

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. (Effective until July 1, 2023) 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.)

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- (4) To foster ethical conduct among notaries.
- (5) To enhance interstate recognition of notarial acts.
- (6) To integrate procedures for all of the following notarial acts:
 - a. Traditional paper.
 - b. Electronic notarization.
 - c. Remote electronic notarization. (1991, c. 683, s. 2; 1998-228, s. 1; 2005-391, s. 4; 2022-54, s. 2(a).)

§ 10B-3. Definitions.

The following definitions apply in this Chapter:

- (1) Acknowledgment. – A notarial act in which a notary certifies that at a single time and place all of the following occurred:
 - a. An individual appeared in person before the notary and presented a record.
 - b. The individual was personally known to the notary or identified by the notary through satisfactory evidence.
 - c. The individual did either of the following:
 - i. Indicated to the notary that the signature on the record was the individual's signature.

- ii. Signed the record while in the physical presence of the notary and while being personally observed signing the record by the notary.
- (2) Affirmation. – A notarial act which is legally equivalent to an oath and in which a notary certifies that at a single time and place all of the following occurred:
 - a. An individual appeared in person before the notary.
 - b. The individual was personally known to the notary or identified by the notary through satisfactory evidence.
 - c. The individual made a vow of truthfulness on penalty of perjury, based on personal honor and without invoking a deity or using any form of the word "swear".
- (3) Attest or attestation. – The completion of a certificate by a notary who has performed a notarial act.
- (4) Commission. – The empowerment to perform notarial acts and the written evidence of authority to perform those acts.
- (5) Credible witness. – An individual who is personally known to the notary and to whom all of the following also apply:
 - a. The notary believes the individual to be honest and reliable for the purpose of confirming to the notary the identity of another individual.
 - b. The notary believes the individual is not a party to or beneficiary of the transaction.
- (6) Department. – The North Carolina Department of the Secretary of State.
- (7) Director. – The Division Director for the North Carolina Department of the Secretary of State Notary Public Section.
- (7a) Emergency video notarization. – An acknowledgement, affirmation, or oath notarization completed by a notary in compliance with the requirements of G.S. 10B-25. Emergency video notarization shall not include a verification proof as defined in G.S. 10B-3(28).
- (8) Jurat. – A notary's certificate evidencing the administration of an oath or affirmation.
- (9) Moral turpitude. – Conduct contrary to expected standards of honesty, morality, or integrity.
- (10) Nickname. – A descriptive, familiar, or shortened form of a proper name.
- (11) Notarial act, notary act, and notarization. – The act of taking an acknowledgment, taking a verification or proof or administering an oath or affirmation that a notary is empowered to perform under G.S. 10B-20(a).
- (12) Notarial certificate and certificate. – The portion of a notarized record that is completed by the notary, bears the notary's signature and seal, and states the facts attested by the notary in a particular notarization.
- (13) Notary public and notary. – A person commissioned to perform notarial acts under this Chapter. A notary is a public officer of the State of North Carolina and shall act in full and strict compliance with this act.
- (14) Oath. – A notarial act which is legally equivalent to an affirmation and in which a notary certifies that at a single time and place all of the following occurred:
 - a. An individual appeared in person before the notary.

- b. The individual was personally known to the notary or identified by the notary through satisfactory evidence.
 - c. The individual made a vow of truthfulness on penalty of perjury while invoking a deity or using any form of the word "swear".
- (15) Official misconduct. – Either of the following:
- a. A notary's performance of a prohibited act or failure to perform a mandated act set forth in this Chapter or any other law in connection with notarization.
 - b. A notary's performance of a notarial act in a manner found by the Secretary to be negligent or against the public interest.
- (16) Personal appearance and appear in person before a notary. – An individual and a notary are in close physical proximity to one another so that they may freely see and communicate with one another and exchange records back and forth during the notarization process.
- (17) Personal knowledge or personally know. – Familiarity with an individual resulting from interactions with that individual over a period of time sufficient to eliminate every reasonable doubt that the individual has the identity claimed.
- (18) Principal. – One of the following:
- a. In the case of an acknowledgment, the individual whose identity and due execution of a record is being certified by the notary.
 - b. In the case of a verification or proof, the individual other than a subscribing witness, whose:
 - i. Identity and due execution of the record is being proven; or
 - ii. Signature is being identified as genuine.
 - c. In the case of an oath or affirmation, the individual who makes a vow of truthfulness on penalty of perjury.
- (19) Record. – Information that is inscribed on a tangible medium and called a traditional or paper record.
- (20) Regular place of work or business. – A location, office or other workspace, where an individual regularly spends all or part of the individual's work time.
- (21) Revocation. – The cancellation of the notary's commission stated in the order of revocation.
- (22) Satisfactory evidence. – Identification of an individual based on either of the following:
- a. At least one current document issued by a federal, state, or federal or state-recognized tribal government agency bearing the photographic image of the individual's face and either the signature or a physical description of the individual.
 - b. The oath or affirmation of one credible witness who personally knows the individual seeking to be identified.
- (23) Seal or stamp. – A device for affixing on a paper record an image containing a notary's name, the words "notary public," and other information as required in G.S. 10B-37.
- (24) Secretary. – The North Carolina Secretary of State or the Secretary's designee.

