

**NORTH CAROLINA GENERAL STATUTES**

**Chapter 10B. Notaries.  
Article 1. Notary Public Act.  
Part 1. General Provisions.**

**§ 10B-1. Short title.**

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

**§ 10B-2. Purposes.**

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

- (1) To promote, serve, and protect the public interests.
- (2) To simplify, clarify, and modernize the law governing notaries.
- (3) To prevent fraud and forgery.
- (4) To foster ethical conduct among notaries.
- (5) To enhance interstate recognition of notarial acts.
- (6) To integrate procedures for traditional paper and electronic notarial acts.  
(1991, c. 683, s. 2; 1998-228, s. 1; 2005-391, s. 4.)

**§ 10B-3. Definitions.**

The following definitions apply in this Chapter:

- (1) Acknowledgment. – A notarial act in which a notary certifies that at a single time and place all the following occurred:
  - a. An individual appeared in person before the notary and presented a record.
  - b. The individual was personally known to the notary or identified by the notary through satisfactory evidence.
  - c. The individual did either of the following:
    - i. Indicated to the notary that the signature on the record was the individual’s signature.
    - ii. Signed the record while in the physical presence of the notary and while being personally observed signing the record by the notary.
- (2) Affirmation. – A notarial act which is legally equivalent to an oath and in which a notary certifies that at a single time and place all of the following occurred:
  - a. An individual appeared in person before the notary;
  - b. The individual was personally known to the notary or identified by the notary through satisfactory evidence.
  - c. The individual made a vow of truthfulness on penalty of perjury, based on personal honor and without invoking a deity or using any form of the word “swear”.
- (3) Attest or attestation. – The completion of a certificate by a notary who has performed a notarial act.
- (4) Commission. – The empowerment to perform notarial acts and the written evidence of authority to perform those acts.
- (5) Credible witness. An individual who is personally known to the notary and to whom all of the following also apply:
  - a. The notary believes the individual to be honest and reliable for the purpose of

confirming to the notary the identity of another individual.

b. The notary believes the individual is not a party to or beneficiary of the transaction.

(6) Department. – The North Carolina Department of the Secretary of State.

(7) Director. – The Division Director for the North Carolina Department of the Secretary of State Notary Public Section.

(8) Jurat. – A notary's certificate evidencing the administration of an oath or affirmation.

(9) Moral turpitude. – Conduct contrary to expected standards of honesty, morality, or integrity.

(10) Nickname. – A descriptive, familiar, or shortened form of a proper name.

(11) Notarial act, notary act, and notarization. – The act of taking an acknowledgment, taking a verification or proof or administering an oath or affirmation that a notary is empowered to perform under G.S. 10B-20(a).

(12) Notarial certificate and certificate. – The portion of a notarized record that is completed by the notary, bears the notary's signature and seal, and states the facts attested by the notary in a particular notarization.

(13) Notary public and notary. – A person commissioned to perform notarial acts under this Chapter. A notary is a public officer of the State of North Carolina and shall act in full and strict compliance with this act.

(14) Oath. – A notarial act, or part thereof, 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.

(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.)

## **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) Obtain the recommendation of one publicly elected official in North Carolina and submit the recommendation with the application. The requirement of this subdivision shall not apply to any applicant who seeks to receive the oath of office from the register of deeds of a county where more than 15,000 active notaries public are on record on January 1 of the year when the application is filed.
- (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.)

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

**§ 10B-6. Application for commission.**

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

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

**§ 10B-7. Statement of personal qualification.**

(a) The application for a notary commission shall include at least all of the following:

