B of the General Statutes.

(b) Petition forms may be obtained from the Office of Administrative Hearings, 6714 Mail Service Center, Raleigh, NC 27699-6700; 1711 New Hope Church Road, Raleigh, NC 27609; 984-236-1850; <https://www.oah.nc.gov>.

(c) A copy of a Petition filed with the Office of Administrative Hearings must also be served

on the process agent for the Department of the Secretary of State.

History Note: Authority G.S. 10B-2; 10B-14(f);

Eff. April 1, 2007;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;

Amended Eff. October 1, 2019;

Eff. February 1, 2021;

Transferred from 18 NCAC 07B .0907 Eff. June 1, 2023.

SECTION .0700 – PROFESSIONAL LICENSES, CIVIL AND CRIMINAL HISTORY

18 NCAC 07B .0701 GENERAL

(a) Other Professional Licenses. An applicant shall list on his or her application all suspensions, revocations and other disciplinary actions taken against the applicant regarding the applicant's current or former professional licenses.

(b) Criminal Record. An applicant shall list on his or her application all misdemeanor and felony convictions related to crimes of dishonesty and moral turpitude. For purposes of this Chapter, those crimes include:

- (1) Arson;
- (2) Assault;
- (3) Battery;
- (4) Burglary;
- (5) Carrying a concealed weapon without a permit;
- (6) Child molestation;
- (7) Child pornography;
- (8) Discharge of a firearm in a public place or into a dwelling;
- (9) Domestic violence;
- (10) Driving under the influence;
- (11) Unlawful possession or sale of drugs;
- (12) Embezzlement;
- (13) Failure to comply with a court order;
- (14) Failure to pay child support;
- (15) Failure to return to confinement;
- (16) False financial statements;
- (17) Forgery;
- (18) Fraud;
- (19) Identity theft;
- (20) Impersonation of a law enforcement officer;
- (21) Hit and run;
- (22) Kidnapping;
- (23) Prostitutions;
- (24) Multiple worthless checks showing a pattern of behavior indicating moral turpitude and dishonesty;
- (25) A worthless check in excess of five hundred dollars (\$500.00);
- (26) Possession of an unregistered firearm;
- (27) Practicing law without a license;
- (28) Rape;
- (29) Receipt of stolen goods or property;
- (30) Resisting arrest;

- (31) Robbery;
- (32) Statutory rape;
- (33) Tax evasion;
- (34) Terrorist threats or acts;
- (35) Theft;
- (36) Threats to commit a crime or cause bodily injury;
- (37) Spousal abuse.

(c) In considering whether to appoint or reappoint an applicant to the office of notary public, the Director may consider the factors set forth in Rule .0901 of this Subchapter.

History Note: Authority G.S. 10B-5(d); 10B-7; 10B-11; 10B-14(f);

Eff. April 1, 2007;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;

Transferred from 18 NCAC 07B .0201 Eff. June 1, 2023.

18 NCAC 07B .0702 INSTRUCTOR CERTIFICATION – GENERAL (TRANSFERRED TO 18 NCAC 07E .0105 EFF. JUNE 1, 2023)

18 NCAC 07B .0703 TIMING OF INSTRUCTOR CERTIFICATION APPLICATION (TRANSFERRED TO 18 NCAC 07E .0106 EFF. JUNE 1, 2023)

18 NCAC 07B .0704 DEPARTMENT REJECTION OF APPLICATIONS (TRANSFERRED TO 18 NCAC 07E .0107 EFF. JUNE 1, 2023)

18 NCAC 07B .0705 FEES (TRANSFERRED TO 18 NCAC 07E .0104 EFF. JUNE 1, 2023)

18 NCAC 07B .0706 VERIFICATION THAT APPLICANT CONTINUES TO MEET REQUIREMENTS FOR A NOTARY COMMISSION (TRANSFERRED TO 18 NCAC 07E .0108 EFF. JUNE 1, 2023)

18 NCAC 07B .0707 OTHER VERIFICATIONS (TRANSFERRED TO 18 NCAC 07E .0111 EFF. JUNE 1, 2023)

18 NCAC 07B .0708 EVIDENCE OF MINIMUM EXPERIENCE (TRANSFERRED TO 18 NCAC 07E .0201 EFF. JUNE 1, 2023)

18 NCAC 07B .0709 JOURNAL AS EVIDENCE OF EXPERIENCE (TRANSFERRED TO 18 NCAC 07E .0204 EFF. JUNE 1, 2023)

18 NCAC 07B .0710 EMPLOYER AFFIDAVIT AS EVIDENCE OF EXPERIENCE (TRANSFERRED TO 18 NCAC 07E .0209 EFF. JUNE 1, 2023)

18 NCAC 07B .0711 ALTERNATIVE EVIDENCE OF EXPERIENCE (TRANSFERRED TO 18 NCAC 07E .0212 EFF. JUNE 1, 2023)

18 NCAC 07B .0712 RECOMMENDATIONS (TRANSFERRED TO 18 NCAC 07E .0112 EFF. JUNE 1, 2023)

18 NCAC 07B .0713 ORAL PRESENTATION REQUIREMENT FOR APPLICANT (TRANSFERRED TO 18 NCAC 07E .0303 EFF. JUNE 1, 2023)

18 NCAC 07B .0714 NOTARY PUBLIC INSTRUCTOR CERTIFICATION AND RECERTIFICATION EXAMINATIONS (TRANSFERRED TO 18 NCAC 07E .0302)

18 NCAC 07B .0715 ADDITIONAL REQUIREMENTS (TRANSFERRED TO 18 NCAC 07E .0701 EFF. JUNE 1, 2023)

18 NCAC 07B .0716 MINIMUM INSTRUCTIONAL DUTIES OF CERTIFIED NOTARY PUBLIC INSTRUCTORS (TRANSFERRED TO 18 NCAC 07E .0601 EFF. JUNE 1, 2023)

18 NCAC 07B .0717 EVALUATIONS OF INSTRUCTION (TRANSFERRED TO 18 NCAC 07E .1001 EFF. JUNE 1, 2023)

18 NCAC 07B .0718 ELIGIBILITY FOR RECERTIFICATION AS NOTARY PUBLIC INSTRUCTOR (TRANSFERRED TO 18 NCAC 07E .1101 EFF. JUNE 1, 2023)

18 NCAC 07B .0719 NOTARY PUBLIC INSTRUCTOR RECERTIFICATION REQUIREMENTS (TRANSFERRED TO 18 NCAC 07E .1102 EFF. JUNE 1, 2023)

18 NCAC 07B .0720 DENIAL OF NOTARY PUBLIC INSTRUCTOR CERTIFICATION OR RECERTIFICATION (TRANSFERRED TO 18 NCAC 07B .1103 EFF. JUNE 1, 2023)

SECTION .0800 – INVESTIGATIONS – RESERVED

SECTION .0900 – ENFORCEMENT AND DISCIPLINARY ACTION

18 NCAC 07B .0901 FACTORS CONSIDERED IN DISCIPLINARY ACTIONS (TRANSFERRED TO 18 NCAC 07B .0601 EFF. JUNE 1, 2023)

18 NCAC 07B .0902 GENERAL APPLICATION DENIAL (TRANSFERRED TO 18 NCAC 07B .0602 EFF. JUNE 1, 2023)

18 NCAC 07B .0903 EXECUTED DOCUMENT VIOLATIONS (TRANSFERRED TO 18 NCAC 07B .0603 EFF. JUNE 1, 2023)

18 NCAC 07B .0904 COMPLETE AND LAWFUL NOTARIAL ACT VIOLATIONS (TRANSFERRED TO 18 NCAC 07B .0604 EFF. JUNE 1, 2023)

18 NCAC 07B .0905 OTHER VIOLATIONS (TRANSFERRED TO 18 NCAC 07B .0605 EFF. JUNE 1, 2023)

18 NCAC 07B .0906 MINIMUM SANCTION (TRANSFERRED TO 18 NCAC 07B .0606 EFF. JUNE 1, 2023)

18 NCAC 07B .0907 APPEAL PROCEDURES (TRANSFERRED TO 18 NCAC 07B .0607 EFF. JUNE 1, 2023)

SECTION .1000 – PUBLIC RECORDS AND REQUESTS FOR INFORMATION

18 NCAC 07B .1001 PUBLIC INFORMATION (TRANSFERRED TO 18 NCAC 07B .0110)

EFF. JUNE 1, 2023)

SUBCHAPTER 07C – ELECTRONIC NOTARY STANDARDS

SECTION .0100 – GENERAL PROVISIONS

18 NCAC 07C .0101 SCOPE (TRANSFERRED TO 18 NCAC 07F .0101 EFF. JUNE 1, 2023)

18 NCAC 07C .0102 DEFINITIONS (TRANSFERRED TO 18 NCAC 07F .0102 EFF. JUNE 1, 2023)

SECTION .0200 – INITIAL APPLICATION FOR NOTARY PUBLIC APPOINTMENT AND COMMISSION

18 NCAC 07C .0201 INITIAL APPLICATION

(a) Application Form.

(1) Applicants for initial appointment shall use the application form designated by the Division for that purpose and may download the application form from the Department’s website.

(2) Applicants for initial appointment who are members of the North Carolina State Bar may download the application form from the Department’s website and may file the completed application without first obtaining a signature from a notary instructor.

(3) All other applicants for initial appointment who download the application form from the Department’s website shall obtain a signature on the application from a notary instructor certifying that the applicant successfully completed the required course of instruction before the applicant may file the form with the Department.

(b) Submission of Application. An applicant for an initial appointment shall submit his or her application by:

- (1) U.S. mail;
- (2) In person delivery; or
- (3) Courier service.

History Note: Authority G.S. 10B-14(f);

Eff. April 1, 2007;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;

Transferred from 18 NCAC 07B .0301 Eff. June 1, 2023.

18 NCAC 07C .0202 TIMING

Submission deadline. An applicant for initial appointment who is not a licensed member of the North Carolina State Bar shall submit an application within three months after passing the examination required by G.S. 10B-8.

History Note: Authority G.S. 10B-8; 10B-14(f);

Eff. April 1, 2007;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;

Transferred from 18 NCAC 07B .0302(a) Eff. June 1, 2023.

18 NCAC 07C .0203 APPLICATION RECEIPT DATE

Applications shall not be deemed received until complete.

*History Note: Authority G.S. 10B-14(f);
Eff. April 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
Transferred from 18 NCAC 07B .0502(b) Eff. June 1, 2023.*

SECTION .0300 – COURSE OF INSTRUCTION

18 NCAC 07C .0301 APPROVED COURSE OF STUDY FOR ELECTRONIC NOTARIES PUBLIC (TRANSFERRED TO 18 NCAC 07F .0301 EFF. JUNE 1, 2023)

SECTION .0400 - APPOINTMENT AND COMMISSIONING OF NOTARIES

18 NCAC 07C .0401 APPOINTMENT

(a) Upon determination that an applicant has complied with all requirements of the Act and this Subchapter, the Director shall appoint or reappoint the applicant to the office of notary public and issue a commissioning certificate.

(b) The Division shall send the commissioning certificate to the Register of Deeds in the county of commissioning.

(c) The Division shall send the appointee notice that:

(1) The commissioning certificate has been issued; and

(2) The appointee shall appear within 45 days of the commissioning date to take the oath of office before the Register of Deeds in the county of commissioning.

History Note: Authority G.S. 10B-2; 10B-5; 10B-10; 10B-11; 10B-14(f);

Eff. April 1, 2007;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;

Transferred from 18 NCA 07B .0501 Eff. June 1, 2023.

18 NCAC 07C .0402 RESERVED FOR FUTURE CODIFICATION

18 NCAC 07C .0403 RESERVED FOR FUTURE CODIFICATION

18 NCAC 07C .0404 NO BACK-DATING

A commissioning certificate shall not be back-dated.