- (25) Repealed by Session Laws 2006-59, s. 1, effective October 1, 2006, except as otherwise set forth in the act, and applicable to notarial acts performed on or after October 1, 2006.
- (26) Subscribing witness. – A person who signs a record for the purpose of being a witness to the principal's execution of the record or to the principal's acknowledgment of his or her execution of the record. A subscribing witness may give proof of the execution of the record as provided in subdivision (28) of this section.
- (27) Suspension and restriction. – The termination of a notary's commission for a period of time stated in an order of restriction or suspension. The terms "restriction" or "suspension" or a combination of both terms shall be used synonymously.
- (28) Verification or proof. – A notarial act in which a notary certifies that all of the following occurred:
 - a. An individual appeared in person before the notary.
 - b. The individual was personally known to the notary or identified by the notary through satisfactory evidence.
 - c. The individual was not a party to or beneficiary of the transaction.
 - d. The individual took an oath or gave an affirmation and testified to one of the following:
 - i. The individual is a subscribing witness and the principal who signed the record did so while being personally observed by the subscribing witness.
 - ii. The individual is a subscribing witness and the principal who signed the record acknowledged his or her signature to the subscribing witness.
 - iii. The individual recognized either the signature on the record of the principal or the signature on the record of the subscribing witness and the signature was genuine. (1991, c. 683, s. 2; 1998-228, s. 2; 2005-391, s. 4; 2006-59, s. 1; 2020-3, s. 4.1(a).)

§ 10B-4: 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; emergency extension.

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

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

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

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

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

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

§ 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. (Effective until July 1, 2023) 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; 2013-204, s. 1.1.)

§ 10B-20. (Effective July 1, 2023) Powers and limitations.

- (a) A notary may perform any of the following notarial acts:
 - (1) Acknowledgments.
 - (2) Oaths and affirmations.
 - (3) Repealed by Session Laws 2006-59, s. 6, effective October 1, 2006, and except as otherwise set forth in the act, applicable to notarial acts performed on or after October 1, 2006.
 - (4) Verifications or proofs.
- (b) A notarial act shall be attested by all of the following:
 - (1) The signature of the notary, exactly as shown on the notary's commission.
 - (2) The legible appearance of the notary's name exactly as shown on the notary's commission. The legible appearance of the name may be ascertained from the notary's typed or printed name near the notary's signature or from elsewhere in the notarial certificate or from the notary's seal if the name is legible.
 - (3) The clear and legible appearance of the notary's stamp or seal.
 - (4) A statement of the date the notary's commission expires. The statement of the date that the notary's commission expires may appear in the notary's stamp or seal or elsewhere in the notarial certificate.
- (c) A notary shall not perform a notarial act if any of the following apply:
 - (1) Except as authorized in Part 4A of Article 2 of this Chapter, the principal or subscribing witness is not in the notary's presence at the time the notarial act is performed. However, nothing in this Chapter shall require a notary to complete the notarial certificate attesting to the notarial act in the presence of the principal or subscribing witness.
 - (2) The principal or subscribing witness is not personally known to the notary or identified by the notary through satisfactory evidence.
 - (2a) The credible witness is not personally known to the notary.

