

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 traditional paper and electronic notarial acts. (1991, c. 683, s. 2; 1998-228, s. 1; 2005-391, s. 4.)

§ 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.
- (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.)

§ 10B-4: Reserved for future codification purposes.

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. (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.)

§ 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) 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.

(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 45 days of commissioning, 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.)

§ 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) 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. (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; 2013-214, s. 1.1)

§ 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: Reserved for future codification purposes.

§ 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.)

§ 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, five dollars (\$5.00) per principal signature.

(2) For oaths or affirmations without a signature, five dollars (\$5.00) per person, except for an oath or affirmation administered to a credible witness to vouch for the identity of a principal or subscribing witness. (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.)

§ 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) As soon as is reasonably practicable after resignation, revocation, or expiration of a notary commission, or death of the notary, the seal shall be delivered to the Secretary for disposal. (1973, c. 680, s. 1; 1991, c. 683, s. 2; 1998-228, s. 7; 2005-391, s. 4; 2006-59, s. 16.)

§ 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 ½ inches, nor more than 2 inches in diameter. The rectangular seal shall not be over 1 inch high and 2 ½ 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; 2013-214, s. 1.2.)

§ 10B-38: Reserved for future codification purposes.

§ 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.

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 fax, e-mail, or certified mail, return receipt requested, a signed notice of the change, giving both old and new addresses or telephone numbers. (1991, c. 683, s. 2; 1995, c. 226, s. 3; 2005-391, s. 4.)

§ 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 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.)

§ 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 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 certified mail, return receipt requested. (2005-391, s. 4.)

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

(a) When a notary commission is resigned or revoked, the notary shall deliver the notary's seal to the Secretary within 45 days of the resignation or revocation. Delivery shall be accomplished by certified mail, return receipt requested. 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; 2013-214, s. 1.3.)

§ 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 to a notary or restrict, suspend, or revoke a notarial commission for a violation of this Chapter and on any ground for which an application for a commission may be denied under this Chapter. Any period of restriction, suspension, or revocation shall not extend the expiration date of a commission.

(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 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. The agents have the authority to assist local law enforcement agencies in their investigations and to initiate and carry out, on their own or in coordination with local law enforcement agencies, investigations of violations.

(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. (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; 2013-214, s. 1.5.)

§ 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 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.

(b) All documents bearing a notarial seal and which 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 January 1, 1953, bearing a notarial seal are hereby validated.

(e) This section applies to notarial acts performed on or before May 1, 2008. (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. 1.4, 1.5.)

§ 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; 2013-214, 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; 2013-214, 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, 2013, is deemed to be a valid certificate provided 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 shall be deemed valid if executed in compliance with the law at the time the form was issued. (2006-59, s. 24; 2013-214, s. 1.8.)

§ 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 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 on or after May 15, 2004, and before April 1, 2013. (2009-358, s.

1; 2013-214, s. 1.9.)

§ 10B 72. 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 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 on or after August 28, 2010, and before January 12, 2012. (2012-194, s. 65.)

§ 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.

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§ 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; 2013-214, 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” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

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

(3) “Electronic Notarial Act” and “Electronic Notarization” mean an official act by an electronic notary public that involves electronic documents.

(4) “Electronic Notary Public” and “Electronic Notary” mean a notary public who has registered with the Secretary the capability of performing electronic notarial acts in conformance with this Article.

(5) “Electronic Notary Seal” and “Electronic Seal” mean 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" means 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" means 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. (2005-391, s. 4.)

§ 10B-102. Scope of this Article.

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. (2005-391, s. 4.)

§ 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.)

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

(a) Before performing notarial acts electronically, a notary shall register the capability to notarize electronically with the Secretary.

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

(c) An electronic notary shall reregister the capability to notarize electronically at the same time 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) A description of the technology the registrant will use to create an electronic signature in performing official acts.
 - (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, the notary shall electronically transmit to the Secretary a notice of the change of information signed with the notary's official electronic signature.
- (2005-391, s. 4; 2006-59, s. 25; 2006-259, ss. 1, 3.)

§ 10B-107. Course of instruction.