History Note: Authority G.S. 10B-14(f);

Eff. April 1, 2007;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;

Transferred from 18 NCAC 07B .0502(a) Eff. June 1, 2023.

18 NCAC 07C .0405 SATISFACTORY EVIDENCE OF IDENTITY

(a) Before taking the oath of office, an appointee shall present to the Register of Deeds satisfactory evidence of the appointee's identity as set out in G.S. 10B-3(22).

(b) The Register of Deeds shall document the type of evidence provided by the appointee on the form provided by the Department.

(c) After administering the oath of office the Register of Deeds shall deliver the commissioning certificate to the notary public.

History Note: Authority G.S. 10B-2; 10B-3(22); 10B-9; 10B-10; 10B-11; 10B-14(f);

Eff. April 1, 2007;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;

Transferred from 18 NCAC 07B .0503 Eff. June 1, 2023.

18 NCAC 07C .0406 RESERVED FOR FUTURE CODIFICATION

18 NCAC 07C .0407 RESERVED FOR FUTURE CODIFICATION

18 NCAC 07C .0408 RESERVED FOR FUTURE CODIFICATION

18 NCAC 07C .0409 TERM OF OFFICE

(a) A notary's commission or recommission shall not be effective until the oath of office has been administered.

(b) A notary's five year term of office begins on the date on the commissioning certificate.

History Note: Authority G.S. 10B-10; 10B-14(f);

Eff. April 1, 2007;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;

Transferred from 18 NCAC 07B .0505 Eff. June 1, 2023.

SECTION .0500 – REMEDIES FOR FAILURE TO COMPLY WITH APPLICATION OR COMMISSIONING REQUIREMENTS

18 NCAC 07C .0501 RESERVED FOR FUTURE CODIFICATION

18 NCAC 07C .0502 LATE APPLICATION

An applicant who applies more than three months after compliance with G.S. 10B-8(a) shall

- (1) Comply again with G.S. 10B-8(a);
- (2) Submit an application for initial appointment; and
- (3) Pay the application fee.

History Note: Authority G.S. 10B-8; 10B-14(f);

Eff. April 1, 2007;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;

Transferred from 18 NCAC 07B .0302(b) Eff. June 1, 2023.

18 NCAC 07C .0503 RESERVED FOR FUTURE CODIFICATION

18 NCAC 07C .0504 APPLICATION AFTER REAPPOINTMENT DENIAL BASED ON FAILING TEST

An applicant for reappointment whose application is denied due to failure to pass the reappointment test may reapply by:

- (1) Complying with G.S. 10B-8(a);
- (2) Submitting an application for reappointment; and
- (3) Paying the application fee.

History Note: Authority G.S. 10B-2; 10B-5; 10B-6; 10B-8; 10B-13; 10B-14(f);

Eff. April 1, 2007;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;

Transferred from 18 NCAC 07B .0403 Eff. June 1, 2023.

18 NCAC 07C .0505 FAILURE TO TAKE TIMELY OATH

(a) An appointee who fails to take the oath of office within 45 days of the commissioning certificate date may reapply for reappointment.

(b) Reapplication within one year of commission date. If an appointee seeks reappointment more than 45 days and less than one year after the commissioning certificate date, the appointee

shall:

- (1) Apply for reappointment;
- (2) Submit another application fee; and
- (3) Pass the reappointment test.

(c) Reapplication one year or more after commissioning certificate date. If an appointee seeks reappointment one year or more after the commissioning certificate date, the appointee shall:

- (1) Comply with the requirements of G.S. 10B-8(a);
- (2) Apply for reappointment; and
- (3) Submit another application fee.

History Note: Authority G.S. 10B-11; 10B-14(f);

Eff. April 1, 2007;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;

Transferred from 18 NCAC 07B .0504 Eff. June 1, 2023.

SECTION .0600 – STEPS FOR REAPPOINTMENT

18 NCAC 07C .0601 APPLICATION STEPS FOR REPOINTMENT

Application for Reappointment.

- (1) An applicant for reappointment shall submit an application for reappointment.
- (2) Applicants for reappointment may apply on-line on the Department’s website.

History Note: Authority G.S. 10B-11; 10B-14(f);

Eff. April 1, 2007;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;

Transferred from 18 NCAC 07B .0401(a) Eff. June 1, 2023.

18 NCAC 07C .0602 TIMING OF APPLICATION FOR REAPPOINTMENT

Timing of Application for Reappointment. An applicant for reappointment shall apply for reappointment no earlier than 10 weeks before the expiration date of the applicant’s commission.

History Note: Authority G.S. 10B-11; 10B-14(f);

Eff. April 1, 2007;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;

Transferred from 18 NCAC 07B .0401(b) Eff. June 1, 2023.

18 NCAC 07C .0603 REAPPOINTMENT TEST

(a) Attorneys who are licensed members of the North Carolina State Bar do not have to take a reappointment test.

(b) The reappointment test may be taken either:

- (1) By completing the on-line test on the Department’s website;
- (2) By completing a paper test at the Department’s offices at a time based upon:
 - (A) The availability of the Division’s staff; and
 - (B) The availability of the applicant; or
- (3) By completing a paper test at a time and place mutually agreed upon by the applicant and a certified notary public instructor.

(c) An applicant for reappointment shall have 30 minutes to complete the test. An applicant needing accommodation pursuant to the Americans with Disabilities Act shall contact the Division and request the accommodation.

(d) If an applicant fails the reappointment test, the applicant may re-take the test no more than two times within 30 days of the date on which the test is first taken.

(e) If the applicant fails to pass the reappointment test within 30 days, the applicant shall not

be reappointed and the application shall be denied.

History Note: Authority G.S. 10B-2; 10B-8; 10B-14(f); 168A-7; 42 USC 12132;

Eff. April 1, 2007;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;

Transferred from 18 NCAC 07B .0402 Eff. June 1, 2023.

18 NCAC 07C .0604 PROTECTED ACCESS (TRANSFERRED TO 18 NCAC 07F .1002 EFF. JUNE 1, 2023)

SECTION .0700 – RECORDS OF ELECTRONIC NOTARIAL ACTS - RESERVED

SECTION .0800 – ELECTRONIC NOTARY ACT INVESTIGATION AND ENFORCEMENT- RESERVED

SUBCHAPTER 07D – CONTINUING OBLIGATIONS OF NOTARIES

SECTION .0100 - RESERVED FOR FUTURE CODIFICATION

SECTION .0200 - RESERVED FOR FUTURE CODIFICATION

SECTION .0300 – NOTICE TO DEPARTMENT OF CHANGES

18 NCAC 07D .0301 GENERAL OBLIGATIONS

(a) A notary shall notify the Director of changes in name, address or county as required by G.S. 10B-50, 10B-51, and 10B-53.

(b) A notary shall notify the Director that the notary has been convicted of a crime as set out in G.S. 10B-3(9) and Rule .0201 of this Subchapter, within 45 days of the date on which judgment is entered.

(c) A notary shall notify the Director of changes in:

(1) Residency or place of work to a location outside the State of North Carolina;

(2) Residency status in the United States;

(3) Ability to speak, read and write the English language;

(4) A finding or admission of liability in a civil lawsuit based upon the notary's deceit;

(5) Revocation, suspension, restriction, or denial of a professional license by the State of North Carolina or any other state or nation;

(6) A finding that the notary has engaged in official misconduct, whether or not disciplinary action resulted;

(7) A finding or a charge that a notary has knowingly used false or misleading advertising in which the notary was represented as having powers, duties, rights or privileges that a North Carolina notary, by law, does not possess; or

(8) The North Carolina State Bar or the courts of North Carolina or the bar or courts of any other state or nation finding that the notary has engaged in the unauthorized practice of law.

(d) A notary shall respond within the time period set out in a request from the Director for information, including a request for information regarding wrongful notarial acts alleged to have been performed by the notary.

History Note: Authority G.S. 10B-14(f);

Eff. April 1, 2007;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;

Transferred from 18 NCAC 07B .0107 Eff. June 1, 2023.

SUBCHAPTER 07E – NOTARY INSTRUCTOR REQUIREMENTS

SECTION .0100 – NOTARY INSTRUCTOR APPLICATION REQUIREMENTS

18 NCAC 07E .0101 INSTRUCTOR CERTIFICATION – SCOPE

(a) Except as otherwise provided in G.S. 10B-14 and this Section, notaries public shall comply with all requirements for certification or recertification as a notary public instructor as set forth in this Chapter.

(b) A notary public who is a licensed member of the North Carolina State Bar shall comply with all requirements of this Chapter in order to obtain certification or recertification as a notary public instructor.

History Note: Authority G.S. 10B-8; 10B-14;

Eff. January 1, 2008;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;

Transferred from 18 NCAC 07B .0701 Eff. June 1, 2023.

18 NCAC 07E .0102 RESERVED FOR FUTURE CODIFICATION

18 NCAC 07E .0103 RESERVED FOR FUTURE CODIFICATION

18 NCAC 07E .0104 FEES

(a) The fee required by G.S. 10B-14 for certification and recertification as a notary public instructor shall be paid in accordance with Rule .0105 of this Chapter.

(b) A person asserting that he or she is not required to submit a fee pursuant to G.S. 10B-14(c) shall include verification that as of the date of application the applicant is currently employed as a register of deed, clerk of court or is the Director or an authorized employee of the Secretary as set forth in G.S. 10B-14(c).

(c) The Secretary may refuse to administer the notary public instructor certification examination to an applicant who has failed to pay the fee required for certification or recertification as a notary public instructor before the examination date.

History Note: Authority G.S. 10B-8; 10B-14;

Eff. January 1, 2008.;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;

Transferred from 18 NCAC 07B .0705 Eff. June 1, 2023.

18 NCAC 07E .0105 INSTRUCTOR CERTIFICATION - GENERAL

Applicants for notary public instructor certification shall:

(1) Complete the Department's notary public instructor application form and submit it to the Department;

(2) Comply with the requirements of Rule .0708 through Rule .0711 of this Chapter regarding verification of 12 months of experience;

(3) Comply with the requirements of Rule .0712 of this Chapter regarding recommendations;

(4) Comply with the requirements of Rule .0713 of this Chapter regarding an oral presentation of a notary public course curriculum lesson;

(5) Make a passing grade on the final examination in the notary public instructor certification course as set forth in Rule .0714 of this Chapter; and

(6) Except as otherwise provided in G.S. 10B-14(c) and Rule .0705 of this Chapter, pay the required fee.

*History Note: Authority G.S. 10B-8; 10B-14;
Eff. January 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
Transferred from 18 NCAC 07B .0702 Eff. June 1, 2023.*

18 NCAC 07E .0106 TIMING OF INSTRUCTOR CERTIFICATION APPLICATION

An application for notary public instructor certification or recertification shall not be submitted to the Division during the period of any sanction issued by the Division.

*History Note: Authority G.S. 10B-8; 10B-14;
Eff. January 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
Transferred from 18 NCAC 07B .0703 Eff. June 1, 2023.*

18 NCAC 07E .0107 DEPARTMENT REJECTION OF APPLICATIONS

The Department shall reject a notary instructor certification or recertification application which is received:

(1) While an investigation into the applicant's performance of the duties of a notary public or notary public instructor is open; or

(2) During the period of any sanction issued by the Division.