- (3), (4) Repealed by Session Laws 2006-59, s. 8, effective October 1, 2006, and except as otherwise set forth in the act, applicable to notarial acts performed on or after October 1, 2006.
- (5) The notary is a signer of, party to, or beneficiary of the record, that is to be notarized. However, a disqualification under this subdivision shall not apply to a notary who is named in a record solely as (i) the trustee in a deed of trust, (ii) the drafter of the record, (iii) the person to whom a registered document should be mailed or sent after recording, or (iv) the attorney for a party to the record, so long as the notary is not also a party to the record individually or in some other representative or fiduciary capacity. A notary who is an employee of a party shall not be disqualified under this subdivision solely because of the notary's employment by a party to the record or solely because the notary owns stock in a party to the record.
- (6) The notary will receive directly from a transaction connected with the notarial act any commission, fee, advantage, right, title, interest, cash, property, or other consideration exceeding in value the fees specified in G.S. 10B-31, other than fees or other consideration paid for services rendered by a licensed attorney, a licensed real estate broker or salesperson, a motor vehicle dealer, or a banker.
- (d) A notary may certify the affixation of a signature by mark on a record presented for notarization if:
- (1) The mark is affixed in the presence of the notary;
 - (2) The notary writes below the mark: "Mark affixed by (name of signer by mark) in presence of undersigned notary"; and
 - (3) The notary notarizes the signature by performing an acknowledgment, oath or affirmation, jurat, or verification or proof.
- (e) If a principal is physically unable to sign or make a mark on a record presented for notarization, that principal may designate another person as his or her designee, who shall be a disinterested party, to sign on the principal's behalf pursuant to the following procedure:
- (1) The principal directs the designee to sign the record in the presence of the notary and two witnesses unaffected by the record;
 - (2) The designee signs the principal's name in the presence of the principal, the notary, and the two witnesses;
 - (3) Both witnesses sign their own names to the record near the principal's signature;
 - (4) The notary writes below the principal's signature: "Signature affixed by designee in the presence of (names and addresses of principal and witnesses)"; and
 - (5) The notary notarizes the signature through an acknowledgment, oath or affirmation, jurat, or verification or proof.
- (f) A notarial act performed in another jurisdiction in compliance with the laws of that jurisdiction is valid to the same extent as if it had been performed by a notary commissioned under this Chapter if the notarial act is performed by a notary public of that jurisdiction or by any person authorized to perform notarial acts in that jurisdiction under the laws of that jurisdiction, the laws of this State, or federal law.
- (g) Persons authorized by federal law or regulation to perform notarial acts may perform the acts for persons serving in or with the Armed Forces of the United States, their spouses, and their dependents.

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

(i) A notary public who is not an attorney licensed to practice law in this State who advertises the person's services as a notary public in a language other than English, by radio, television, signs, pamphlets, newspapers, other written communication, or in any other manner, shall post or otherwise include with the advertisement the notice set forth in this subsection in English and in the language used for the advertisement. The notice shall be of conspicuous size, if in writing, and shall state: "I AM NOT AN ATTORNEY LICENSED TO PRACTICE LAW IN THE STATE OF NORTH CAROLINA, AND I MAY NOT GIVE LEGAL ADVICE OR ACCEPT FEES FOR LEGAL ADVICE." If the advertisement is by radio or television, the statement may be modified but must include substantially the same message.

(j) A notary public who is not an attorney licensed to practice law in this State is prohibited from representing or advertising that the notary public is an "immigration consultant" or expert on immigration matters unless the notary public is an accredited representative of an organization recognized by the Board of Immigration Appeals pursuant to Title 8, Part 292, section 2(a-e) of the Code of Federal Regulations (8 C.F.R. § 292.2(a-e)).

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

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

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

(n) A notary shall not claim to have powers, qualifications, rights, or privileges that the office of notary does not provide, including the power to counsel on immigration matters.