- (1) The applicant's full legal name and the name to be used for commissioning, excluding nicknames.
  - (2) The applicant's date of birth.
  - (3) The mailing address for the applicant's residence, the street address for the applicant's residence, and the telephone number for the applicant's residence.
  - (4) The applicant's county of residence.
  - (5) The name of the applicant's employer, the street and mailing address for the applicant's employer, and telephone number for the applicant's employer.
  - (6) The applicant's last four digits of the applicant's social security number.
  - (7) The applicant's personal and business e-mail addresses.
  - (8) A declaration that the applicant is a citizen of the United States or proof of the applicant's legal residency in this country.
  - (9) A declaration that the applicant can speak, read, and writes in the English language.
  - (10) A complete listing of any issuances, denials, revocations, suspensions, restrictions, and resignations of a notarial commission, professional license, or public office involving the applicant in this or any other state or nation.
  - (11) A complete listing of any criminal convictions of the applicant, including any pleas of admission or nolo contendere, in this or any other state or nation.
  - (12) A complete listing of any civil findings or admissions of fault or liability regarding the applicant's activities as a notary, in this or any other state or nation.
- (b) The information provided in an application that relates to subdivisions (2), (3), (6), and (7) of subsection (a) of this section shall be considered confidential information and shall not be subject to disclosure under Chapter 132 of the General Statutes.

(2005-391, s. 4; 2006-59, s. 3.)

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

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

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

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

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

(2005-391, s. 4.)

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

A person commissioned under this Chapter may perform notarial acts in any part of this State for a term of five years, unless the commission is earlier revoked or resigned. No commissions shall be effective prior to the administration of the oath of office. Any notarial acts performed before the administration of the oath of office, either the original commissioning or recommissioning, are invalid.

(1891, c. 248; Rev., s. 2351; c.s., s. 3176; 1973, c. 680, s. 1; 1991, c. 683, s. 2; 2005-391, s. 4.)

#### **§ 10B-10. Commission; oath of office.**

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

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

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

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

(e) If the appointee does not appear before the register of deeds within 45 days of commissioning, the register of deeds must return the commission to the Secretary, and the appointee must reapply for commissioning. If the appointee reapplies within one year of the granting of the commission, the Secretary may waive the educational requirements of this Chapter.

(Code, ss. 3304, 3305; Rev., ss. 2347, 2348; C.S., s. 3173; 1969, c. 912, s. 2; 1973, c. 680, s. 1; 1991, c. 683, s. 2; 2005-391, s. 4; 2006-59, s. 4.)

#### **§ 10B-11. Recommissioning.**

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

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

(1) Submit a new application meeting the requirements of G.S. 10B-6, except for G.S. 10B-6(2).

(2) Meet all the requirements of G.S. 10B-5(b), except for G.S. 10B-5(b)(5), (6), and (9).

(3) Achieve a passing score on the written examination required under G.S. 10B-8(b). This requirement does not apply if the notary is a licensed member of the North Carolina State Bar, or if the notary has been continuously commissioned in North Carolina Since July 10, 1991, and has never been disciplined by the Secretary.

(c) An individual may apply for recommissioning within one year after the expiration of the individual's commission. The individual must comply with the requirement of subsection (b) of this section. The individual must also fulfill the educational requirement under G.S. 10B-7(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 through 10B-19:** Reserved for future codification purposes.

### **Part 3. Notarial Acts, Powers, and Limitations.**

#### **§ 10B-20. Powers and limitations.**

(a) A notary may perform any of the following notarial acts:

- (1) Acknowledgments.
- (2) Oaths and affirmations.
- (3) Repealed by Session Laws 2006-59, s. 6.
- (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.

(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 to be 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) Repealed by Session Laws 2006-59, s. 8.

(4) Repealed by Session Laws 2006-59, s. 8.

(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 the trustee in a deed of trust, the drafter of the record, the person to whom a registered document should be mailed or sent after the recording, or

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.

(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 to perform notarial acts and other persons authorized by federal law or regulation to perform notarial acts may perform the acts for persons serving in or with the United States armed forces, 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.

(1) 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 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, s. 6-12; 2006-199, s. 1)

### **§ 10B-21. Notaries ex officio.**

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

(1) Oaths and affirmations.

(2) Verifications or proofs.

Upon completion of the course of study provided for in G.S. 10B-5(b), assistant and deputy clerks of superior court may, by virtue of their offices, perform all other notarial

acts and may certify these notarial acts only under the seals of their respective courts. A course of study attended only by assistant and deputy clerks of superior court may be taught at any mutually convenient location agreed to by the Secretary and the Administrative Office of the Courts.