*History Note: Authority G.S. 10B-8; 10B-14;
Eff. January 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
Transferred from 18 NCAC 07B .0704 Eff. June 1, 2023.*

18 NCAC 07E .0108 VERIFICATION THAT APPLICANT CONTINUES TO MEET REQUIREMENTS FOR A NOTARY COMMISSION

An applicant for notary public instructor certification or recertification shall verify that:

(1) The applicant continues to meet each of the qualifications for a notary commission found in G.S. 10B-5 and 10B-7; and

(2) With regard to changes requiring notification to the Division pursuant to Rule .0107 of this Chapter, verify:

(a) That there have been no changes requiring notification to the Department;

(b) That there have been changes requiring notification to the Department and that the applicant has made all required notifications; or

(c) That there have been changes requiring notification to the Department and the applicant has not previously made the required notification to the Department but is including the notification with the application.

*History Note: Authority G.S. 10B-8; 10B-14;
Eff. January 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
Transferred from 18 NCAC 07B .0706 Eff. June 1, 2023.*

18 NCAC 07E .0109 RESERVED FOR FUTURE CODIFICATION

18 NCAC 07E .0110 RESERVED FOR FUTURE CODIFICATION

18 NCAC 07E .0111 OTHER VERIFICATIONS

An applicant for notary public instructor certification shall verify that he or she:

(1) Possesses and has read the current notary public guidebook; and

(2) Has read Chapter 10B of the General Statutes and this Chapter.

History Note: Authority G.S. 10B-8; 10B-14;

Eff. January 1, 2008;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;

Transferred from 18 NCAC 07B .0707 Eff. June 1, 2023.

18 NCAC 07E .0112 RECOMMENDATIONS

A notary public instructor certification applicant shall submit three recommendations on the Division's recommendation form from persons unrelated to the applicant by birth, marriage or adoption.

History Note: Authority G.S. 10B-8; 10B-14;

Eff. January 1, 2008;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;

Transferred from 18 NCAC 07B .0712 Eff. June 1, 2023.

SECTION .0200 – NOTARY INSTRUCTOR APPLICANT VERIFICATION OF EXPERIENCE

18 NCAC 07E .0201 EVIDENCE OF MINIMUM EXPERIENCE

(a) For purposes of these Rules a notarial act is an act set out in G.S. 10B-20(a).

(b) For purposes of demonstrating the experience required by G.S. 10B-14(a)(2), an applicant shall show evidence of performing notarial acts during each month of the 12 months immediately preceding the application to become a certified notary instructor.

(c) Evidence of performance of notarial acts shall be presented by one of the methods set forth in Rule .0709 through Rule .0711 of this Chapter.

History Note: Authority G.S. 10B-8; 10B-14;

Eff. January 1, 2008;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;

Transferred from 18 NCAC 07B .0708 Eff. June 1, 2023.

18 NCAC 07E .0202 RESERVED FOR FUTURE CODIFICATION

18 NCAC 07E .0203 RESERVED FOR FUTURE CODIFICATION

18 NCAC 07E .0204 JOURNAL AS EVIDENCE OF EXPERIENCE

(a) An applicant for notary public instructor certification may submit a journal of notarial acts as evidence of experience performing notarial acts.

(b) The submitted journal shall, at a minimum, include:

(1) The dates on which notarial acts were performed;

(2) The type of notarial act performed; and

(3) The name(s) of the party(ies) for whom each notarial act was performed.

(c) The applicant shall submit an affidavit verifying that the information in the journal submitted in compliance with this Rule is true and correct.

History Note: Authority G.S. 10B-8; 10B-14;

Eff. January 1, 2008;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;

Transferred from 18 NCAC 07B .0709 Eff. June 1, 2023.

18 NCAC 07E .0205 RESERVED FOR FUTURE CODIFICATION

18 NCAC 07E .0206 RESERVED FOR FUTURE CODIFICATION

18 NCAC 07E .0207 RESERVED FOR FUTURE CODIFICATION

18 NCAC 07E .0208 RESERVED FOR FUTURE CODIFICATION

18 NCAC 07E .0209 EMPLOYER AFFIDAVIT AS EVIDENCE OF EXPERIENCE

(a) An applicant for notary public instructor certification may submit an affidavit from his or her employer verifying that the applicant has had experience performing notarial acts.

(b) The submitted affidavit shall, at a minimum, include the following:

(1) The name of the corporation, business, individual or entity employing the applicant;

(2) The full name of the person verifying the applicant's experience;

(3) The authority of the person to verify the applicant's experience, including his or her title;

(4) The address, telephone number and, if applicable, email address of the person verifying the applicant's experience;

(5) A narrative description of the reasons the applicant has performed notarial acts while employed by the person or entity submitting the affidavit; and

(6) Verification that the applicant has performed at least one notarial act during each of the 12 immediately preceding months.

(c) The submitted affidavit may also contain a recommendation pursuant to Rule .0712 of this Chapter.

History Note: Authority G.S. 10B-8; 10B-14;

Eff. January 1, 2008;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;

Transferred from 18 NCAC 07B .0710 Eff. June 1, 2023.

18 NCAC 07E .0210 RESERVED FOR FUTURE CODIFICATION

18 NCAC 07E .0211 RESERVED FOR FUTURE CODIFICATION

18 NCAC 07E .0212 ALTERNATIVE EVIDENCE OF EXPERIENCE

An applicant for notary public instructor certification may submit evidence of experience performing notarial acts other than a journal or employer affidavit, provided the evidence includes:

(1) An affidavit from the applicant verifying that the applicant has performed at least one notarial act in each of the 12 immediately preceding months; and

(2) An affidavit from at least one person unrelated to the applicant by birth, marriage or adoption which establishes that the applicant has performed at least one notarial act during each of the 12 months immediately preceding the application.

History Note: Authority G.S. 10B-8; 10B-14;

Eff. January 1, 2008;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;

Transferred from 18 NCAC 07B .0711 Eff. June 1, 2023.

SECTION .0300 – NOTARY INSTRUCTOR EDUCATION

18 NCAC 07E .0301 RESERVED FOR FUTURE CODIFICATION

18 NCAC 07E .0302 NOTARY PUBLIC INSTRUCTOR CERTIFICATION AND

RECERTIFICATION EXAMINATIONS

(a) A passing grade on the notary public instructor certification or recertification final examination shall be 90 percent.

(b) A notary public instructor certification or recertification applicant who fails to achieve a passing grade on the final examination may apply to take the test one additional time within three months.

History Note: Authority G.S. 10B-8; 10B-14;

Eff. January 1, 2008;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;

Transferred from 18 NCAC 07B .0714 Eff. June 1, 2023.

18 NCAC 07E .0303 ORAL PRESENTATION REQUIREMENT FOR APPLICANT

(a) A notary public instructor certification student shall provide an oral presentation of a section of the notary public curriculum which shall be evaluated according to the standards set forth in Paragraph (c) of this Rule.

(b) A passing grade on the notary public instructor certification oral presentation shall be 80 percent.

(c) The oral presentation of a notary public instructor certification student shall be graded for instructional ability using standards including the notary public instructor student's:

(1) Voice quality (projection, articulation, speech rate);

(2) Verbal skill (fluency and clarity);

(3) Physical appearance and mannerisms (attire, posture, body language, eye contact, movement) to project a professional demeanor;

(4) Professional qualities of the instructor (knowledge, self-confidence, tact, enthusiasm, sensitivity);

(5) Selection and use of training aids (use of writing surface and other aids, effective use of multimedia, transparencies, and slides, relates aids to objectives, and use of aids when scheduled);

(6) Presentation of information in logical sequence;

(7) Timing of presentation to allow for sufficient time for questions and discussion;

(8) Transition of subjects with continuous progression and development of lesson;

(9) Emphasis of key points and frequent summarization of topics to entire lesson or course and use of examples to clarify the subjects;

(10) Frequent establishment of relevance of the topics to entire lesson or course and use of examples to clarify the subjects; and

(11) Following the Division's notary public curriculum.

(d) A notary public instructor student who fails the oral presentation portion of the notary public instructor certification course may schedule one additional oral presentation within three months of the failure to complete the oral presentation requirement as required by Paragraph (b) of this Rule.

History Note: Authority G.S. 10B-8; 10B-14;

Eff. January 1, 2008;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;

Transferred from 18 NCAC 07B .0713 Eff. June 1, 2023.

SECTION .0400 – RESERVED FOR FUTURE CODIFICATION

SECTION .0500 – RESERVED FOR FUTURE CODIFICATION

SECTION .0600 – NOTARY INSTRUCTOR TEACHING OBLIGATIONS

18 NCAC 07E .0601 MINIMUM INSTRUCTIONAL DUTIES OF CERTIFIED NOTARY PUBLIC INSTRUCTORS

(a) A certified notary public instructor shall verify the identity of each student during the first instructional period and again prior to administration of the notary public examination by requiring satisfactory evidence of identity as defined in G.S. 10B-3(22)(a).

(b) A certified notary public instructor shall follow the Division supplied curriculum for notary public instruction unless the instructor has been granted approval by the Division for a variance.

(c) While performing their duties as certified notary public instructors, certified instructors shall comply with applicable State and federal laws relating to adult education.

(d) When administering the notary public examination, a certified notary public instructor shall take steps to prevent cheating by students taking the notary public examination.

(e) When administering the notary public examination, a certified notary public instructor shall report to the Division within two business days if the instructor has reason to believe that there has been cheating on a notary public examination by any student, and shall provide:

(1) The name, address and contact information for any student suspected of cheating; and

(2) A narrative description of the instructor's reasons for believing cheating may have occurred.

(f) Notary public instructors shall submit student notary public examination grades to the Division within two business days after the examination has been administered.

(g) A notary public instructor shall demonstrate a professional demeanor at all times during instruction and administration of the duties of a certified notary public instructor.

(h) A notary public instructor shall not use profanity or obscene language when instructing the notary public course or administering the notary public examination.

History Note: Authority G.S. 10B-8; 10B-14;

Eff. January 1, 2008;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;

Transferred from 18 NCAC 07B .0716 Eff. June 1, 2023.

SECTION .0700 – NOTARY INSTRUCTOR CONTINUING OBLIGATIONS

18 NCAC 07E .0701 ADDITIONAL REQUIREMENTS

If the Division receives information or a complaint that gives reason to question the notary public instructor's eligibility or ability to perform the duties of a notary public instructor, the Division may require the notary public instructor to:

(1) Submit to an interview;

(2) Submit additional information; or

(3) Submit audio and visual documentation such as a video of actual instruction.

History Note: Authority G.S. 10B-8; 10B-14;

Eff. January 1, 2008;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;

Transferred from 18 NCAC 07B .0715 Eff. June 1, 2023.

SECTION .0800 – RESERVED FOR FUTURE CODIFICATION

SECTION .0900 – RESERVED FOR FUTURE CODIFICATION

SECTION .1000 – NOTARY INSTRUCTOR EVALUATION

18 NCAC 07E .1001 EVALUATIONS OF INSTRUCTION

(a) If the employer of a certified notary public instructor conducts a written performance evaluation of the instructor at least once per calendar year, the instructor shall submit a copy of the performance evaluation to the Department within 30 days after receipt of the written performance evaluation from the employer.

(b) If the employer of a certified notary public instructor does not conduct a written performance evaluation of the instructor at least once per calendar year, the instructor shall:

(1) Require that his or her notary public course students in one class each calendar year complete the Division's student evaluation of notary public course instructor form; and

(2) Shall submit copies of all completed student evaluation forms to the Division within 30 days of receipt of the completed forms.

(c) The Department may conduct evaluations of instructional performance of certified notary public instructors by methods including:

(1) Surveys of notary public students;

(2) Requests for audio-visual recordings of courses; and

(3) Observation of classroom instruction.

History Note: Authority G.S. 10B-8; 10B-14;

Eff. January 1, 2008;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;

Transferred from 18 NCAC 07B .0717 Eff. June 1, 2023.