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

- (1) Notwithstanding the provisions of this section, a notary shall not be required to complete, cross out, or mark through blank lines or spaces in the notary certificate form provided for in G.S. 47-43 indicating when and where a power of attorney is recorded if that recording information is not known to the notary at the time the notary completes and signs the certificate;
- (2) A notary's failure to cross out or mark through blank lines or spaces in a notarial certificate shall not affect the sufficiency, validity, or enforceability of the certificate or the related record; and
- (3) A notary's failure to cross out or mark through blank lines or spaces in a notarial certificate shall not be grounds for a register of deeds to refuse to accept a record for registration. (1866, c. 30; 1879, c. 128; Code, s. 3307; Rev., ss. 2350, 2351a, 2352; C.S., ss. 3175, 3177, 3179; 1951, c. 1006, s. 1; 1953, c. 836; 1961, c. 733;

1967, c. 24, s. 22; c. 984; 1973, c. 680, s. 1; 1977, c. 375, s. 5; 1991, c. 683, s. 2; 1998-228, s. 5; 2001-450, s. 2; 2001-487, s. 121; 2005-391, s. 4; 2006-59, ss. 6-12; 2006-199, s. 1; 2011-183, s. 7; 2013-204, s. 1.1; 2022-54, s. 2(b).)

§ 10B-21. Notaries ex officio.

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

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

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

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

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

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

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

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

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

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

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

(b) A notary shall not execute a certificate that is not written in the English language. A notary may execute a certificate written in the English language that accompanies a record written in another language, which record may include a translation of the notarial certificate into the other

language. In those instances, the notary shall execute only the English language certificate. (2005-391, s. 4.)

§ 10B-23. Improper records.

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

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

§ 10B-24. Testimonials.

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

§ 10B-25. (Expires June 30, 2023 – see note) Emergency video notarization.

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

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

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

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

notarization, the principal identifies the county where he or she is located at the time of the notarial act, and the principal and notary use video conference technology that complies with the requirements of this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(n) This section shall expire at 12:01 A.M. on June 30, 2023; provided, however, all notarial acts made in accordance with this section and while this section is in effect shall remain effective and shall not need to be reaffirmed. (2020-3, s. 4.1(c); 2020-74, s. 27(b); 2020-80, s. 2.9(b); 2021-3, s. 2.10(a); 2022-54, s. 3(b).)

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

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

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

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

Part 4. Fees.

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

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

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

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

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

§ 10B-31. Fees for notarial acts.

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

- (1) For acknowledgments, jurats, verifications or proofs, ten dollars (\$10.00) per principal signature.
- (2) For oaths or affirmations without a signature, ten dollars (\$10.00) per person, except for an oath or affirmation administered to a credible witness to vouch for the identity of a principal or subscribing witness.
- (3) For an electronic notarization under G.S. 10B-118, fifteen dollars (\$15.00).
- (4) For remote notarization under Part 4A of Article 2 of this Chapter, twenty-five dollars (\$25.00) per principal signature.
- (5) For any notarial act under this Chapter, actual mileage at the federal mileage rate if the travel reimbursement is agreed to by the principal in writing prior to the travel. (Code, s. 3749; 1889, c. 446; 1895, c. 296; 1903, c. 734; Rev., s. 2800; C.S., s. 3178; 1973, c. 680, s. 1; 1977, c. 429, ss. 1, 2; 1981, c. 872; 1991, c. 683, s. 2; 1998-228, s. 6; 2005-328, s. 1; 2005-391, s. 4; 2006-59, s. 14; 2022-54, s. 3(e).)

§ 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 1/2 inches, nor more than 2 inches in diameter. The rectangular seal shall not be over 1 inch high and 2 1/2 inches long. The perimeter of the seal shall contain a border that is visible when impressed.

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

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

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

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

§ 10B-38: 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; 2013-204, 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. (Effective until July 1, 2023) 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 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. 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.

- (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 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; 2013-204, s. 1.4; 2013-387, s. 5.)

§ 10B-60. (Effective July 1, 2023) 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 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. 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.
 - (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 local 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.

(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; 2013-204, s. 1.4; 2013-387, s. 5; 2022-54, s. 7.)

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

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

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

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

Part 9. Validation of Notarial Acts.

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

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

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

(1) The date of the expiration of the notary's commission is stated, whether correctly or erroneously.

(2) The notarial seal does not contain a readable impression of the notary's name, contains an incorrect spelling of the notary's name, or does not bear the name

of the notary exactly as it appears on the commission, as required under G.S. 10B-37.

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

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

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

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

§ 10B-66. Certain notarial acts validated.

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

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

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

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

§ 10B-68. Technical defects cured.