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

(1) Oaths and affirmations.

(2) Verifications or proofs.

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

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

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

(e) Nothing in this section shall authorize a person to act as a notary public other than in the performance of the official duties of the person's office unless the person complies fully with the requirements of G.S. 10B-5.

(1833, c. 7, ss. 1, 2; R.C., c. 75, s. 3; Code, s. 3306; Rev., s. 2349; C.S., s. 3174; 1973, c. 680, s. 1; 1991, c. 683, s. 2; 1998-228, s. 8.; 2005-391, s. 4.)

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

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

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

(2005-391, s. 4.)

#### **§ 10B-23. Improper records.**

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

(b) A notary shall neither certify, notarize, nor authenticate a photograph. A notary may notarize an affidavit regarding and attached to a photograph.

(2005-391, s. 4; 2006-59, s. 23.)

**§ 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 through 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.

(2005-391, s. 4.)

**§ 10B-31. Fees for notarial acts.**

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

(1) For acknowledgments, jurats, verifications or proofs, five dollars (\$5.00) per principal signature.

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

(Code, s. 3749; 1889, c. 446; 1895, c. 296; 1903, c. 734; Rev., s. 2800; C.S., s. 3178; 1973, c. 680, s. 1; 1977, c. 429, ss. 1, 2; 1981, c. 872; 1991, c. 683, s. 2; 1998-228, s. 6; 2005-328, s. 1.; 2005-391, s. 4; 2006-59, s. 31.)

**§ 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.

(2006-59, s. 15; 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 "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.)

**§ 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.

(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.

(6) 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.
- (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.

(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.

(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.

(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 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.

(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.

(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 through 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.

(2005-391, s. 4.)

**§§ 10B-56 through 10B-59:** Reserved for future codification purposes.

### **Part 8. Enforcement, Sanctions, and Remedies.**

#### **§ 10B-60. Enforcement and penalties.**

(a) The Secretary may issue a warning to a notary or restrict, suspend, or revoke a notarial commission for a violation of this Chapter and on any ground for which an

application for a commission may be denied under this Chapter. Any period of restriction, suspension, or revocation shall not extend the expiration date of a commission.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(g) For purposes of enforcing this Chapter and Article 34 of Chapter 66 of the General Statutes, the law enforcement agents of the Department of the Secretary of State have statewide jurisdiction and have all of the powers and authority of law enforcement officers. The agents have the authority to assist local law enforcement agencies in their investigations and to initiate and carry out, on their own or in coordination with local law enforcement agencies, investigations of violations.

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

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

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

the same level of punishment as the notary.

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

(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.)

**§§ 10B-61 through 10B-64:** Reserved for future codification purposes.

## **Part 9. Validation of Notarial Acts.**

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

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

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

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

(2) The notarial seal does not contain a readable impression of the notary's name, contains an incorrect spelling of the notary's name, or does not bear the name of the notary exactly as it appears on the commission, as required under G.S. 10B-37.

(3) The notary's signature does not comport exactly with the name on the notary commission or on the notary seal, as required by G.S. 10B-20.

(4) The notarial seal contains typed, printed, drawn, or handwritten material added to the seal, fails to contain the words "North Carolina" or the abbreviation "NC", or contains correct information except that instead of the abbreviation for North Carolina contains the abbreviation for another state.

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

(d) All notary acknowledgments performed before January 1, 1953, bearing a notarial seal are hereby validated.

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

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

### **§ 10B-66. Certain notarial acts validated.**

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

(b) This section applies to notarial acts performed on or before August 1, 1998.

(2005-391, s. 4.)

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

An erroneous statement of the date that the notary's commission expires shall not

affect the sufficiency, validity, or enforceability of the notarial certificate or the related record if the notary is, in fact, lawfully commissioned at the time of the notarial act.

(2006-59, s. 24.)

**§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. This subsection refers to notarial certificates made on or after December 1, 2005.

(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 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). This subsection refers to notarial certificates made on or after December 1, 2005.