SECTION .1100 – NOTARY INSTRUCTOR RE-CERTIFICATION

18 NCAC 07E .1101 ELIGIBILITY FOR RE-CERTIFICATION AS NOTARY PUBLIC INSTRUCTOR

A notary public instructor shall not be eligible for recertification as a notary public instructor if the notary public instructor:

(1) Has failed to submit notary public student examination grades or notary public instructor evaluations to the Division as required by Rules .0716 and .0717 of this Chapter;

(2) Has been subject to disciplinary action by the Division in relation to:

(a) The performance of notary public duties pursuant to Chapter 10B of the General Statutes or this Chapter; or

(b) The performance of notary public instructor duties; or

(3) Has failed to comply with other requirements imposed upon a notary or notary public instructor pursuant to law or rule.

History Note: Authority G.S. 10B-8; 10B-14;

Eff. January 1, 2008;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;

Transferred from 18 NCAC 07B .0718 Eff. June 1, 2023.

18 NCAC 07E .1102 NOTARY PUBLIC INSTRUCTOR RE-CERTIFICATION REQUIREMENTS

An applicant for recertification as a notary public instructor shall:

(1) Complete the Department's notary public instructor application form and submit it to the Department;

(2) Comply with the requirements of Rule .0708 through Rule .0711 of this Chapter

regarding verification of 12 months of experience performing notarial acts;

(3) Comply with the requirements of Rule .0713 of this Chapter regarding an oral presentation of a notary public course lesson;

(5) Make a passing grade on the final examination in the notary public instructor certification recertification course as set forth in Rule .0714 of this Chapter;

(6) Except as otherwise provided in Rule .0705 of this Chapter, pay the required fee; and

(7) Submit an affidavit verifying that the applicant has taught the notary public instructor course at least twice a year during the two-year certification period.

History Note: Authority G.S. 10B-8; 10B-14;

Eff. January 1, 2008;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;

Transferred from 18 NCAC 07B .0719 Eff. June 1, 2023.

18 NCAC 07E .1103 DENIAL OF NOTARY PUBLIC INSTRUCTOR CERTIFICATION OR RE-CERTIFICATION

An application for notary public instructor certification or recertification may be denied:

(1) For any reason for which an application for commissioning or re-commissioning of a notary public may be denied; or

(2) If an applicant no longer meets the requirements or fails to comply with the requirements to be a certified notary public instructor.

History Note: Authority G.S. 10B-8; 10B-14;

Eff. January 1, 2008;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;

Transferred from 18 NCAC 07B .0720 Eff. June 1, 2023.

SUBCHAPTER 07F – ELECTRONIC NOTARY PUBLIC REQUIREMENTS

SECTION .0100 – GENERAL

18 NCAC 07F .0101 SCOPE

The rules in this Subchapter implement Chapter 10B, Article 2, of the General Statutes, the Electronic Notary Act.

History Note: Authority G.S. 10B-125(b); 47-16.5; 47-16.7; 147-36; 15 USC 7002;

Eff. January 1, 2007;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;

Transferred from 18 NCAC 07C .0101 Eff. June 1, 2023; Amended Eff. July 1, 2024.

18 NCAC 07F .0102 DEFINITIONS

For purposes of Article 2 of Chapter 10B of the General Statutes and this Subchapter:

(1) “Approved vendor for electronic notarizations,” “approved electronic notary solution provider,” or “AVEN” means a person approved by the Department to provide an electronic notarization system pursuant to Article 2 of Chapter 10B of the General Statutes.

(2) “Biometric authentication” means proving the identity of a user by requiring verification of the user’s identity through technologies that require measurement and analysis of one or more human physiological or behavioral characteristics of the user in order to access and use an electronic notarization system. Note: Biometric authentication technologies include fingerprint scanning devices, retinal scanning devices, and handwriting analysis devices.

(3) “Electronic notarization system” means a set of applications, programs, hardware, software, or technology approved by the Department that is designed to enable a notary to perform electronic or remote electronic notarizations.

(4) “Electronic notary applicant” means a commissioned North Carolina notary public who applies to be registered or reregistered as an electronic notary public.

(5) “Electronic notary’s electronic signature” means:

(a) an electronic image of the handwritten signature of the electronic notary public in the name of the notary as it appears on the notary’s commission; and

(b) the AVEN’s or other technology provider’s security features attached to the signature in Sub-Item (5)(a) of this Rule.

“Independently verifiable” means capable of government or third-party authentication of a notarial act, an electronic notary’s identity and current status with the Department.

(6) “In the presence of the electronic notary at the time of notarization” means that an individual and an electronic notary public are in close physical proximity to one another without using technology to establish personal appearance.

(7) “Password authentication” means requiring the user to enter a secret word, phrase, or symbol set in order to access and use an electronic notarization system.

(8) “Token authentication” means requiring use of a physical device in addition to a password or personal identification number (“PIN” number) in order to access and use an electronic notarization system. Note: Physical devices used in token authentication technologies include magnetic cards or “smart cards” and Universal Serial Bus (USB) memory sticks or “USB keys.”

History Note: Authority G.S. 10B-125(b), 10B-126(d); 47-16.5; 47-16.7; 147-36; 15 USC 7002; Eff. January 1, 2007;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016; Transferred from 18 NCAC 07C .0102 Eff. June 1, 2023; Amended Eff. July 1, 2024.

18 NCAC 07F .0103 ELECTRONIC NOTARIES PERFORMING REMOTE ELECTRONIC NOTARIAL ACTS

An electronic notary public shall not perform a remote electronic notarial act until the electronic notary has complied with the requirements of this Chapter.

History Note: Authority G.S. 10B-4; 10B-106; 10B-125; 10B-126; 10B-134.15; 10B-134.17; 10B-134.21; Eff. July 1, 2024.

SECTION .0200 – QUALIFICATIONS TO BE ELECTRONIC NOTARY

18 NCAC 07F .0201 VALID COMMISSION

An electronic notary applicant shall hold a valid North Carolina notary commission and shall affirm that the applicant continues to meet the qualifications to hold the notary commission.

History Note: Authority G.S. 10B-125(b), 10B-126(d); 47-16.5; 47-16.7; 147-36; 15 USC 7002; Eff. January 1, 2007;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016; Transferred from 18 NCAC 07C .0201(a) Eff. June 1, 2023; Amended Eff. July 1, 2024.

SECTION .0300 – EDUCATION OF ELECTRONIC NOTARIES

18 NCAC 07F .0301 APPROVED COURSE OF STUDY FOR ELECTRONIC NOTARIES PUBLIC

(a) The Department shall develop the training course and testing for applicants for electronic notary public registration.

(b) The Department shall train certified notary instructors to teach the training course and administer testing for electronic notary applicants.

History Note: Authority G.S. 10B-107; 10B-125, 10B-126; 47-16.5; 47-16.7; 147-36; 15 USC 7002;

Eff. January 1, 2007;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;

Transferred from 18 NCAC 07C .0301 Eff. June 1, 2023; Amended Eff. July 1, 2024.

18 NCAC 07F .0302 COURSES TO BE TAUGHT BY CERTIFIED NOTARY INSTRUCTORS

Before submitting an application for registration as an electronic notary public, an individual shall attend and successfully complete an electronic notary course taught by a certified notary instructor.

History Note: Authority G.S. 10B-4; 10B-14; 10B-125; 10B- 126; 10B-134.21;

Eff. July 1, 2024.

18 NCAC 07F .0304 STUDENT IDENTITY

Each electronic notary course student shall:

- (1) be personally known to the certified notary instructor; or
- (2) present satisfactory evidence of identity to the certified notary instructor.

History Note: Authority G.S. 10B-4; 10B-14; 10B-125; 10B- 126; 10B-134.21;

Eff. July 1, 2024.

18 NCAC 07F .0305 PASSING SCORE ON EXAMINATION

A passing score on the electronic notary course examination shall be 80 percent or higher.

History Note: Authority G.S. 10B-4; 10B-134.21; Eff. July 1, 2024.

SECTION .0400 – APPLICATION FOR REGISTRATION AS ELECTRONIC NOTARY

18 NCAC 07F .0401 SUBMISSSION

Submission. The applicant shall:

- (1) Complete the registration form on line;
- (2) Print the form;
- (3) Have the form notarized; and
- (4) Submit the form by:
 - (A) U.S. mail;
 - (B) In person delivery; or
 - (D) Courier service.

History Note: Authority G.S. 10B-125(b), 10B-126(d) ; 47-16.5; 47-16.7; 147-36; 15 USC 7002;

Eff. January 1, 2007;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;

Transferred from 18 NCAC 07C .0201(b) Eff. June 1, 2023.

18 NCAC 07F .0402 TIMING OF APPLICATION

An electronic notary applicant shall submit an application to be registered as an electronic notary public within three months of successfully completing the electronic notary course.

Note: For the purposes of this Rule, “month” shall mean that term as defined in G.S. 12-3(3).

History Note: Authority G.S. 10B-4; 10B-106; 10B-134.21; Eff. July 1, 2024.

18 NCAC 07F .0403 NOTICE TO DEPARTMENT OF CHANGES

An electronic notary applicant shall have provided all notices to the Department required by Chapter 10B of the General Statutes and the rules in this Chapter before submitting an application.

History Note: Authority G.S. 10B-4; 10B-50; 10B-51; 10B- 52; 10B-53; 10B-106; 10B-126(d); 10B-127; 10B-134.15; 10B- 134.21; Eff. July 1, 2024.

18 NCAC 07F .0404 FAILURE TO SUBMIT APPLICATION IN TIME

The Department shall deny an application that does not comply with Rule .0402 of this Section. If the applicant reapplies, the electronic notary applicant shall comply with the following:

- (1) successfully complete the electronic notary course again;
- (2) submit a new application; and
- (3) tender applicable fees.

History Note: Authority G.S. 10B-4; 10B-106; 10B-125; 10B- 126; 10B-134.21; Eff. July 1, 2024.

SECTION .0500 – REGISTRATIONS

18 NCAC 07F .0501 RESERVED FOR FUTURE CODIFICATION

18 NCAC 07F .0502 RESERVED FOR FUTURE CODIFICATION

18 NCAC 07F .0503 RESERVED FOR FUTURE CODIFICATION

18 NCAC 07F .0504 RESERVED FOR FUTURE CODIFICATION

18 NCAC 07F .0505 OATHS TIMING

The applicant shall take the oath in the Register of Deeds office within 45 days of the issue date on the electronic notary oath notification letter.

History Note: Authority G.S. 10B-125(b), 10B-126(d); 47-16.5; 47-16.7; 147-36; 15 USC 7002; Eff. January 1, 2007;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016; Transferred from 18 NCAC 07C .0202(a) Eff. June 1, 2023.

18 NCAC 07F .0506 EVIDENCE OF IDENTITY

Before taking the oath of office, an applicant shall present to the Register of Deeds evidence of the applicant’s identity as defined in G.S. 10B-3(22).

History Note: Authority G.S. 10B-125(b), 10B-126(d); 47-16.5; 47-16.7; 147-36; 15 USC 7002; Eff. January 1, 2007;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016; Transferred from 18 NCAC 07C .0202(b) Eff. June 1, 2023.

18 NCAC 07F .0507 CERTIFICATE DELIVERY

After administering the oath of office, the Register of Deeds shall deliver the electronic notary registration certificate to the electronic notary.

History Note: Authority G.S. 10B-125(b), 10B-126(d); 47-16.5; 47-16.7; 147-36; 15 USC 7002; Eff. January 1, 2007;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016; Transferred from 18 NCAC 07C .0202(c) Eff. June 1, 2023.

18 NCAC 07F .0508 REGISTRATION EFFECTIVE DATE

The applicant’s electronic notary registration shall not be effective until the applicant takes the oath.

History Note: Authority G.S. 10B-125(b), 10B-126(d); 47-16.5; 47-16.7; 147-36; 15 USC 7002; Eff. January 1, 2007; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016; Transferred from 18 NCAC 07C .0202(d) Eff. June 1, 2023.