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

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

(c) As used in this section, a technical defect includes those cured under G.S. 10B-37(f) and G.S. 10B-67. Other technical defects include, but are not limited to, the absence of the legible appearance of the notary's name exactly as shown on the notary's commission as required in G.S. 10B-20(b), the affixation of the notary's seal near the signature of the principal or subscribing witness rather than near the notary's signature, minor typographical mistakes in the spelling of the

principal's name, the failure to acknowledge the principal's name exactly as signed by including or omitting initials, or the failure to specify the principal's title or office, if any. (2006-59, s. 24; 2006-199, s. 2; 2013-204, s. 1.7.)

§ 10B-69. Official forms cured.

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

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

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

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

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

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

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

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

§ 10B-73. Reserved for future codification purposes.

§ 10B-74. Reserved for future codification purposes.

§ 10B-75. Reserved for future codification purposes.

§ 10B-76. Reserved for future codification purposes.

§ 10B-77. Reserved for future codification purposes.

- § 10B-78. Reserved for future codification purposes.
- § 10B-79. Reserved for future codification purposes.
- § 10B-80. Reserved for future codification purposes.
- § 10B-81. Reserved for future codification purposes.
- § 10B-82. Reserved for future codification purposes.
- § 10B-83. Reserved for future codification purposes.
- § 10B-84. Reserved for future codification purposes.
- § 10B-85. Reserved for future codification purposes.
- § 10B-86. Reserved for future codification purposes.
- § 10B-87. Reserved for future codification purposes.
- § 10B-88. Reserved for future codification purposes.
- § 10B-89. Reserved for future codification purposes.
- § 10B-90. Reserved for future codification purposes.
- § 10B-91. Reserved for future codification purposes.
- § 10B-92. Reserved for future codification purposes.
- § 10B-93. Reserved for future codification purposes.
- § 10B-94. Reserved for future codification purposes.
- § 10B-95. Reserved for future codification purposes.
- § 10B-96. Reserved for future codification purposes.
- § 10B-97. Reserved for future codification purposes.
- § 10B-98. Reserved for future codification purposes.

§ 10B-99. Presumption of regularity.

(a) In the absence of evidence of fraud on the part of the notary, or evidence of a knowing and deliberate violation of this Article by the notary, the courts shall grant a presumption of regularity to notarial acts so that those acts may be upheld, provided there has been substantial

compliance with the law. Nothing in this Chapter modifies or repeals the common law doctrine of substantial compliance in effect on November 30, 2005.

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

Article 2.

Electronic Notary Act.

Part 1. General Provisions.

§ 10B-100. Short title.

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

§ 10B-101. (Effective until July 1, 2023) 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-101. (Effective July 1, 2023) Definitions.

The following definitions apply in this Article:

- (1) Electronic. – Relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.
- (2) Electronic document. – Information that is created, generated, sent, communicated, received, or stored by electronic means.
- (3) Electronic notarial act and electronic notarization. – An official act by an electronic notary public that involves electronic documents.

- (4) Electronic notary public and electronic notary. – 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. – Information within a notarized electronic document that includes the notary's name, jurisdiction, and commission expiration date, and generally corresponds to data in notary seals used on paper documents.
- (6) Electronic signatures. – An electronic symbol or process attached to or logically associated with an electronic document and executed or adopted by a person with the intent to sign the document.
- (7) Notary's electronic signature. – Those forms of electronic signature which have been approved by the Secretary as authorized in G.S. 10B-125, as an acceptable means for an electronic notary to affix the notary's official signature to an electronic record that is being notarized.
- (8) Remote electronic notary public or remote electronic notary. – As defined in G.S. 10B-134.1. (2005-391, s. 4; 2022-54, s. 2(c).)

§ 10B-102. (Effective until July 1, 2023) 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-102. (Effective July 1, 2023) Scope of this Article.

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

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

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

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

Part 2. Registration.

§ 10B-105. (Effective until July 1, 2023) 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-105. (Effective July 1, 2023) Qualifications.

(a) A person qualified for electronic notary registration or remote 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 or remote electronic notary as authorized in G.S. 10B-5(d). (2005-391, s. 4; 2022-54, s. 2(e).)

§ 10B-106. (Effective until July 1, 2023) 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-106. (Effective July 1, 2023) Registration with the Secretary of State.

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

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

(c) An electronic notary or remote electronic notary shall reregister the capability to notarize electronically or remotely 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 or remote 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 or remote 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 or remote 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; 2022-54, s. 2(f).)