- (a) Before performing electronic notarial acts, a notary shall take a course of instruction of least three 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 they pertain to electronic notarization. (2005-391, s. 4.)

§ 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 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";
- (3) The words "State of North Carolina";
- (4) The expiration date of the commission;
- (5) The notary's electronic signature; and
- (6) The completed wording of one of the following notarial certificates:
 - a. Acknowledgment;
 - b. Jurat;
 - c. Verification or proof; or
 - d. Oath or affirmation. (2005-391, s. 4.)

§ 10B-118. Maximum fees.

For performing electronic notarial acts, the maximum fees that may be charged by an electronic notary are as follows:

- (1) For acknowledgments, \$10.00 per signature.
- (2) For jurats, \$10.00 per signature.
- (3) For verifications or proofs, \$10.00 per signature.
- (4) For oaths or affirmations, \$10.00 per signature. (2005-391, s. 4.)

§ 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, 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 10 days of 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 the Secretary. (2005-391, s. 4.)

§ 10B-127. 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 the registration of the device used to create electronic signatures either expires or is changed during the electronic notary's term of office, the notary shall cease performing electronic notarizations until:

(1) 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 term and any other new information at variance with information in the most recently executed electronic registration form.

(2005-391, s. 4.)

§ 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 erase, delete, or destroy the coding, disk, certificate, card, software, file, or program that enables electronic affixation of the notary's official electronic signature.

(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 within three months after commission expiration. (2005-391, s. 4.)

§ 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.

§ 10B-134: 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.)

**CHAPTER 47 - PROBATE AND REGISTRATION.
ARTICLE 1A - UNIFORM REAL PROPERTY ELECTRONIC RECORDING
ACT.**

§ 47-16.3. Validity of electronic documents.

(a) If a law requires, as a condition for recording, that a document be an original, be on paper or another tangible medium, or be in writing, the requirement is satisfied by an electronic document satisfying this Article.

(b) If a law requires, as a condition for recording, that a document be signed, the requirement is satisfied by an electronic signature.

(c) A requirement that a document or a signature associated with a document be notarized, acknowledged, verified, witnessed, or made under oath is satisfied if the electronic signature of the person authorized to notarize, acknowledge, verify, witness, or administer the oath, and all other information required to be included, is attached to or logically associated with the document or signature. A physical or electronic image of a stamp, impression, or seal need not accompany an electronic signature. Nothing in this act shall prohibit the North Carolina Board of Examiners for Engineers and Surveyors from requiring that the image of a seal accompany any plat or map that is presented electronically for recording. (2005-391, s. 1.)

**CHAPTER 66. COMMERCE AND BUSINESS
ARTICLE 40. UNIFORM ELECTRONIC TRANSACTIONS ACT.**

§ 66-321. Notarization and acknowledgment.

If a law requires a signature or record relating to a transaction to be notarized, acknowledged, verified, or made under oath, the requirement is satisfied if the electronic signature of the person authorized to perform those acts, together with all other information required to be included by other applicable law, is attached to or logically associated with the signature or record. (2000-152, s. 1.)

**CHAPTER 163. ELECTIONS AND ELECTION LAWS
ARTICLE 20. ABSENTEE BALLOT**

§ 163-231. Voting absentee ballots and transmitting them to the county board of elections.

(a) Procedure for Voting Absentee Ballots. – In the presence of two persons who are at least 18 years of age, and who are not disqualified by G.S. 163-226.3(a)(4) or G.S. 163-237(b1), the voter shall do all of the following:

(1) Mark the voter’s ballots, or cause them to be marked by that person in the voter’s presence according to the voter’s instruction.

(2) Fold each ballot separately, or cause each of them to be folded in the voter’s presence.

(3) Place the folded ballots in the container-return envelope and securely seal it, or have this done in the voter’s presence.

(4) Make the application printed on the container-return envelope according to the provisions of G.S. 163-229(b) and make the certificate printed on the container-return envelope according to the provisions of G.S. 163-229(b).

(5) Require those two persons in whose presence the voter marked that voter’s ballots to sign the application and certificate as witnesses and to indicate those persons’ addresses.