(2006-59, s. 24; 2006-59, s. 6-12; 2006-199, s. 2)

**§10B-69. Official forms cured.**

(a) The notarial certificate contained in a form issued by a State agency prior to October 1, 2006, is deemed to be a valid certificate provided the certificate complied with the law at the time the form was issued.

(b) The notarization using a certificate under subsection (a) of this section shall be deemed valid if executed in compliance with the law at the time the form was issued.

(2006-59, s. 24.)

**§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. 1; 2008-194, s. 4)

**§§ 10B-71 through 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 performed before October 1, 2006, shall be deemed valid if it complies with the law as it existed on or before December 1, 2005.

(2006-59, s. 24.)

## **Article 2. Electronic Notary Act.**

### **Part 1. General Provisions.**

#### **§ 10B-100. Short title.**

This article is the Electronic Notary Public Act and may be cited by that name.

(2005-391, s. 4.)

#### **§ 10B-101. Definitions.**

The following definitions apply in this Article:

(1) “Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

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

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

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

(5) “Electronic Notary Seal” and “Electronic Seal” mean information within a notarized electronic document that includes the notary’s name, jurisdiction, and commission expiration date, and generally corresponds to data in notary seals used on paper documents.

(6) “Electronic Signatures” means an electronic symbol or process attached to or logically associated with an electronic document and executed or adopted by a person with the intent to sign the document.

(7) “Notary’s Electronic Signature” means those forms of electronic signature which have been approved by the Secretary as authorized in G.S. 10B-125, as an acceptable means for an electronic notary to affix the notary’s official signature to an electronic record that is being notarized.

(2005-391, s. 4.)

#### **§ 10B-102. Scope of this Article.**

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

(2005-391, s. 4.)

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

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

### **Part 2. Registration.**

**§ 10B-105. Qualifications.**

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

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

(b) The Secretary may deny a registration as an electronic notary as authorized in G.S. 10B-5(d).

(2005-391, s. 4.)

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

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

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

(c) An electronic notary shall reregister the capability to notarize electronically at the same time the notary applies for recommissioning under the requirements of Article 1 of this Chapter.

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

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

(2) The state and county of commissioning of the registrant.

(3) The expiration date of the registrant's notary commission.

(4) Proof of successful completion of the course of instruction on electronic notarization as required by this Article.

(5) A description of the technology the registrant will use to create an electronic signature in performing official acts.

(6) If the device used to create the registrant's electronic signature was issued or registered through a licensed certification authority, the name of that authority, the source of the license, the starting and expiration dates of the device's term of registration, and any revocations, annulments, or other premature terminations of any registered device of the registrant that was due to misuse or compromise of the device, with the date, cause, and nature of each termination explained in detail.

(7) The e-mail address of the registrant.

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

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

(f) Within 10 business days after the change of any registration information required of an electronic notary, the notary shall electronically transmit to the Secretary a notice of the change of information signed with the notary's official electronic signature.

(2005-391, s. 4; 2006-59, s. 25.)

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

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

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

The following types of notarial acts may be performed electronically:

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

(2005-391, s. 4.)

**§ 10B-116. Prohibitions.**

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

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

(2005-391, s. 4.)

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

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

- (1) The notary's name, state, and county of commissioning exactly as stated on the commission issued by the Secretary;
- (2) The words "Electronic Notary Public";
- (3) The words "State of North Carolina";
- (4) The expiration date of the commission;
- (5) The notary's electronic signature; and
- (6) The completed wording of one of the following notarial certificates:
  - a. Acknowledgment;

- b. Jurat;
  - c. Verification or proof; or
  - d. Oath or affirmation.
- (2005-391, s. 4.)

**§ 10B-118. Maximum fees.**

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

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

**§§ 10B-119 through 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 the effective date of this act.
- (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 through 10B-134:** Reserved for future codification purposes.

**Part 5. Certificate Forms.**

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

The provisions contained in Article 1, Part 6, of this Chapter, with regard to notarial certificate forms, are applicable for the purposes of this Article.

(2005-391, s. 4.)