§ 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. (Effective until July 1, 2023) 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-117. (Effective July 1, 2023) Notarial components of electronic document.

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

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

§ 10B-118. (Repealed effective July 1, 2023) 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-118. (Repealed effective July 1, 2023) Maximum fees. (2005-391, s. 4; repealed by 2022-54, s. 2(h), effective July 1, 2023.)

§ 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.

Part 4A. (Effective July 1, 2023) Remote Electronic Notarization.

§ 10B-134.

Reserved for future codification purposes.

§ 10B-134.1. (Effective July 1, 2023) Definitions.

In addition to the definitions provided in this Article, the following definitions shall apply in this Part:

- (1) Communication technology. – An electronic device, process, or system that allows a remote electronic notary and a remotely located principal to communicate with each other simultaneously by sight and sound using audiovisual technology and that makes reasonable accommodations for remotely located principals with vision, hearing, or speech impairments.
- (2) Communication technology recording. – The simultaneous, synchronous audio and visual recording of the notarial act.
- (3) Credential analysis. – A process or service through which a third-party vendor performs a remote analysis of the characteristics and security features of each identification of the remotely located principal pursuant to G.S. 10B-3(22)a.
- (4) Electronic journal. – A secure record of remote electronic notarial acts that contains the information required under G.S. 10B-134.15.
- (5) Identity proofing. – A process or service through which a third-party vendor affirms the identity of a remotely located principal through review of personal information from public or proprietary data sources.
- (6) Platform. – The online platform utilizing the communication technology to perform the remote electronic notarial act.

- (7) Remote electronic notarial certificate. – The portion of a notarized electronic document that is completed by the remote electronic notary and contains all of the following:
 - a. The remote electronic notary's electronic signature and the remote electronic notary's electronic seal.
 - b. The facts attested to by the remote electronic notary in a particular notarization.
 - c. A statement in the acknowledgement, jurat, or verification certificate identifying where the remotely located principal was physically located at the time of the remote electronic notarization.
 - d. A statement that the notarization is a remote electronic notarization performed using communication technology by a remote electronic notary.
- (8) Remote electronic notarization or remote electronic notarial act. – A notarial act performed by means of communication technology.
- (9) Remote electronic notary public or remote electronic notary. – A notary public who is registered with the Secretary to perform remote electronic notarizations.
- (10) Remotely located principal. – A principal who is not in the physical presence of the remote electronic notary and who is located at the time of the remote electronic notarial act in any of the following places:
 - a. Inside the United States.
 - b. Outside the United States and physically on the military installation or vessel named in the military orders assigning the member to active duty for more than 120 days, provided the remotely located principal is a member, spouse of a member, or dependent of a member of the Armed Forces of the United States.
 - c. Outside the United States at any of the following locations:
 - 1. United States Embassy.
 - 2. United States Consulate.
 - 3. United States Diplomatic Mission.
- (11) Tamper-evident. – Any change, interference, or alteration to a record that is patently plain and obvious.
- (12) Third-party vendor. – Any person providing credential analysis, identity proofing, or custodial services to remote electronic notaries. (2022-54, s. 1.)

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

§ 10B-134.3. (Effective July 1, 2023) Types of remote electronic notarial acts; prohibitions.

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

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

- (1) The remotely located principal's identity cannot be verified under G.S. 10B-134.11.

- (2) Any reason set forth in G.S. 10B-20.
 - (3) Any reason set forth in G.S. 10B-134.9.
- (c) Notwithstanding subsection (a) of this section, a remote electronic notary shall not perform any remote electronic notarial act with regard to any of the following documents:
- (1) A self-proved will executed pursuant to Article 4A of Chapter 31 of the General Statutes.
 - (2) A revocable or irrevocable trust or any other document amending the same except for a certification of trust or similar document.
 - (3) A death beneficiary form that requires an acknowledgment.
 - (4) A codicil to a will.
 - (5) Any document related to the relinquishment of parental rights under Article 3 of Chapter 48 of the General Statutes.
 - (6) Mail-in absentee ballots issued under Article 20 of Chapter 163 of the General Statutes.
- (d) The prohibitions in subsection (c) of this section shall not apply when, at the time the remote electronic notarial act is performed, the remotely located principal meets the description in G.S. 10B-134.1(10)b.
- (e) No remotely notarized power of attorney may be used by the attorney-in-fact with any other remotely notarized document to convey title to, or transfer any interest in, a remotely located principal's real property. A power of attorney executed by a remotely located principal under this Part shall be recorded in at least one county register of deeds office in this State. This subsection does not apply to powers of attorney executed by a remotely located principal described in G.S. 10B-134.1(10)b. (2022-54, s. 1.)

