§ 10B-60. Enforcement and penalties.

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

(b) Except as otherwise permitted by law, a person who commits any of the following acts is guilty of a Class 1 misdemeanor:

(1) Holding one's self out to the public as a notary if the person does not have a commission.

(2) Performing a notarial act if the person's commission has expired or been suspended or restricted.

(3) Performing a notarial act before the person had taken the oath of office.

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

(1) Takes an acknowledgment or administers an oath or affirmation without the principal appearing in person before the notary.

(2) Takes a verification or proof without the subscribing witness appearing in person before the notary.

(3) Takes an acknowledgment or administers an oath or affirmation without personal knowledge or satisfactory evidence of the identity of the principal.

(4) Takes a verification or proof without personal knowledge or satisfactory evidence of the identity of the subscribing witness.

(d) A notary shall be guilty of a Class I felony if the notary does any of the following:

(1) Takes an acknowledgment or a verification or a proof, or administers an oath or affirmation if the notary knows it is false or fraudulent.

(2) Takes an acknowledgment or administers an oath or affirmation without the principal appearing in person before the notary if the notary does so with the intent to commit fraud.

(3) Takes a verification or proof without the subscribing witness appearing in person before the notary if the notary does so with the intent to commit fraud.

(e) It is a Class I felony for any person to perform notarial acts in this State with the knowledge that the person is not commissioned under this Chapter.

(f) Any person who without authority obtains, uses, conceals, defaces, or destroys the seal or notarial records of a notary is guilty of a Class I felony.

(g) For purposes of enforcing this Chapter and Article 34 of Chapter 66 of the General Statutes, the following provisions are applicable:

(1) Law enforcement agents of the Department of the Secretary of State have statewide jurisdiction and have all of the powers and authority of law enforcement officers and may conduct any investigation within or outside of this State as the Secretary deems necessary to determine whether any person has violated or is about to violate any provision of this Chapter or the rules adopted pursuant to this Chapter. The agents have the authority to assist law enforcement agencies in their investigations and to initiate and carry out, on their own or in coordination with other law enforcement agencies, investigations of violations.

(2) Any party to a transaction requiring a notarial certificate for verification and any attorney licensed in this State who is involved in such a transaction in any capacity, whether or not the attorney is representing one of the parties to the

transaction, may execute an affidavit and file it with the Secretary of State, setting forth the actions which the affiant alleges constitute violations. Upon receipt of the affidavit, law enforcement agents of the Department shall initiate and carry out, on their own or in coordination with other law enforcement agencies, investigations of violations.

(3) The Secretary may refer such evidence as is available pertaining to violations of this Chapter or other criminal acts involving a notarization under this Chapter to the proper district attorney, who may, with or without such a referral, institute the appropriate criminal proceedings. Upon receipt of a referral, the district attorney may request that a duly employed attorney of the Secretary prosecute or assist in the prosecution of the criminal proceedings on behalf of the State. Upon approval of the Secretary, the employee may be appointed as a special prosecutor for the district attorney to prosecute or assist in the prosecution of the criminal proceedings without receiving compensation from the district attorney. Such a special prosecutor shall have all the powers and duties prescribed by law for district attorneys and such other powers and duties as are lawfully delegated to the special prosecutor by the district attorney for the prosecution for which appointed.

(4) The files and records of the Secretary related to criminal investigations and enforcement proceedings undertaken pursuant to this Chapter are subject to the provisions of G.S. 132-1.4. The files and records of the Secretary relating to noncriminal investigations and enforcement proceedings undertaken pursuant to this Chapter shall not be subject to inspection and examination pursuant to G.S. 132-6 while the investigations or proceedings are pending, except as provided by G.S. 1A-1.

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

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

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

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

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

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

be considered a showing of professional unfitness under G.S. 84-28(d), and the State Bar shall administer discipline accordingly.

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

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