Alternatively to the prior paragraph of this subsection, any requirement for two witnesses shall be satisfied if witnessed by one notary public, who shall comply with all the other requirements of that paragraph. The notary shall affix a valid notarial seal to the envelope, and include the word “Notary Public” below his or her signature.

The persons in whose presence the ballot is marked shall at all times respect the secrecy of the ballot and the privacy of the absentee voter, unless the voter requests assistance and that person is otherwise authorized by law to give assistance. When thus executed, the sealed container-return envelope, with the ballots enclosed, shall be transmitted in accordance with the provisions of subsection (b) of this section to the county board of elections which issued the ballots.

(a1) Repealed by Session Laws 1987, c. 583, s. 1.

(b) Transmitting Executed Absentee Ballots to County Board of Elections. – The sealed container-return envelope in which executed absentee ballots have been placed shall be transmitted to the county board of elections who issued those ballots as follows:

(1) All ballots issued under the provisions of this Article and Article 21A of this Chapter shall be transmitted by mail or by commercial courier service, at the voter’s expense, or delivered in person, or by the voter’s near relative or verifiable legal guardian and received by the county board not later than 5:00 p.m. on the day of the statewide primary or general election or county bond election. Ballots issued under the provisions of Article 21A of this Chapter may also be electronically transmitted.

(2) If ballots are received later than the hour stated in subdivision (1) of this subsection, those ballots shall not be accepted unless one of the following applies:

a. Federal law so requires.

b. The ballots issued under this Article are postmarked and that postmark is dated on or before the day of the statewide primary or general election or county bond election and are received by the county board of elections not later than three days after the election by 5:00 p.m.

c. The ballots issued under Article 21A of this Chapter are received by the county board of elections not later than the end of business on the business day before the

canvass conducted by the county board of elections held pursuant to G.S. 163-182.5. (1939, c. 159, ss. 2, 5; 1941, c. 248; 1943, c. 736; c. 751, s. 1; 1945, c. 758, s. 5; 1963, c. 457, ss. 2, 5; 1967, c. 775, s. 1; 1971, c. 1247, s. 3; 1973, c. 536, s. 1; 1977, c. 469, s. 1; 1979, c. 799, s. 5; 1985, c. 562, ss. 1, 2; 1987, c. 583, ss. 1, 2; 1989 (Reg. Sess., 1990), c. 991, s. 4; 1999-455, s. 11; 2009-537, ss. 6, 8(a); 2011-182, s. 5; 2013-381, s. 4.4.)

NORTH CAROLINA ADMINISTRATIVE CODE

TITLE 18. DEPARTMENT OF THE SECRETARY OF STATE CHAPTER 7. NOTARY PUBLIC DIVISION SUBCHAPTER 07A – NOTARY PUBLIC DIVISION SECTION .0100 – GENERAL PROVISIONS

18 NCAC 7A .0101 LOCATION AND HOURS (REPEALED)

Repealed.

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 7A .0102 GENERAL PURPOSE (REPEALED)

Repealed.

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 7A .0103 NOTARIES PUBLIC DEPUTY (REPEALED)

Repealed.

History Note: Statutory 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 7A .0201 REQUIREMENTS FOR INITIAL APPOINTMENT (REPEALED)

Repealed.

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

18 NCAC 7A .0202 INVESTIGATIONS (REPEALED)

Repealed.

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 7A .0203 DISQUALIFICATION (REPEALED)

Repealed.

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

18 NCAC 7A .0204 DISPOSITION OF COMMISSIONS (REPEALED)

Repealed.

History Note: Authority G.S. 10A-6; 10A-7; 10A-8; 10A-9(f); 10A-13(d); 147-37; 150B-19(5); Eff. Revised 9/18/2014

February 1, 1976; Amended Eff. August 1, 2000; January 1, 1995; September 1, 1976; Repealed Eff. April 1, 2007.

18 NCAC 7A .0205 FEE (REPEALED)

Repealed.

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.

18 NCAC 7A .0206 REQUIREMENTS FOR REAPPOINTMENT (REPEALED)

Repealed.