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

§ 10B-134.5. (Effective July 1, 2023) Use of communication technology.

- (a) The communication technology used by a remote electronic notary to perform remote electronic notarial acts for remotely located principals shall comply with all of the following requirements:
- (1) Host the meeting between the remote electronic notary and the remotely located principal in real time.
 - (2) Allow direct interaction between the remotely located principal seeking the remote electronic notary's services and the remote electronic notary so that each can communicate simultaneously by sight and sound through communication technology.
 - (3) Include audio with sound clear enough that each participant in the remote electronic notarial act can hear and understand all other participants.
 - (4) Have sufficient video quality to allow a clear and unobstructed visual observation of the face of each participant and any identification provided by the remotely located principal for a sufficient time to allow the remote electronic notary to verify the remotely located principal's identity under G.S. 10B-134.11. The remote electronic notary shall determine if the time is sufficient.
 - (5) Not include prerecorded video or audio or both.

- (6) Be capable of recording using the communication technology's recording and storage services.
- (7) Be capable of geolocating the remotely located principal to corroborate the location of the remotely located principal.

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

(c) No person may require a remote electronic notary to perform any remote electronic notarial act using communication technology that the remote electronic notary has not selected. (2022-54, s. 1.)

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

§ 10B-134.7. (Effective July 1, 2023) Authority to perform remote electronic notarial acts.

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

(b) A remote electronic notarization performed by a remote electronic notary of this State under this Part is governed by the laws of this State. (2022-54, s. 1.)

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

§ 10B-134.9. (Effective July 1, 2023) Requirements and procedures for remote electronic notarial acts.

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

- (1) The remote electronic notary shall inform the participants that North Carolina law requires that a communication technology recording be made of the remote electronic notarization.
- (2) The remote electronic notary shall require the remotely located principal to demonstrate, to the satisfaction of the remote electronic notary, that the remotely located principal is not under duress and is not otherwise being coerced to complete the transaction.
- (3) The remote electronic notary shall verify the identity of the remotely located principal as provided in G.S. 10B-134.11.
- (4) The remote electronic notary shall ask the remotely located principal if the remotely located principal would like an attorney to participate in the remote notarization, and allow for such if so requested.
- (5) The remotely located principal shall verbally state what documents are being signed for the notarial record or describe the general nature of the transaction.
- (6) The location of the remotely located principal shall be verified by geolocation via communication technology.

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

- (1) The remote electronic notary has reasonable grounds to believe the remotely located principal is acting under duress or is being coerced into completing the transaction.
- (2) The remote electronic notary becomes aware that the communication technology is not secure.
- (3) The electronic signature of the remotely located principal cannot be attached to the electronic document for signature.
- (4) Unless an oath is being administered, the remote electronic notary's electronic notarial certificate and seal cannot be attached to the electronic document using an electronic technology that renders any subsequent change or modification to the document evident.

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

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

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

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

(f) Information gained from a remotely located principal in the course of performing a remote electronic notarization shall be treated as confidential by the remote electronic notary. (2022-54, s. 1.)

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

§ 10B-134.11. (Effective July 1, 2023) Verification of identity; identity proofing; credential analysis.

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

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

(b) Notwithstanding subsection (a) of this section, a remote electronic notary may require the remotely located principal to provide additional information or identification credentials necessary to confirm the identity of the remotely located principal. (2022-54, s. 1.)

§ 10B-134.12.

Reserved for future codification purposes.

§ 10B-134.13. (Effective July 1, 2023) Electronic notarization and remote electronic notarization.

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

§ 10B-134.14.

Reserved for future codification purposes.

§ 10B-134.15. (Effective July 1, 2023) Electronic journal of remote electronic notarial acts.

(a) A remote electronic notary who performs a remote electronic notarization shall enter information about the remote electronic notarization in an electronic journal. The electronic journal shall be the exclusive property of the remote electronic notary. The remote electronic notary shall not allow another person to make entries in the electronic journal.