SECTION .0600 – RESERVED FOR FUTURE CODIFICATION

18 NCAC 07F .0602 APPROVED TECHNOLOGY PROVIDER

An electronic notary public shall use only technology providers approved or licensed by the Department and listed on the Department’s website.

History Note: Authority G.S. 10B-4; 10B-125; 10B-126; 10B- 134.15; 10B-134.17; 10B-134.21; 10B-134.23; Eff. July 1, 2024.

SECTION .0700 – ELECTRONIC NOTARY SIGNATURE

18 NCAC 07F .0701 UNIQUE SIGNATURE

The electronic notary signature shall be independently verifiable and specific to each electronic notary public.

History Note: Authority G.S. 10B-125(b), 10B-126(d); 47-16.5; 47-16.7; 147-36; 15 USC 7002; Eff. January 1, 2007; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016; Transferred from 18 NCAC 07C .0401(a) Eff. June 1, 2023; Amended Eff. July 1, 2024.

18 NCAC 07F .0702 SOLE CONTROL

The electronic notary public shall retain exclusive control of the electronic notary signature such that the electronic signature can be attributed solely to the electronic notary.

History Note: Authority G.S. 10B-125(b), 10B-126(d); 47-16.5; 47-16.7; 147-36; 15 USC 7002; Eff. January 1, 2007; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016; Transferred from 18 NCAC 07C .0401(b) Eff. June 1, 2023; Amended Eff. July 1, 2024.

18 NCAC 07F .0703 EXCLUSIVE

History Note: Authority G.S. 10B-125(b), 10B-126(d); 47-16.5; 47-16.7; 147-36; 15 USC 7002; Eff. January 1, 2007; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016; Transferred from 18 NCAC 07C .0401(c) Eff. June 1, 2023; Repealed Eff. July 1, 2024.

18 NCAC 07F .0704 ELECTRONIC SIGNATURE

The electronic notary public’s signature shall:

(1) be applied to and logically associated electronically with the notarized document; and
(2) link the data in such a manner that any subsequent alterations are observable through visual examination of:

- (a) the underlying document; or
- (b) the electronic notary certificate.

History Note: Authority G.S. 10B-125(b), 10B-126(d); 47-16.5; 47-16.7; 147-36; 15 USC 7002; Eff. January 1, 2007; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016; Transferred from 18 NCAC 07C .0401(d) Eff. June 1, 2023; Amended Eff. July 1, 2024.

18 NCAC 07F .0705 APPEARANCE OF ELECTRONIC SIGNATURE

An electronic notary public shall:

- (1) electronically sign the electronic notary certificate; and
- (2) verify that the image of the electronic notary's handwritten electronic signature is an accurate representation of the notary's handwritten signature.

History Note: Authority G.S. 10B-125(b), 10B-126(d); 47-16.5; 47-16.7; 147-36; 15 USC 7002;

Eff. January 1, 2007;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;

Transferred from 18 NCAC 07C .0401(e) Eff. June 1, 2023 Amended Eff. July 1, 2024.

18 NCAC 07F .0706 SIGNATURE COMPLIANCE

An electronic notary public shall ensure that the electronic notary's electronic signature complies with Chapter 10B of the General Statutes and the rules in this Subchapter each time it is affixed.

History Note: Authority G.S. 10B-4; 10B-125(b); 10B- 126(d); 10B-134.21;

Eff. July 1, 2024.

18 NCAC 07F .0707 SIGNATURE REVIEW BEFORE USE

An electronic notary public shall review the electronic notary's electronic signature for accuracy before the signature is used for the first time.

History Note: Authority G.S. 10B-4; 10B-125(b); 10B- 126(d); 10B-134.21;

Eff. July 1, 2024.

18 NCAC 07F .0708 AFFIXING ELECTRONIC SIGNATURE

An electronic notary public shall not affix the electronic notary's electronic signature until:

- (1) the principals have appeared before the electronic notary as required by Article 2 of Chapter 10B of the General Statutes;
- (2) the principals have been identified;
- (3) the oath or affirmation has been administered, if required;
- (4) the principals have affixed their signatures to the electronic document or acknowledged them, if applicable; and
- (5) the journal entry has been made in accordance with the rules in 18 NCAC 07I.

History Note: Authority G.S. 10B-4; 10B-125(b); 10B- 126(d); 10B-134.15; 10B-134.21;

Eff. July 1, 2024.

18 NCAC 07F .0709 REVIEW AFTER AFFIXING ELECTRONIC SIGNATURE

After the electronic notary public affixes the notary's electronic signature, and before the electronic signature is committed by the notary, the electronic notary shall review the electronic signature to ensure that it:

- (1) is present on the notary certificate;
- (2) is legible; and
- (3) does not obscure:
 - (a) the notary certificate;
 - (b) any content in the notary certificate; or
 - (c) any content in the document being notarized.

History Note: Authority G.S. 10B-4; 10B-125(b); 10B- 126(d); 10B-127; 10B-134.21;

Eff. July 1, 2024.

SECTION .0800 – ELECTRONIC NOTARY SEAL

18 NCAC 07F .0801 UNIQUE SEAL

The electronic notary seal shall be independently verifiable and specific to each electronic notary public.

History Note: Authority G.S. 10B-125(b); 10B-126(d); 47-16.5; 47-16.7; 147-36; 15 USC 7002; Eff. January 1, 2007;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016; Transferred from 18 NCAC 07C .0402(a) Eff. June 1, 2023; Amended Eff. July 1, 2024.

18 NCAC 07F .0802 SOLE CONTROL

The electronic notary public shall retain exclusive control of the electronic notary seal such that the electronic notary seal can be attributed solely to the electronic notary.

History Note: Authority G.S. 10B-125(b); 10B-126(d); 47-16.5; 47-16.7; 147-36; 15 USC 7002; Eff. January 1, 2007;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016; Transferred from 18 NCAC 07C .0402(b) Eff. June 1, 2023; Amended Eff. July 1, 2024.

18 NCAC 07F .0803 EXCLUSIVE

History Note: Authority G.S. 10B-125(b); 10B-126(d); 47-16.5; 47-16.7; 147-36; 15 USC 7002; Eff. January 1, 2007;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016; Transferred from 18 NCAC 07C .0402(c) Eff. June 1, 2023; Repealed Eff. July 1, 2024.

18 NCAC 07F .0804 ATTRIBUTES OF ELECTRONIC SEAL

The electronic notary seal shall:

- (1) be attached to, or logically associated with, a notarized document; and
- (2) link the data in such a manner that any subsequent alterations are observable through visual examination of:
 - (a) the underlying document; or
 - (b) the electronic notary certificate.

History Note: Authority G.S. 10B-125(b); 10B-126(d); 47-16.5; 47-16.7; 147-36; 15 USC 7002; Eff. January 1, 2007;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016; Transferred from 18 NCAC 07C .0402(d) Eff. June 1, 2023; Amended Eff. July 1, 2024.

18 NCAC 07F .0805 APPEARANCE OF ELECTRONIC NOTARY SEAL

An electronic notary public shall:

- (1) electronically affix the electronic notary seal; and
- (2) verify that the image is an accurate representation of the seal.

History Note: Authority G.S. 10B-125(b); 10B-126(d); 47-16.5; 47-16.7; 147-36; 15 USC 7002; Eff. January 1, 2007;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016; Transferred from 18 NCAC 07C .0402(e) Eff. June 1, 2023; Amended Eff. July 1, 2024.

18 NCAC 07F .0806 PERIMETER

The perimeter of the electronic notary seal shall contain a border such that the physical appearance of the seal replicates the appearance of an inked seal on paper.

History Note: Authority G.S. 10B-125(b); 10B-126(d); 47-16.5; 47-16.7; 147-36; 15 USC 7002; Eff. January 1, 2007;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016; Transferred from 18 NCAC 07C .0402(f) Eff. June 1, 2023.

18 NCAC 07F .0807 CONTENTS

The electronic notary seal must have, within its border, the electronic notary’s name exactly as commissioned, the words “Electronic Notary Public”, the words “North Carolina” or “N.C.”, and the county of commission including the word “County” or “Co.”.

History Note: Authority G.S. 10B-125(b); 10B-126(d); 47-16.5; 47-16.7; 147-36; 15 USC 7002; Eff. January 1, 2007;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016; Transferred from 18 NCAC 07C .0402(g) Eff. June 1, 2023.

18 NCAC 07F .0808 USE OF ELECTRONIC NOTARY SEALS

Only the electronic notary public whose commission name and county of commission is incorporated into the electronic seal is permitted to apply the electronic notary’s electronic notary seal to an electronic document.

History Note: Authority G.S. 10B-125(b); 10B-126(d); 47-16.5; 47-16.7; 147-36; 15 USC 7002; Eff. January 1, 2007;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016; Transferred from 18 NCAC 07C .0602 Eff. June 1, 2023; Amended Eff. July 1, 2024.

18 NCAC 07F .0809 SEAL COMPLIANCE

An electronic notary public shall ensure that the electronic notary’s electronic seal complies with Chapter 10B of the General Statutes and the rules in this Subchapter each time it is affixed.

History Note: Authority G.S. 10B-4; 10B-125(b); 10B- 126(d); 10B-134.21; Eff. July 1, 2024.

18 NCAC 07F .0810 SEAL LIMITATION

An electronic notary public’s electronic seal shall include no information or images other than those required by Rule .0807 of this Subchapter.

History Note: Authority G.S. 10B-4; 10B-125(b); 10B- 126(d); 10B-134.21; Eff. July 1, 2024.

18 NCAC 07F .0811 SEAL REVIEW BEFORE USE

An electronic notary public shall review the electronic notary’s electronic seal for compliance with the rules in this Section before the seal is used for the first time.

History Note: Authority G.S. 10B-4; 10B-125(b); 10B- 126(d); 10B-134.21; Eff. July 1, 2024.

18 NCAC 07F .0812 AFFIXING ELECTRONIC SEAL

An electronic notary public shall not affix the electronic notary’s electronic seal until:

- (1) the principals have appeared before the electronic notary as required by Article 2 of Chapter 10B of the General Statutes;
- (2) the principals have been identified;
- (3) the oaths or affirmations have been administered, if required;
- (4) the principals have affixed their signatures to the electronic document or acknowledged them if applicable; and
- (5) the journal entry has been made in accordance with the rules in 18 NCAC 07I.

History Note: Authority G.S. 10B-4; 10B-125(b); 10B- 126(d); 10B-134.15; 10B-134.21; Eff. July 1, 2024.

18 NCAC 07F .0813 REVIEW AFTER AFFIXING ELECTRONIC SEAL

After the electronic notary public affixes the electronic notary’s electronic seal, and before the electronic notary commits the electronic seal, the electronic notary shall review the notary’s electronic seal to ensure that it:

- (1) is present on the notary certificate;
- (2) is legible; and
- (3) does not obscure:
 - (a) the notary certificate;
 - (b) any content in the notary certificate; or
 - (c) any content in the document being notarized.

History Note: Authority G.S. 10B-4; 10B-125(b); 10B- 126(d); 10B-134.21; Eff. July 1, 2024.

18 NCAC 07F .0814 COMMITMENT

After an electronic notary public has complied with the requirements of Sections .0700 and .0800 of this Subchapter with regard to review of signatures and seals after affixing them, the electronic notary shall:

- (1) ensure that the required journal entry has been made; and
- (2) then commit:
 - (a) the electronic notarial signature;
 - (b) the electronic notarial seal; and
 - (c) the content of the journal entry.

History Note: Authority G.S. 10B-4; 10B-125(b); 10B- 126(d); 10B-134.21; Eff. July 1, 2024.