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.

18 NCAC 7A .0207 REVOCATION OF COMMISSION (REPEALED)

Repealed.

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.

18 NCAC 7A .0208 CERTIFICATES OF AUTHORITY (REPEALED)

Repealed.

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 7A .0301 APPROVED COURSE OF STUDY (REPEALED)

Repealed.

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.

18 NCAC 7A .0302 INSTRUCTORS (REPEALED)

Repealed.

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.

18 NCAC 7A .0303 APPROVED MANUAL (REPEALED)

Repealed.

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 7B — NOTARY PUBLIC SECTION 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,

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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.

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.

18 NCAC 07B .0103 LOCATION, HOURS AND 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.com.

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

(3) Telephone Number: The telephone number for Notary Customer Service is (919) 807-2219.

(4) Fax Number: To send information to the Notary Public Section via fax, the number is (919) 807-2210.

History Note: Authority G.S. 10B-14(f); 147-34; Eff. April 1, 2007.

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18 NCAC 07B .0104 FORMS

All forms issued pursuant to Chapter 10B of the General Statutes may be found on the Department's website or may be obtained by contacting the Department using one of the means set out in Rule .0103 of this Subchapter.

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

18 NCAC 07B .0105 FEES

(a) Fees shall be paid by a personal or business check, a money order, or a cashier's check in U.S. dollars and cents made payable to the N.C. Department of the Secretary of State.

(b) Fees for on-line applications may be paid by an automated clearinghouse debit account (ACH).

(c) If a fee is paid with a check or other instrument which is returned by the institution upon which it was issued for "insufficient funds" or for other similar reason:

(1) The Division shall issue a notice of intent to deny the application or revoke the commission; and

(2) The Division shall issue a denial or revocation if the fee is not paid in full within 10 business days after the date on the notice of intent to deny or revoke.

(3) The Division shall charge a twenty-five dollar (\$25.00) fee for which payment has been refused by the payor's bank for insufficient funds or for no account.

History Note: Authority G.S. 10B-14(f); 25-3-506; 147-37; Eff. April 1, 2007.

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.

18 NCAC 07B .0107 CONTINUING OBLIGATIONS OF NOTARIES

(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

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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.

SECTION .0200 - APPLICATIONS

18 NCAC 07B .0201 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;

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- (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.

SECTION .0300 – INITIAL APPOINTMENT

18 NCAC 07B .0301 INITIAL COMMISSION

(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.

18 NCAC 07B .0302 TIMING OF FILING OF INITIAL APPLICATION

(a) 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.

(b) 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.

SECTION .0400 – REAPPOINTMENT OF NOTARIES PUBLIC

18 NCAC 07B .0401 REAPPOINTMENT

(a) 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.
- (b) 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.

18 NCAC 07B .0402 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.

18 NCAC 07B .0403 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.

SECTION .0500 - COMMISSIONS

18 NCAC 07B .0501 APPOINTMENT AND ISSUANCE OF COMMISSIONING CERTIFICATE

(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.

18 NCAC 07B .0502 COMMISSIONING CERTIFICATE DATE

- (a) A commissioning certificate shall not be back-dated.
- (b) Applications shall not be deemed received until complete.

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

18 NCAC 07B .0503 OATH OF OFFICE AND DELIVERY OF COMMISSIONING CERTIFICATE

(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.

18 NCAC 07B .0504 REAPPOINTMENT IF OATH NOT TAKEN WITHIN 45 DAYS

(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.

18 NCAC 07B .0505 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.

SECTION .0600 – NOTARY PUBLIC COURSE PROVIDERS – RESERVED

SECTION .0700 – NOTARY PUBLIC CERTIFIED INSTRUCTOR

18 NCAC 07B .0701 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.

18 NCAC 07B .0702 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.

18 NCAC 07B .0703 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.

18 NCAC 07B .0704 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.

18 NCAC 07B .0705 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.

18 NCAC 07B .0706 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.

18 NCAC 07B .0707 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.

18 NCAC 07B .0708 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.

18 NCAC 07B .0709 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.

18 NCAC 07B .0710 EMPLOYER AFFIDAVIT AS EVIDENCE OF EXPERIENCE

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(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.