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

- (1) Allow for electronic and paper mediums of the electronic journal.
- (2) Require retention for 10 years after the remote electronic notarization.

- (3) Allow a party involved in a transaction that utilizes remote electronic notarization to require additional information regarding that transaction be included in the electronic journal.
- (4) Authorize a third-party vendor, including a licensed platform, to act as a depository electronic journal.
- (5) Specify to whom the electronic journal shall be delivered upon resignation, revocation, or expiration of a notary commission or death or adjudication of incompetency of a remote electronic notary.

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

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

§ 10B-134.16.

Reserved for future codification purposes.

§ 10B-134.17. (Effective July 1, 2023) Security measures by notary; surrender of journal; etc.

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

- (1) All records of journal entries and communication technology recordings shall be securely stored in a repository under the control of the remote electronic notary or with a steward duly appointed under the terms of this Part. If a steward is appointed, the steward shall be a third-party vendor approved by the Secretary.
- (2) Take reasonable steps to ensure that the communication technology recordings are secure from unauthorized interception during transmission between participants involved in a remote electronic notarial act. The communication technology used by the remote electronic notary shall employ data protection safeguards consistent with generally accepted information security standards.

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

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

journal or the communication technology recordings of remote electronic notarial acts.

(c) The failure of a remote electronic notary to produce within 30 calendar days of the Secretary's request any record required by a rule adopted under this Part shall result in the suspension of the remote electronic notary's power to act as a notary under the provisions of this Chapter until the Secretary reinstates the notary's commission. (2022-54, s. 1.)

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

§ 10B-134.19. (Effective July 1, 2023) Platform licensure by Secretary.

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

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

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

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

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

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

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

d The electronic documents presented for remote electronic notarization.

(5) Geolocation of the remotely located principal.

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

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

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

§ 10B-134.21. (Effective July 1, 2023) Rules.

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

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

(b) The Secretary may utilize emergency and temporary rulemaking as needed to implement this Part. (2022-54, s. 1.)

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

§ 10B-134.23. (Effective July 1, 2023) Standards for services provided to remote notaries; enforcement.

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

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

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

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

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

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

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

(f) A remote electronic notary who exercised reasonable care in selecting and using a licensee or third-party vendor in connection with a remote electronic notarial act shall not be liable for any damages resulting from the licensee's or third-party vendor's failure to comply with the requirements of this Part. Any provision in a contract between the remote electronic notary and a licensee or third-party vendor that attempts to waive the immunity conferred by this subsection shall be null, void, and of no effect. (2022-54, s. 1.)

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

§ 10B-134.25. (Effective July 1, 2023) Real estate transactions.

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

(b) A remote electronic notary who is not a licensed North Carolina attorney is prohibited from rendering services or advice that constitutes the practice of law in this State. (2022-54, s. 1.)

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

Part 5. Certificate Forms.

§ 10B-135. **Validity of notarial certificates.**

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

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

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

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

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

Certificate of Authority for an Electronic Notarial Act

I, _____ (name, title, jurisdiction of commissioning official) certify that _____ (name of electronic notary), the person named as an electronic notary public in the attached or associated document, was indeed registered as an electronic notary public for the State of North Carolina and authorized to act as such at the time of the document's electronic notarization.

To verify this Certificate of Authority for an Electronic Notarial Act, I have included herewith my electronic signature this _____ day of _____, 20__.

(Electronic signature (and seal) of commissioning official)

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

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

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

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

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

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

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

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

Part 6. Enforcement.

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

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

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

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

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

Article 3.

Video Witnessing During State of Emergency.

§ 10B-200. (Expires June 30, 2023 – see note) Applicability.

(a) This Article applies to the witnessing and signature of all records, as defined in G.S. 10B-3(19), signed, by a principal physically located in the State of North Carolina, on or after the effective date of this act.

(b) This Article expires June 30, 2023.

(c) No action described in this Article constitutes a notarial act, as defined in G.S. 10B-3(11), and no action described in this Article is governed by Article 1 or 2 of this Chapter. (2020-3, s. 4.2(a); 2020-74, s. 27(c); 2020-80, s. 2.9(c); 2021-3, s. 2.10(b); 2022-54, s. 3(c).)

§ 10B-201. Expired pursuant to Session Laws 2021-3, s. 2.10(a), effective December 31, 2021.