SECTION .0900 – RE-REGISTRATION AS ELECTRONIC NOTARY

18 NCAC 07F .0901 RE-REGISTRATION

An electronic notary public applying to reregister as an electronic notary shall comply with application procedures:

- (1) in Chapter 10B of the General Statutes; and
- (2) in this Subchapter.

History Note: Authority G.S. 10B-125, 10B-126; 47-16.5; 47-16.7; 147-36; 15 USC 7002; Eff. January 1, 2007;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016; Transferred from 18 NCAC 07C .0203 Eff. June 1, 2023; Amended Eff. July 1, 2024.

18 NCAC 07F .0902 TIMING OF REREGISTRATION

An electronic notary public desiring to reregister and who does not apply for reregistration at the same time the notary applies for recommissioning shall comply with Rule .0905 of this Section.

History Note: Authority G.S. 10B-4; 10B-106; 10B-125; 10B- 126; 10B-134.21; Eff. July 1, 2024.

18 NCAC 07F .0904 EDUCATION

An applicant for reregistration as an electronic notary public shall successfully complete the electronic notary course again before applying.

History Note: Authority G.S. 10B-4; 10B-125; 10B-126; 10B- 134.21; Eff. July 1, 2024.

18 NCAC 07F .0905 ELECTRONIC NOTARY REREGISTRATION OTHER THAN AT RECOMMISSIONING

An electronic notary public who does not apply for reregistration as an electronic notary at the same time that the notary applies for recommissioning as a traditional notary and who later

desires to reregister as an electronic notary shall:

- (1) successfully complete the electronic notary course again;
- (2) apply for reregistration; and
- (3) pay the applicable fee.

*History Note: Authority G.S. 10B-4; 10B-125; 10B-126; 10B- 134.21;
Eff. July 1, 2024.*

SECTION .1000 – CONFIDENTIALITY, SECURITY, AND RECORDS RETENTION

18 NCAC 07F .1001 EMPLOYERS OF ELECTRONIC NOTARIES

(a) Neither the employer nor any of the employer’s employees or agents shall use or permit the use of an electronic notary seal or electronic notary 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 electronic notary shall:

- (1) have no control of the electronic notary’s electronic notary seal; or
- (2) eliminate the ability of any other person to use the former electronic notary employee’s electronic notary seal and electronic notary’s electronic signature.

*History Note: Authority G.S. 10B-125(b); 10B-126(d); 47-16.5; 47-16.7; 147-36; 15 USC 7002;
Eff. January 1, 2007;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
Transferred from 18 NCAC 07C .0603 Eff. June 1, 2023; Amended Eff. July 1, 2024.*

18 NCAC 07F .1002 PROTECTING ACCESS

An electronic notary public shall limit access to the electronic notary signatures, electronic seals, and journals by complying with the provider’s requirements for the use of means of authentication approved by the Department.

*History Note: Authority G.S. 10B-125(b); 10B-126(d); 47-16.5; 47-16.7; 147-36; 15 USC 7002;
Eff. January 1, 2007;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
Transferred from 18 NCAC 07C .0604 Eff. June 1, 2023; Amended Eff. July 1, 2024.*

18 NCAC 07F .1003 RETENTION OF ELECTRONIC JOURNAL

An electronic notary public shall maintain a copy of the electronic notary’s electronic journal for 10 years after the last notarial act.

*History Note: Authority G.S. 10B-4; 10B-126(d); 10B- 134.15; 10B-134.17; 10B-134.21;
Eff. July 1, 2024.*

18 NCAC 07F .1004 NOTARY CREDENTIAL SHARING FORBIDDEN

An electronic notary public shall not share the means of authentication that the electronic notary uses to access an electronic notarization system with anyone.

*History Note: Authority G.S. 10B-4; 10B-126; 10B-134.15; 10B-134.17; 10B-134.21;
Eff. July 1, 2024.*

SECTION .1100 – CONTINUING OBLIGATIONS OF ELECTRONIC NOTARIES

18 NCAC 07F .1101 PHYSICAL PRESENCE REQUIREMENT FOR ELECTRONIC NOTARIZATION

When an electronic notary public performs an electronic notarization, the principal shall be in the

presence of the electronic notary at the time of notarization so that:

(1) the principal and the electronic notary can see, hear, and communicate with each other; and

(2) the principal can physically provide to the electronic notary identification documents as required under G.S. 10B-3(22).

History Note: Authority G.S. 10B-116(1); 10B-125(b); 10B-126(d); 47-16.5; 47-16.7; 147-36; 15 USC 7002; Eff. January 1, 2007;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016; Transferred from 18 NCAC 07C .0403 Eff. June 1, 2023.

18 NCAC 07F .1102 SEPARATE ATTESTATIONS

Each electronic signature requiring notarization and attestation in the form of an acknowledgment shall be individually affixed to the electronic document by the principal signer and shall be acknowledged separately by the principal signer, except in the following situation:

(1) The notarized document is executed on behalf of an entity as defined in G.S. 55-1-40(9)(a) or (c); and

(2) The notarized document does not adversely affect the claim, right or obligation of another.

History Note: Authority G.S. 10B-125(b); 10B-126(d); 47-16.5; 47-16.7; 147-36; 15 USC 7002; Eff. January 1, 2007;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016; Transferred from 18 NCAC 07C .0601 Eff. June 1, 2023; Amended Eff. July 1, 2024.

18 NCAC 07F .1103 INDIVIDUAL PRINCIPAL SIGNATURES FOR ELECTRONIC NOTARIAL ACT

An electronic notary public who performs an electronic or remote electronic notarial act shall require the principal to affix each signature individually.

History Note: Authority G.S. 10B-4; 10B-125(b); 10B- 126(d); Eff. July 1, 2024.

18 NCAC 07F .1104 ADDITIONAL OBLIGATIONS

In addition to complying with the continuing obligations imposed by the rules in 18 NCAC 07D, an electronic notary public shall comply with the requirements of 18 NCAC 07I.

History Note: Authority G.S. 10B-4; 10B-106(f); 10B-125(b); 10B-126(d); 10B-134.15; 10B-134.17; 10B-134.21; Eff. July 1, 2024.

18 NCAC 07F .1105 NO ELECTRONIC NOTARIZATION OF INK SIGNATURE

An electronic notary public shall not use the electronic notary's electronic signature and electronic seal to notarize an ink signature signed by hand.

History Note: Authority G.S. 10B-4; 10B-125(b); 10B- 126(d); Eff. July 1, 2024.

18 NCAC 07F .1107 TECHNOLOGICAL ISSUE AS REASON TO HALT ELECTRONIC OR REMOTE ELECTRONIC NOTARIAL ACT

An electronic notary public shall not perform an electronic notarial act or a remote notarial act if there is:

(1) a complete technological failure that impedes the performance of the notarial act; or

(2) a partial technological failure that the electronic notary decides warrants termination of the transaction.

*History Note: Authority G.S. 10B-4; 10B-125(b); 10B- 126(d); 10B-134.21;
Eff. July 1, 2024.*

18 NCAC 07F .1108 RESOLUTION OF TECHNOLOGICAL ISSUES

An electronic notary public may continue and complete an electronic or remote electronic notarial transaction if the electronic notary concludes that any technological failure:

- (1) has been resolved;
- (2) will not impair performance of the notarial act; and
- (3) will not discredit the integrity of the notary certificate, seal, or journal.

*History Note: Authority G.S. 10B-4; 10B-125(b); 10B- 126(d); 10B-134.21;
Eff. July 1, 2024.*

SUBCHAPTER 07G – RESERVED FOR FUTURE CODIFICATION

SUBCHAPTER 07H – RESERVED FOR FUTURE CODIFICATION

SUBCHAPTER 07I – JOURNAL REQUIREMENTS

SECTION .0100 – GENERAL

18 NCAC 07I .0101 NOTARIES SUBJECT TO JOURNALING REQUIREMENTS

(a) An electronic notary public who performs electronic notarial acts shall maintain an electronic journal in conformity with the rules in this Subchapter.

(b) A notary public performing a traditional notarial act who maintains a journal in conformity with the rules in this Subchapter shall be deemed to have complied with G.S. 10B-38.

*History Note: Authority G.S. 10B-4; 10B-38; 10B-126; 10B- 134.15; 10B-134.21;
Eff. July 1, 2024.*

18 NCAC 07I .0102 DEFINITIONS

The definitions in this Rule apply to this Subchapter:

(1) “Canceled act” means an instance where a notary public or a principal begins the notarial transaction process and halts it for any reason. Note: An example of a canceled act would be one where the notary is not able to establish the identity of the signer as required by G.S. 10B- 20.

(2) “Journal” means a record of notarial acts that is created and maintained by a notary public in compliance with Chapter 10B of the General Statutes and the rules in this Subchapter.

(3) “Mode of notarial act” means a traditional notarization, an electronic notarization, or a remote electronic notarization.

(4) “Supplemental information” means information that a notary public enters into a journal:

- (a) as a separate entry that is not for a notarial act;
- (b) that relates to a prior notarial act recorded in the journal; and
- (c) that may be appended to the prior notarial act entry in the electronic journal.

Note: An entry six months after the initial committed entry stating that the notary public received a subpoena for that initial committed journal entry is an example of supplemental information.

*History Note: Authority G.S. 10B-4; 10B-38; 10B-126; 10B- 134.15; 10B-134.21;
Eff. July 1, 2024.*

18 NCAC 07I .0103 JOURNAL REQUIREMENT

For any journal created pursuant to this Subchapter:

(1) an electronic notary public shall maintain an accurate backup copy of the notary's journal; and

(2) a traditional notary public who maintains a journal shall retain a copy of a journal or any portion of a journal delivered to a third party.

*History Note: Authority G.S. 10B-4; 10B-38; 10B-126; 10B- 134.15; 10B-134.21;
Eff. July 1, 2024.*

18 NCAC 07I .0104 JOURNAL OWNERSHIP

The information in the notary journal is the private property of the notary public.

*History Note: Authority G.S. 10B-4; 10B-38; 10B-126; 10B- 134.15; 10B-134.21;
Eff. July 1, 2024.*

18 NCAC 07I .0105 ENTRY OF DATA INTO JOURNAL

A notary public shall be the only person to make entries into the notary's journal, unless otherwise permitted for traditional notaries by Chapter 10B of the General Statutes or Rule .0106 of this Section.

*History Note: Authority G.S. 10B-4; 10B-38; 10B-126; 10B- 134.15; 10B-134.21;
Eff. July 1, 2024.*

18 NCAC 07I .0106 EXCEPTIONS TO RULE .0105

Exceptions to Rule .0105 of this Section shall be limited to:

- (1) the signatures of the principals;
- (2) the signatures of credible witnesses; and
- (3) the signatures of the designees of the principals pursuant to G.S. 10B-20(e).

*History Note: Authority G.S. 10B-4; 10B-38; 10B-126; 10B- 134.15; 10B-134.21;
Eff. July 1, 2024.*

SECTION .0200 - JOURNAL BASICS

18 NCAC 07I .0202 FORM OF ELECTRONIC NOTARY JOURNAL

Electronic notarizations and remote electronic notarizations shall be documented in an electronic journal that is maintained as an electronic document.

*History Note: Authority G.S. 10B-4; 10B-38; 10B-126; 10B- 134.15; 10B-134.21;
Eff. July 1, 2024.*

18 NCAC 07I .0203 COMBINED JOURNAL

A notary public may maintain an electronic journal that includes entries for any of these acts that the notary is qualified to perform:

- (1) traditional notarial acts;
- (2) electronic notarial acts; and
- (3) remote electronic notarial acts.

*History Note: Authority G.S. 10B-4; 10B-38; 10B-126; 10B- 134.15; 10B-134.21;
Eff. July 1, 2024.*

18 NCAC 07I .0204 ENTRIES IN A TANGIBLE JOURNAL

Entries in a tangible journal shall be:

- (1) entered in permanent ink; and
- (2) in chronological order.

