

NORTH CAROLINA GENERAL ASSEMBLY
1973 SESSION

CHAPTER 680
HOUSE BILL 1004

AN ACT TO REWRITE CHAPTER 10 OF THE GENERAL STATUTES PERTAINING TO
THE APPOINTMENT OF NOTARIES PUBLIC.

The General Assembly of North Carolina enacts:

Section 1. Chapter 10 of the General Statutes of North Carolina is hereby rewritten to read as follows:

"§ 10-1. Appointment and commission; term of office; revocation of commission. — The Secretary of State may, from time to time, at his discretion, appoint one or more fit persons in every county to act as notaries public and shall issue to each a commission upon payment of a fee of ten dollars (\$10.00). The commission shall show that it is for a term of five years and shall show the effective date and the date of expiration. The term of the commission shall be computed by including the effective date and shall end at midnight of the day preceding the anniversary of the effective date, five years thereafter. The commission shall be sent to the register of deeds of the county in which the appointee lives and a copy of the letter of transmittal to the register of deeds shall be sent to the appointee concerned. The commission shall be retained by the register of deeds until the appointee has qualified in the manner provided in G.S. 10-2.

Any commission so issued by the Secretary of State or his predecessor, shall be revocable by him in his discretion upon complaint being made against such notary public and when he shall be satisfied that the interest of the public will be best served by the revocation of said commission. Whenever the Secretary of State shall have revoked the commission of any notary public appointed by him, or his predecessor in office, it shall be his duty to file with the register of deeds in the county of such notary public a copy of said order and mail a copy of same to said notary public.

Any person holding himself out to the public as a notary public, or any person attempting to act in such capacity after his commission shall have been revoked by the Secretary of State, shall be guilty of a misdemeanor and upon conviction shall be fined or imprisoned, or both, in the discretion of the court.

"§ 10-2. To qualify before register of deeds, record of qualification. — Upon appearing before the register of deeds to which their commissions were delivered, the notaries shall be duly qualified by taking before the register an oath of office, and the oaths prescribed for officers. Following the administration of the oaths of office, the notary shall place his signature in a book designated as 'The Record of Notaries Public'. The Record of Notaries Public shall contain the name of the notary, the signature of the notary, the effective date and expiration date of the commission, the date the oath was administered, and the date of revocation if the commission is revoked by the Secretary of State. The information contained in The Record of Notaries Public shall constitute the official record of the qualification of notaries public, and the register of deeds shall deliver the commission to the notary following his qualification and notify the Secretary of State of such qualification.

"§ 10-3. Clerks notaries ex officio; may certify own seals. — The clerks of the superior court may act as notaries public, in their several counties, by virtue of their office as clerks, and may certify their notarial acts under the seals of their respective courts.

"§ 10-4. Register of deeds notary ex officio with respect to certain instruments; to use seal of office. — With respect to instruments offered for registration in their county, the register of deeds and his assistants and deputies may act as notaries public by virtue of their office, and may certify their notarial acts under the seal of the office of the register of deeds.

"§ 10-5. Powers of notaries public. — (a) Subject to the exception stated in subsection (c), a notary public commissioned under the laws of this State acting anywhere in this State may:

- (1) Take and certify the acknowledgment or proof of the execution or signing of any instrument or writing except a contract between a husband and wife governed by the provisions of G.S. 52-6;
- (2) Take affidavits and depositions;
- (3) Administer oaths and affirmations, including oaths of office, except when such power is expressly limited to some other public officer;
- (4) Protest for nonacceptance or nonpayment, notes, bills of exchange and other negotiable instruments; and
- (5) Perform such acts as the law of any other jurisdiction may require of a notary public for the purposes of that jurisdiction.

(b) Any act within the scope of subsection (a) performed in another jurisdiction by a notary public of that jurisdiction has the same force and effect in this State as fully as if such act were performed in this State by a notary public commissioned under the laws of this State.

(c) A notary public who, individually or in any fiduciary capacity, is a party to any instrument, cannot take the proof or acknowledgment of himself in such fiduciary capacity or of any other person thereto.

(d) A notary public who is a stockholder, director, officer, or employee of a corporation is not disqualified to exercise any power, which he is authorized by this section to exercise, with respect to any instrument or other matter to which such corporation is a party or in which it is interested unless he is individually a party thereto.

"§ 10-6. May exercise powers in any county. — Notaries public have full power and authority to perform the functions of their office in any and all counties of the State, and full faith and credit shall be given to any of their official acts wheresoever the same shall be made and done.

"§ 10-7. Certificates of official character. — The Secretary of State and the register of deeds in the county in which the notary public qualified may certify to the official character and authority of such notary public.