18 NCAC 07B .0711 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.

18 NCAC 07B .0712 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.

18 NCAC 07B .0713 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.

18 NCAC 07B .0714 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.

18 NCAC 07B .0715 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.

18 NCAC 07B .0716 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.

18 NCAC 07B .0717 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.

18 NCAC 07B .0718 ELIGIBILITY FOR RECERTIFICATION AS NOTARY PUBLIC INSTRUCTOR

A notary public instructor shall not be eligible for recertification as a notary public

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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.

18 NCAC 07B .0719 NOTARY PUBLIC INSTRUCTOR RECERTIFICATION 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.

18 NCAC 07B .0720 DENIAL OF NOTARY PUBLIC INSTRUCTOR CERTIFICATION OR RECERTIFICATION

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.

SECTION .0800 – INVESTIGATIONS – RESERVED

SECTION .0900 – ENFORCEMENT AND DISCIPLINARY ACTION

18 NCAC 07B .0901 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.

18 NCAC 07B .0902 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.

18 NCAC 07B .0903 EXECUTED DOCUMENT VIOLATIONS

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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.

18 NCAC 07B .0904 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.

18 NCAC 07B .0905 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.

18 NCAC 07B .0906 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.

18 NCAC 07B .0907 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, 424 North Blount Street, 6714 Mail Service Center, Raleigh, NC 27699-6714; (919) 733-2698; <http://www.oah.state.nc.us/>.

(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.

SECTION .1000 – PUBLIC RECORDS AND REQUESTS FOR INFORMATION

18 NCAC 07B .1001 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.

SUBCHAPTER 07C – ELECTRONIC NOTARY STANDARDS

SECTION .0100 – GENERAL PROVISIONS

18 NCAC 07C .0101 SCOPE

(a) The Rules in this Subchapter implement G.S. 10B, Article 2, the Electronic Notary Act and G.S. 47-16.1.

(b) The Rules in this Subchapter are adopted pursuant to the provisions of Subchapter I of Chapter 96 of Title 15 of the United States Code, Electronic Records and Signatures in Commerce.

History Note: Authority G.S. 10B-125(b); 47-16.5; 47-16.7; 147-36; 15 USC 7002; Eff. January 1, 2007.

18 NCAC 07C .0102 DEFINITIONS

In addition to terms defined in Article 1 of Chapter 10B of the General Statutes and

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Subchapter 7B of this Chapter, and for purposes of Article 2 of Chapter 10B of the General Statutes and this Subchapter:

(1) Applicant means a person applying for registration as a North Carolina electronic notary.

(2) Approved Electronic Notary Solution Provider means a person or entity approved to provide an Electronic Notarization System by the Department pursuant to Article 2 of Chapter 10B of the General Statutes and Article 1A of Chapter 47 of the General Statutes.

(3) 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. Biometric authentication technologies include fingerprint scanning devices, retinal scanning devices, and handwriting analysis devices.

(4) Department means the North Carolina Department of the Secretary of State. Unless specifically noted in rule text, for the purposes of this Subchapter Department means the notary public section of the Department's certification and filing division.

(5) Electronic Notarization System means a set of applications, programs, hardware, software, or technology designed to enable a notary to perform electronic notarizations.

(6) Independently Verifiable means capable of government or third-party authentication of a notarial act, a notary's identity, and a notary's relevant authority.

(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. Physical devices used in token authentication technologies include magnetic cards or smart cards and Universal Serial Bus (USB) memory sticks or USB keys.

(9) Under the exclusive control of the notary, for the purposes of the Department's interpretation of the requirements of G.S. 10B-126(b), means under the notary public's sole control as defined in this subchapter.

(10) Under the notary public's sole control means accessible by and attributable solely to the notary to the exclusion of all other persons and entities, either through being in the direct physical custody of the notary or through being secured with one or more biometric, password, token, or other authentication technologies in an electronic notarization system provided by an approved electronic notary solution provider approved pursuant to the Act and this Subchapter.