History Note: Authority G.S. 10B-4; 10B-38; Eff. July 1, 2024.

18 NCAC 07I .0205 REQUIREMENTS FOR A TANGIBLE JOURNAL

A tangible journal shall:

- (1) be made in a bound journal into which pages cannot be inserted; and
- (2) have on the first page:
 - (a) the name of the notary public as commissioned;
 - (b) the commission date of the notary; and
 - (c) the county of the commission; and
- (3) have sequentially numbered pages.

History Note: Authority G.S. 10B-4; 10B-38; Eff. July 1, 2024.

18 NCAC 07I .0206 PROVISION OF JOURNAL TO DEPARTMENT

When a person responds to a request from the Department for all or part of a notary public's journal, the person shall submit the journal together with a transmittal document containing:

- (1) the name on the notary's commission;
- (2) the most recent commission date of the notary; and
- (3) the dates of the first and last entries in the journal.

History Note: Authority G.S. 10B-4; 10B-38; 10B-126; 10B- 134.15; 10B-134.17; 10B-134.21; Eff. July 1, 2024.

18 NCAC 07I .0207 ACTS INCLUDED IN JOURNAL

The journal shall contain entries by the notary public that document all notarial acts completed by the notary or canceled.

History Note: Authority G.S. 10B-4; 10B-38; 10B-126; 10B- 134.15; 10B-134.21; Eff. July 1, 2024.

18 NCAC 07I .0208 DESIGNATION OF NOTARIAL ACT

Except as set out in Rule .0209 of this Section, a notary public who maintains a journal shall state in the journal whether each notarial act entered into the journal is:

- (1) traditional;
- (2) electronic; or
- (3) remote electronic.

History Note: Authority G.S. 10B-4; 10B-38; 10B-126; 10B- 134.15; 10B-134.21; Eff. July 1, 2024.

18 NCAC 07I .0209 EXCEPTION TO RULE .0208

A notary public who enters only a single mode of notarial act in a journal may:

- (1) make a single notation of the mode of notarial acts at the beginning of the journal; and
- (2) omit the notations required by Rule .0208 of this Section.

Note: An example would be a journal first-page statement that the journal documents only traditional notarial acts.

History Note: Authority G.S. 10B-4; 10B-38; 10B-126; 10B- 134.15; 10B-134.21; Eff. July 1, 2024.

18 NCAC 07I .0210 DESIGNATION OF TYPE OF NOTARIAL ACT

A notary public shall designate in the journal whether the type of a notarial act is:

- (1) an acknowledgement;
- (2) the taking of a verification or proof;
- (3) an administration of an oath or affirmation;

- (4) a notarization of an absentee voter application; or
- (5) an inventorying of a safe deposit box pursuant to G.S. 53C-6-18(a).

*History Note: Authority G.S. 10B-4; 10B-38; 10B-126; 10B- 134.15; 10B-134.21;
Eff. July 1, 2024.*

18 NCAC 07I .0211 JOURNAL MAY COMBINE EMPLOYER-RELATED AND NON-EMPLOYER ACTS

If a notary public performs both employer-related and non- employer related notarial acts, the notary may maintain:

- (1) a separate journal for each of the employer- related and non-employer related notarial acts; or
- (2) a single journal reflecting all notarial acts.

*History Note: Authority G.S. 10B-4; 10B-38; 10B-126; 10B- 134.15; 10B-134.21;
Eff. July 1, 2024.*

18 NCAC 07I .0212 JOURNAL RETENTION PERIOD

For at least 10 years after the last notarial act entered into a journal by a notary public, the journal or the backup copy of the journal shall be retained by:

- (1) the notary; or
- (2) a designated custodian.

*History Note: Authority G.S. 10B-4; 10B-38; 10B-126; 10B- 134.15; 10B-134.21;
Eff. July 1, 2024.*

SECTION .0300 - GENERAL JOURNAL CONTENTS

18 NCAC 07I .0301 CONTENTS OF JOURNAL FOR CANCELED ACT

For each canceled act to be recorded in the journal, a notary public shall include:

- (1) the date and time of the canceled act;
- (2) the names of the principals; and
- (3) the reason the act was canceled.

*History Note: Authority G.S. 10B-4; 10B-38; 10B-126; 10B- 134.15; 10B-134.21;
Eff. July 1, 2024.*

18 NCAC 07I .0302 CONTENTS OF JOURNAL

Notaries public shall enter the following information in the journal for each notarial act:

- (1) the date and time at the notary's location that the notarial act occurs;
- (2) the name of each principal;
- (3) the type and mode of notarial act performed;
- (4) the title of the document notarized, if any;
- (5) how the identity of each principal was determined;
- (6) if satisfactory evidence of the principal's identity was presented:
 - (a) the type of satisfactory evidence;
 - (b) the addresses of each principal as shown on any documents used as satisfactory evidence;
 - (c) where the satisfactory evidence was based on the sworn statement of a credible witness:
 - (i) the name of the credible witness;
 - (ii) the contact information of the credible witness;
 - (iii) the signature of the credible witness in a traditional notary's journal; or
 - (iv) the signature of the credible witness has been added to the electronic journal by the

notary;

(7) the signature of each principal in a tangible journal or the notary's addition of each principal's acknowledged signature to an electronic journal;

(8) information required by 18 NCAC 07K .0203 for any fees charged; and

(9) designation of each notarial act as employer- related or non-employer related if the journal includes both categories of notarial acts.

*History Note: Authority G.S. 10B-4; 10B-38; 10B-126; 10B- 134.15; 10B-134.21;
Eff. July 1, 2024.*

18 NCAC 07I .0304 EMPLOYER REQUEST FOR INCLUSION OF ADDITIONAL INFORMATION IN JOURNAL

A notary public may include additional information in the journal regarding an employer-related electronic notarial act if:

(1) the employer so requests;

(2) the request is made before the notary commits the journal entry; and

(3) in the judgment of the electronic notary, the information is directly related to the notarial act. Note: A loan origination number or a client number is an example of information directly related to the notarial act.

*History Note: Authority G.S. 10B-4; 10B-38; 10B-126; 10B- 134.15; 10B-134.21;
Eff. July 1, 2024.*

18 NCAC 07I .0306 NOTATION OF REQUESTS FOR INCLUSION OF ADDITIONAL INFORMATION IN JOURNAL

If a notary public receives a request for inclusion of additional information in the journal, the notary shall note in the journal:

(1) who requested inclusion of the information; and

(2) if the notary refused to include requested information, the reason the notary refused to do so.

*History Note: Authority G.S. 10B-4; 10B-38; 10B-126; 10B- 134.15; 10B-134.21;
Eff. July 1, 2024.*

18 NCAC 07I .0307 NOTARY SHALL NOT PROVIDE UNRELATED NOTARIAL ACT INFORMATION TO EMPLOYER

A notary public who performs both employer-related and unrelated notarial acts shall not provide the notary's employer with:

(1) information regarding the notarial acts unrelated to the employer; or

(2) copies of, or access to, unrelated notarial act entries in the journal.

*History Note: Authority G.S. 10B-4; 10B-38; 10B-126; 10B- 134.15; 10B-134.21;
Eff. July 1, 2024.*

18 NCAC 07I .0308 JOURNAL SUPPLEMENTS

A notary public may add supplemental information to a journal if:

(1) the notary does not in any way change the original committed journal entry; and

(2) specifies the journal entry to which the supplemental information relates.

*History Note: Authority G.S. 10B-4; 10B-38; 10B-126; 10B- 134.15; 10B-134.21;
Eff. July 1, 2024.*

SECTION .0400 - ELECTRONIC JOURNAL REQUIREMENTS

18 NCAC 07I .0401 MAINTAIN BACKUP COPY

A notary public shall maintain an exact backup copy of the notary’s electronic journal.
History Note: Authority G.S. 10B-4; 10B-38; 10B-126; 10B- 134.15; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07I .0402 FORMAT OF BACKUP COPY

A notary public may maintain the backup copy of the electronic journal:

- (1) on paper; or
- (2) as an electronic document on a separate physical device.

History Note: Authority G.S. 10B-4; 10B-38; 10B-126; 10B- 134.15; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07I .0403 PRINTING OUT OF ELECTRONIC JOURNAL ENTRIES

A notary public shall only use an electronic journal that permits printing the contents.

History Note: Authority G.S. 10B-4; 10B-38; 10B-126; 10B- 134.15; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07I .0404 INCLUDING SIGNATURES IN JOURNAL

A notary public who maintains an electronic journal shall ensure that:

- (1) the principals acknowledge that their electronic signatures have been included in the journal as signed on the documents in the transaction;
- (2) the designee signs the principal’s name pursuant to G.S. 10B-20(e) as signed on the documents in the transaction and the notary then includes the signature in the journal; or
- (3) the credible witness signs his or her name and the notary then includes the signature in the journal.

History Note: Authority G.S. 10B-4; 10B-38; 10B-126; 10B- 134.15; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07I .0405 TECHNOLOGICAL ISSUES

A notary public who maintains an electronic journal shall note in the journal complete or partial technological failures that lead the notary to terminate the transaction pursuant to 18 NCAC 07F .1107.

History Note: Authority G.S. 10B-4; 10B-38; 10B-126; 10B- 134.15; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07I .0407 STEPS BEFORE COMMITTING AN ELECTRONIC JOURNAL ENTRY

Before committing an electronic journal entry, a notary public shall:

- (1) review the information entered for accuracy; and
- (2) correct any errors in the entry.

History Note: Authority G.S. 10B-4; 10B-38; 10B-126; 10B- 134.15; 10B-134.21;
Eff. July 1, 2024.

SUBCHAPTER 07J – REQUIREMENTS FOR TECHNOLOGY TO CONDUCT ELECTRONIC NOTARIZATION

SECTION .0100 – RESERVED FOR FUTURE CODIFICATION

SECTION .0200 – PROCESS FOR APPROVAL FOR AVEN TECHNOLOGY TO CONDUCT ELECTRONIC NOTARIZATION

18 NCAC 07J .0201 ELECTRONIC NOTARY SOLUTION PROVIDER APPLICATION

(a) Any person or entity applying to the Department for designation as an approved electronic notary solution provider must complete and submit an application to the Department for review and approval before authorizing any electronic notary seals or electronic signatures to North Carolina electronic notaries. The application shall include the following information:

- (1) Hardware and software specifications and requirements for the provider's electronic notarization system,
- (2) A description of the type(s) of technology used in the provider's electronic notarization system, and
- (3) A demonstration of how the technology is used to perform an electronic notarization.

(b) An electronic notary solution provider may appeal the Department's rejection of the provider's application for designation as an approved electronic notary solution provider as provided under Article 3 of Chapter 150B of the General Statutes.

History Note: Authority G.S. 10B-125(b); 10B-126(d); 47-16.5; 47-16.7; 147-36; 15 USC 7002; Eff. January 1, 2007;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016; Transferred from 18 NCAC 07C .0501 Eff. June 1, 2023.