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

Electronic evidence of the authenticity of the official electronic signature and electronic seal of an electronic notary of this State, if required, shall be attached to, or logically associated with, a notarized electronic document transmitted to another state or nation and shall be in the form of an electronic certificate of authority signed by the Secretary in conformance with any current and pertinent international treaties,

agreements, and conventions subscribed to by the government of the United States.  
(2005-391, s. 4.)

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

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

Certificate of Authority for an Electronic Notarial Act

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

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

(Electronic signature (and seal) of commissioning official)

(b) The Secretary may charge ten dollars (\$10.00) for issuing an electronic certificate of authority.

(2005-391, s. 4.)

**§§ 10B-138 through 10B-144:** Reserved for future codification purposes.

**Part 6. Enforcement.**

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

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

(2005-391, s. 4.)

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

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

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

(2005-391, s. 4.)

**CHAPTER 47. PROBATE AND REGISTRATION.**

**ARTICLE 1. PROBATE.**

**§ 47-1. Officials of State authorized to take probate.**

The execution of all deeds of conveyance, contracts to buy, sell or convey lands, mortgages, deeds of trust, instruments modifying or extending the terms of mortgages or deeds of trust, assignments, powers of attorney, covenants to stand seized to the use of another, leases for more than three years, releases, affidavits concerning land titles or family history, any instruments pertaining to real property, and any and all instruments and writings of whatever nature and kind which are required or allowed by law to be registered in the office of the register of deeds or which may hereafter be required or allowed by law to be so registered, may be proved or acknowledged before any one of the following officials of this State: The justices, judges, magistrates, clerks, assistant clerks, and deputy clerks of the General Court of Justice, and notaries public.

(Code, s. 1246; 1895, c. 161, ss. 1, 3; 1897, c. 87; 1899, c. 235; Rev., s. 989; C.S., s. 3293; 1951, c. 772; 1969, c. 44, s. 52; 1971, c. 1185, s. 9.)

**§ 47-2. Officials of the United States, foreign countries, and sister states.**

The execution of all such instruments and writings as are permitted or required by law to be registered may be proved or acknowledged before any one of the following officials of the United States, of the District of Columbia, of the several states and territories of the United States, of countries under the dominion of the United States and of foreign countries: Any judge of a court of record, any clerk of a court of record, any notary public, any commissioner of deeds, any commissioner of oaths, any mayor or chief magistrate of an incorporated town or city, any ambassador, minister, consul, vice-consul, consul general, vice-consul general, associate consul, or any other person authorized by federal law to acknowledge documents as consular officers, or commercial agent of the United States, any justice of the peace of any state or territory of the United States, any officer of the army or air force of the United States or United States marine corps having the rank of warrant officer or higher, any officer of the United States navy or coast guard having the rank of warrant officer, or higher, or any officer of the United States merchant marine having the rank of warrant officer, or higher. No official seal shall be required of said military, naval or merchant marine official, but he shall sign his name, designate his rank, and give the name of his ship or military organization and the date, and for the purpose of certifying said acknowledgment, he shall use a form in substance as follows:

On this the \_\_\_\_ day of \_\_\_\_, \_\_\_\_, before me \_\_\_\_, the undersigned officer, personally appeared \_\_\_\_\_, known to me (or satisfactorily proven) to be accompanying or serving in or with the armed forces of the United States (or to be the spouse of a person accompanying or serving in or with the armed forces of the United States) and to be the person whose name is subscribed to the within instruments and acknowledged that \_\_\_\_ he \_\_\_\_ executed the same for the purposes therein contained. And the undersigned does further certify that he is at the date of this certificate a commissioned officer of the rank stated below and is in the active service of the armed forces of the United States.

\_\_\_\_\_  
Signature of Officer

\_\_\_\_\_  
Rank of Officer and command to which attached.

If the proof or acknowledgment of the execution of an instrument is had before a

justice of the peace of any state of the United States other than this State or of any territory of the United States, the certificate of such justice of the peace shall be accompanied by a certificate of the clerk of some court of record of the county in which such justice of the peace resides, which certificate of the clerk shall be under his hand and official seal, to the effect that such justice of the peace was at the time the certificate of such justice bears date an acting justice of the peace of such county and state or territory and that the genuine signature of such justice of the peace is set to such certificate.