"§ 10-8. Fees of notaries. — Notaries public shall be allowed the following fees:

- (1) Taking and certifying the acknowledgment or proof of the execution or signing of any instrument or writing \$0.50
- (2) Taking affidavits 0.50
- (3) Administering oaths (except that oaths of office shall be administered to public officials without charge) 1.00

"§ 10-9. Official acts of notaries public, signatures; appearance of names; notarial stamps or seals; expiration of commissions. — Official acts of notaries public in the State of North Carolina shall be attested:

- (1) By their proper signatures;
- (2) By the readable appearance of their names, either from their signatures or otherwise;
- (3) By the clear and legible appearance of their notarial stamps or seals;
- (4) By a statement of the date of expiration of their commissions; provided, that the failure to comply with the provisions of subdivisions (2) and (4) shall not invalidate their official acts.

"§ 10-10. Notarial stamp or seal. — A notary public shall provide and keep an official stamp or seal which shall clearly show and legibly reproduce under photographic methods, when embossed, stamped, impressed or affixed to a document, the name of the notary, the name of the county in which appointed and qualified, the words 'North Carolina' or an abbreviation thereof, and the words 'Notary Public'. It shall be the duty of a notary public to replace a seal which has become so worn that it can no longer clearly show or legibly reproduce under photographic methods the information required by this section. Provided, that a notary public appointed prior to July 1, 1973, who has adopted and is using a seal which does not meet the requirements of this section, shall be entitled to continue to use such seal until the expiration of his current commission.

"§ 10-11. Acts of minor notaries validated. — All acts of notaries public for the State of North Carolina who were not yet 21 years of age at the time of the performance of such acts are hereby validated; and in every case where deeds or other instruments have been acknowledged before such notary public who was not yet 21 years of age at the time of taking of said acknowledgment, such acknowledgment taken before such notary public is hereby declared to be sufficient and valid.

"§ 10-12. Acts of certain notaries prior to qualification validated. — All acknowledgments taken and other official acts done by any person who has heretofore been appointed as a notary public, but who at the time of acting had failed to qualify as provided by law, shall, notwithstanding, be in all respects valid and sufficient; and property conveyed by instruments in which the acknowledgments were taken by such notary public are hereby validated and shall convey the properties therein purported to be conveyed as intended thereby.

"§ 10-13. Acts of notaries public in certain instances validated. — The acts of any person heretofore performed after appointment as a notary public and prior to qualification as a notary public or upon reappointment and prior to qualification:

- (1) In taking any acknowledgment, or
- (2) In notarizing any instrument,

are all hereby declared to be valid and of the same legal effect as if such person had qualified as a notary public prior to performing any such acts.

"§ 10-14. Validation of acknowledgment wherein expiration of notary's commission erroneously stated. — All deeds, deeds of trust, mortgages, conveyances, affidavits, and all other paper writings similar or dissimilar to those enumerated herein, whether or not permitted or required to be recorded or filed under the laws of this State heretofore or hereafter executed, bearing an official act of a notary public in which the date of the notary's commission is erroneously stated, are, together with all subsequent acts or actions taken thereon, including but not limited to probate and registration, hereby declared in all respects to be valid to the extent as if the correct expiration date had been stated and shall be binding on the parties of such paper writings and their privies; and such paper writings, together with their certificates may, if otherwise competent, be read in evidence as a muniment of title for all intents and purposes in any of the courts of this State: Provided, that at the date of such official act the notary's commission was actually in force.

"§ 10-15. Validation of instruments which do not contain readable impression of notary's name. — All deeds, deeds of trust, mortgages, conveyances, affidavits and all other paper writings similar or dissimilar to those enumerated herein, whether or not permitted or required to be recorded or filed under the laws of this State heretofore executed, bearing the official act of a notary public as attested by his notarial seal, but which seal does not contain a readable impression of the notary's name are, together with all subsequent acts or actions taken thereon, including but not limited to probate and registration, hereby declared in all respects to be valid to the same extent as if a seal containing a readable impression of the notary's name had been affixed thereto, and shall be binding on the parties of such paper writings and their privies; and

such paper writings, together with their certificates, if otherwise competent, may be read in evidence as a muniment of title for all intents and purposes in any of the courts of this State.

"§ 10-16. Acts of notaries with seal containing name of another state validated — The notarial acts of any person heretofore duly commissioned as a notary public in this State, who used in performing such acts a seal correctly containing the name of the notary and the proper county but mistakenly containing the abbreviation for the State of Georgia instead of North Carolina, are hereby validated and given the same legal effect as if such misprint or incorrect designation of the State had not appeared on the seal or seal imprint so used.

"§ 10-17. Validation of certain instruments acknowledged prior to January 1, 1945. — Where any person has taken an acknowledgment as a notary public of a person acting through another by virtue of the execution of a power of attorney and by said person acting in his individual capacity and said notary public has failed to include within his certificate the acknowledgment of said person in his capacity as attorney in fact, and such acknowledgment has been otherwise duly probated and recorded, then such acknowledgment is hereby declared to be sufficient and valid: Provided, this section shall apply only to those deeds and other instruments acknowledged prior to January 1, 1945."

Sec. 2. All laws and clauses of laws in conflict herewith, to the extent of such conflict, are hereby repealed.

Sec. 3. This act shall be in force from and after its ratification.

In the General Assembly read three times and ratified, this the 22nd day of May, 1973.