SECTION .0300 – RESERVED FOR FUTURE CODIFICATION

SECTION .0400 – IN-PERSON ELECTRONIC NOTARIZATION (AVEN) PROVIDER REQUIREMENTS

18 NCAC 07J .0401 RESERVED FOR FUTURE CODIFICATION

18 NCAC 07J .0402 CRITERIA FOR APPROVAL OF ELECTRONIC NOTARY SOLUTION PROVIDERS

Each applicant and each approved electronic notary solution provider shall:

- (1) Provide a free and readily available viewer/reader so as to enable all parties relying on the electronically notarized record or document to view the electronic notary signature and the electronic notary seal without incurring any cost;
- (2) Comply with the laws, policies, and rules that govern North Carolina notaries;
- (3) Provide an electronic notarization system or solution that complies with the technical specifications of the rules and standards that govern electronic notarization processes and procedures in North Carolina;
- (4) Require such of the provider's principals or employees to take the mandatory electronic notary education course online and pass the required examination as is necessary to ensure the provider possesses sufficient familiarity with North Carolina's electronic notary laws and requirements;
- (5) Require notaries to present the NC Secretary of State's Electronic Notary Certificate to Perform Electronic Notary Acts prior to authorizing an electronic notary seal and signature;
- (6) Verify the authorization of a North Carolina notary to perform electronic notary acts by logging on to the Department's website and comparing the name, notary commission number and commission expiration date with the information on the Electronic Notary Certificate to Perform Electronic Notary Acts prior to authorizing an electronic notary seal and signature;
- (7) Provide prorated fees to align the usage and cost of the electronic notary system or solution with the commission term limit of the electronic notary purchasing the electronic notary seal and signature;

(8) Suspend the use of any electronic notarization system or solution for any notary whose commission has been revoked or suspended by the North Carolina Secretary of State; and

(9) Submit an exemplar of the electronic notary signature and the electronic notary seal to the Department for each electronic notary who subscribes to the provider's electronic notary solution.

History Note: Authority G.S. 10B-125(b); 10B-126(d); 47-16.5; 47-16.7; 147-36; 15 USC 7002;

Eff. January 1, 2007;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;

Transferred from 18 NCAC 07C .0502 Eff. June 1, 2023.

SECTION .0500 – RESERVED FOR FUTURE CODIFICATION

SECTION .0600 – CONTINUING OBLIGATIONS OF ELECTRONIC NOTARIZATION TECHNOLOGY PROVIDERS

18 NCAC 07J .0601 ELECTRONIC NOTARY SOLUTION PROVIDER CHANGES

(a) An electronic notary solution provider shall notify the Department within 45 days of changes, modifications or updates to information previously submitted to the Department.

(b) An approved electronic notary solution provider shall obtain approval of the Department pursuant to the Act and this Subchapter before making available to North Carolina electronic notaries any updates or subsequent versions of the provider's electronic notarization system.

History Note: Authority G.S. 10B-125(b); 10B-126(d); 47-16.5; 47-16.7; 147-36; 15 USC 7002;

Eff. January 1, 2007;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;

Transferred from 18 NCAC 07C .0503 Eff. June 1, 2023.

SUBCHAPTER 07K – MISCELLANEOUS RULES

SECTION .0100 – GENERAL

18 NCAC 07K .0101 DEFINITIONS

For purposes of Chapter 10B of the General Statutes and the Rules in this Chapter:

(1) "Approved" means that an applicant has been authorized by the Department to provide services as a technology provider in compliance with Chapter 10B of the General Statutes and the rules in this Chapter. Technology providers licensed by the Department are deemed approved.

(2) "Armed Forces of the United States" means the persons described in 10 U.S.C. 101(a)(4) and G.S. 143B-1224(2), including their reserve components.

(3) "Bank or financial institution" means a "depository institution" as defined in G.S. 53-208.42(7).

(4) "Certificate of appointment" means a document issued by the Department notifying a Register of Deeds that:

(a) the named appointee is authorized to take the oath of office; and

(b) the Register of Deeds or designee shall provide the commission certificate to the notary public after:

(i) administering the oath of office to the appointee; and

(ii) signing of the certificate by both the Register of Deeds or designee, and the notary.

(5) "Commission certificate" means the document confirming that an individual:

(a) has complied with all requirements of Chapter 10B of the General Statutes and the rules in this Chapter; and

(b) is authorized to act as a notary public.

(6) “Commit” means the final step in the notarial act after which:

(a) the notarial act is complete;

(b) all entries are permanent; and

(c) no changes can be made to the entries made permanent pursuant to Sub-Item (b) of this Item.

(7) “Dishonored payment” or “payment that has been dishonored” means money tendered to the Department by any means that is refused, rejected, or failed to be paid to the Department.

(8) “Enter information” means to:

(a) handwrite, type, or input data;

(b) confirm that pre-populated words or numbers are correct. Note: An example would be clicking a checkbox to select the correct date;

(c) select applicable options from among offered options. Note: An example would be selecting “oath or affirmation” from a drop-down list of the types of notarial acts; or

(d) include in the electronic journal acknowledged signatures of:

(i) principals;

(ii) a designee of a principal; or

(iii) a credible witness.

(9) “Federal business mileage rate” means the business mileage rate set by the U.S. Internal Revenue Service (IRS).

(10) “Federally recognized Indian tribe” means a tribe on the list published in the Federal Register by the U.S. Secretary of the Interior pursuant to 25 U.S.C. 5131.

(11) “File” means the date upon which a filing submitted to the Department is deemed complete by the Department. Note: “File” shall not mean that the Department has determined that the filer is qualified and will be appointed, registered, approved, or licensed.

(12) “Filer” means a person that submits a filing to the Department.

(13) “Filing” means a form or other document required or permitted to be filed with the Department pursuant to Chapter 10B of the General Statutes or the rules in this Chapter.

(14) “Form” means a departmental data collection instrument that requires or requests information, without regard to the format.

(15) “Form preparer” means an individual who enters information on a form:

(a) at the direction of another; and

(b) without exercising independent judgment or discretion as to the content entered.

(16) “Information technology” or “IT” means that term as defined in G.S. 143B-1320(a)(11).

(17) “Information technology security” or “IT security” means the tools, techniques, and strategies used to protect the confidentiality, integrity, and availability of data, information systems, and digital assets from:

(a) internal and external threats; and

(b) unauthorized access, use, disclosure, disruption, modification, or destruction.

(18) “Initial appointment” means the first issuance by the Department of a commission certificate to a notary public.

(19) “Instructor,” “certified notary public instructor,” “certified instructor,” “notary instructor,” and “certified notary instructor” mean a notary public who has complied with:

(a) the requirements of G.S. 10B-14; and

(b) the rules in Subchapter 07E of this Chapter.

(20) “Location” means a description establishing that a principal is present in a jurisdiction

where the notarial act may take place. Note: A statement that the principal is then located inside the U.S. embassy in Paris, France, would suffice to establish that the principal is present in a jurisdiction where the notarial act may take place.

(21) “Long-term” means a period of at least one year.

(22) “Notarial transaction process” includes:

(a) steps before the notarial act takes place. Note: The interactions establishing the date and location of a notarial act, obtaining advance consent to travel fees, and the steps required by G.S. 10B-134.9(a) are examples of steps before the notarial act;

(b) the notarial act; and

(c) steps following the notarial act. Note: Affixing the notary’s seal and signature are examples of steps following the notarial act.

(23) “Person” means the term as defined in G.S. 12-3(6).

(24) “State recognized tribe” means a group listed in G.S. 143B-407(a).

(25) “Successfully complete” and “successful completion” mean that a notarial applicant has complied with Chapter 10B and the rules in this Chapter and has:

(a) presented satisfactory evidence of identity as defined in G.S. 10B-3(22) or be personally known as defined in G.S. 10B-3(17);

(b) attended a notarial course taught by a certified notary instructor; and

(c) achieved a passing grade on the course examination as described in G.S. 10B-8(a).

(26) “Technological failure” means a deficiency in:

(a) any component of the electronic notarization system;

(b) any component of the computer systems of the notary or principals; or

(c) the connections linking the components described in Sub-Items (a) and (b) of this Item.

For purposes of this Rule, “component of the electronic notarization system” means any combination of hardware, software, a notary public’s electronic journal, and communications technology recordings.

(27) “Technology provider” means:

(a) a platform;

(b) a depository;

(c) a custodial service; or

(d) an AVEN as defined in 18 NCAC 07F .0102(1).

(28) “Termination of employment” means the cessation of permanent or temporary work for another, whether compensated or not, for any reason, including voluntary and involuntary cessation of work.

(29) “Traditional notarization” means a notarial act in which:

(a) there is personal appearance as defined in G.S. 10B-3(16); and

(b) one of the following occurs:

(i) a document is executed and notarized with ink signatures signed by hand or facsimile stamp and affixed with the physical notary seal as defined in G.S. 10B-3(23);

(ii) an oath or affirmation is administered without the execution of a document; or

(iii) creating an inventory as described in G.S. 53C-6-13(a).

(30) “Traditional notary public” means an individual commissioned to perform traditional notarizations.

(31) “Type of notarial act” means an acknowledgement, an oath or affirmation, verification or proof, inventory of an abandoned safe deposit box, or notarization of an absentee ballot.

(32) “Under the exclusive control of the notary” means accessible by and attributable solely to the notary public to the exclusion of all other persons through being:

(a) in the case of a physical seal:
(i) in the direct physical custody of the notary; or
(ii) physically secured; or
(b) in the case of an electronic seal or electronic signature, secured with one or more methods of authentication in an approved electronic notarization system.

(33) “United States” or “U.S.” means the term as defined in G.S. 12-3(11).

*History Note: Authority G.S. 10B-4; 10B-14; 10B-36; 10B-38; 10B-106; 10B-125; 10B-126; 10B-134.15; 10B-134.19; 10B-134.21;
Eff. July 1, 2024.*

SECTION .0200 – CHARGING FEES FOR NOTARIAL ACTS

18 NCAC 07K .0201 TRAVEL FEE RATE

A notary public who charges travel fees shall refer to the IRS website for the current federal business mileage rate prior to charging the travel fee.

*History Note: Authority G.S. 10B-4;
Eff. January 1, 2024.*

18 NCAC 07K .0202 ESTIMATE OF CHARGES

In addition to the publication or provision of a notary public’s schedule of fees pursuant to G.S. 10B-32, if a principal requests a fee estimate from a notary, the notary shall provide an estimate that includes:

- (1) the estimated total fee; and
- (2) the basis for the estimated charges.

*History Note: Authority G.S. 10B-4;
Eff. January 1, 2024.*

18 NCAC 07K .0203 INCLUSION OF FEES IN JOURNAL

A notarial journal maintained pursuant to the rules in Subchapter I of this Chapter shall include, with regard to a specific notarial act for which fees were charged:

- (1) how much the notary public charged for each notarial act performed; and
- (2) if travel reimbursement was charged:
 - (a) the actual reimbursement charged; and
 - (b) the fee charged per mile.

*History Note: Authority G.S. 10B-4; 10B-38; 10B-126; 10B-134.15;
Eff. January 1, 2024.*

18 NCAC 07K .0204 CONSENT TO TRAVEL FEES MAY BE ELECTRONIC

A notary public who charges travel fees pursuant to G.S. 10B-31(5) may obtain the advance consent of the principal in writing and delivered in any manner agreed upon by the notary and the principal.

*History Note: Authority G.S. 10B-4; 10B-31;
Eff. January 1, 2024.*

18 NCAC 07K .0205 CONTENTS OF ADVANCE CONSENT TO TRAVEL FEES

A notary public who charges travel fees shall obtain advance written consent of the principal that includes the following information:

- (1) date of the consent;
- (2) name of the principal;

- (3) name of the notary;
- (4) estimated mileage that the notary will charge;
- (5) fee per mile that the notary will charge; and
- (6) planned date of the notary's travel.

*History Note: Authority G.S. 10B-4;
Eff. January 1, 2024.*

18 NCAC 07K .0206 NOTARIAL RECORD OF WRITTEN CONSENT TO TRAVEL FEES

A notary public who charges travel fees shall preserve the advance written consent as a notarial record:

- (1) in the notary's journal; or
- (2) if written consent is not included in a journal, then a record of the written consent including the contents required by Rule .0205 of this Section shall be maintained by the notary.

*History Note: Authority G.S. 10B-4; 10B-31; 10B-126; 10B-134.15;
Eff. January 1, 2024.*