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.

SECTION .0200 – REGISTRATION

18 NCAC 07C .0201 APPLICATION

(a) Qualifications. An applicant shall provide:

(1) All information required for registration pursuant to G.S. 10B-106(d);

(2) Verification that the applicant holds a valid North Carolina notary commission and continues to meet the qualifications to hold the notary commission;

(3) Verification that the applicant is in compliance with all provisions of the Notary

Act;

(4) Any other information requested by the Department to prove the qualifications of the applicant.

(b) 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.

18 NCAC 07C .0202 OATH OF OFFICE AND DELIVERY OF COMMISSION

(a) 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.

(b) 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).

(c) After administering the oath of office, the Register of Deeds shall deliver the electronic notary registration certificate to the electronic notary.

(d) 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.

18 NCAC 07C .0203 RE-REGISTRATION

A notary applying to re-register as an electronic notary shall comply with application procedures found in the Act and 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.

SECTION .0300 – COURSE OF INSTRUCTION

18 NCAC 07C .0301 APPROVED COURSE OF STUDY FOR ELECTRONIC NOTARIES PUBLIC

(a) The Department shall administer the training course and testing for applicants for electronic notary registration.

(b) Upon the Secretary's determination of a need for additional instructors, the Department may train certified notary public instructors who are also registered as electronic notaries public to administer the training course and testing for applicants for electronic notary registration.

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.

SECTION .0400 – ELECTRONIC NOTARY STANDARDS

18 NCAC 07C .0401 ELECTRONIC NOTARY SIGNATURE

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

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electronic notary.

(b) The electronic notary signature shall be retained under the electronic notary's sole control.

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

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

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

History Note: Authority G.S. 10B-125(b); 10B-126(d); 47-16.5; 47-16.7; 143A-123; 147-36; 15 USC 7002; Eff. January 1, 2007.

18 NCAC 07C .0402 ELECTRONIC NOTARY SEAL

(a) The electronic notary seal shall be independently verifiable and unique to the electronic notary.

(b) The electronic notary seal shall be retained under the electronic notary's sole control.

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

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

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

(f) 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.

(g) 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-2; 10B-125(b); 10B-126(d); 47-16.5; 47-16.7; 147-36; 15 USC 7002; Eff. January 1, 2007.

18 NCAC 07C .0403 PHYSICAL PRESENCE REQUIREMENT FOR ELECTRONIC NOTARIZATION

When an electronic notary performs an electronic notarization, the principal and the electronic notary shall be in each other's physical presence during the entire electronic notarization so that the principal and the electronic notary can see, hear, communicate with, and give identification documents as required under G.S. 10B-3(22) to each other

without the use of electronic devices such as telephones, computers, video cameras, or facsimile machines.

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.

SECTION .0500 – ELECTRONIC NOTARY SOLUTION PROVIDERS

18 NCAC 07C .0501 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.

18 NCAC 07C .0502 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 exemplary 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.

18 NCAC 07C .0503 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-2; 10B-125(b); 10B-126(d); 47-16.5; 47-16.7; 147-36; 15 USC 7002; Eff. January 1, 2007.

SECTION .0600 – SECURITY REQUIREMENTS

18 NCAC 07C .0601 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.

18 NCAC 07C .0602 ELECTRONIC NOTARY SEALS

The electronic notary seal is the property of the electronic notary and shall be subject to laws governing private property.

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.

18 NCAC 07C .0603 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 signature by anyone other than the electronic notary to whom it is registered.

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(b) Upon the cessation of employment of an electronic notary, the employer of the notary shall:

(1) Relinquish control of the electronic notary seal;

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

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

History 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.

18 NCAC 07C .0604 PROTECTED ACCESS

Access to electronic notary signatures and electronic notary seals shall be protected by the use of a password, token, biometric, or other form of authentication approved by the Department according to Article 2 of Chapter 10B of the General Statutes, and Article 1A of Chapter 47 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.

SECTION .0700 – RECORDS OF ELECTRONIC NOTARIAL ACTS – RESERVED

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