(1899, c. 235, s. 5; 1905, c. 451; Rev., s. 990; 1913, c. 39, s. 1; Ex. Sess. 1913, c. 72, s. 1; C.S., s. 3294; 1943, c. 159, s. 1; c. 471, s. 1; 1945, c. 6, s. 1; 1955, c. 658, s. 1; 1957, c. 1084, s. 1; 1967, c. 949; 1999-456, s. 59; 2004-199, s. 16.)

**§ 47-2.1. Validation of instruments proved before officers of certain ranks.**

Any instrument or writing, required by law to be proved or acknowledged before an officer, which prior to the ratification of this section was proved or acknowledged before an officer of the United States army or United States marine corps having the rank of second lieutenant or higher, or any officer of the United States navy, United States coast guard, or United States merchant marine, having the rank of ensign or higher, is hereby validated and declared sufficient for all purposes.

(1945, c. 6, s. 2.)

**§ 47-2.2. Notary public of sister state; lack of seal or stamp or expiration date of commission.**

If the proof or acknowledgment of any instrument is had before a notary public of any state other than North Carolina and the instrument does not show the seal or stamp of the notary public and the expiration date of the commission of the notary public, the certificate of proof or acknowledgment made by such notary public shall be accompanied by the certificate of the county official before whom the notary qualifies for office, stating that such notary public was at the time his certificate bears date an acting notary public of such state, and that such notary's genuine signature is set to his certificate. The certificate of the official herein provided for shall be under his hand and official seal.

(1973, c. 1016.)

**§ 47-3: Repealed by Session Laws 1987, c. 620, s. 3.**

**§ 47-4. Repealed by Session Laws 1971, c. 1185, s. 10.**

**§ 47-5. When seal of officer necessary to probate.**

When proof or acknowledgment of the execution of any instrument by any maker of such instrument, whether a person or corporation, is had before any official authorized by law to take such proof and acknowledgment, and such official has an official seal, he shall set his official seal to his certificate. If the official before whom the instrument is proved or acknowledged has no official seal he shall certify under his hand, and his private seal shall not be essential. When the instrument is proved or acknowledged before the register of deeds of the county in which the instrument is to be registered, the official seal shall not be necessary.

(1899, c. 235, s. 8; Rev., s. 993; C.S., s. 3297; 1969, c. 664, s. 3; 1977, c. 375, s. 12.)

**§ 47-6. Officials may act although land or maker's residence elsewhere.**

The execution of all instruments required or permitted by law to be registered may be

proved or acknowledged before any of the officials authorized by law to take probates, regardless of the county in this State in which the subject matter of the instrument may be situated and regardless of the domicile, residence or citizenship of the person who executes such instrument, or of the domicile, residence or citizenship of the person to whom or for whose benefit such instrument may be made.

(1899, c. 235, s. 13; Rev., s. 994; C.S., s. 3298.)

**§ 47-7: Repealed by Session Laws 1987, c. 620, s. 3.**

**§ 47-8: Repealed by Session Laws 1991, c. 543, s. 1.**

**§ 47-8.1. Certain documents verified by attorneys validated.**

Final judgments otherwise proper, entered in actions or proceedings in which the complaints or any other documents were verified in violation of G.S. 47-8 prior to its repeal shall not be void or voidable.

(1991, c. 543, s. 2.)

**§ 47-9. Probates before stockholders in building and loan associations.**

No acknowledgment or proof of execution of any mortgage or deed of trust executed to secure the payment of any indebtedness to any building and loan association shall hereafter be held invalid by reason of the fact that the officer taking such acknowledgment or proof is a stockholder in said building and loan association. This section does not authorize any officer or director of a building and loan association to take acknowledgments or proofs. The provisions of this section shall apply to federal savings and loan associations having their principal offices in this State. Acknowledgments and proofs of execution, including private examinations of any married woman taken before March 20, 1939, by an officer who is or was a stockholder in any federal savings and loan association, are hereby validated.

(1913, c. 110, ss. 1, 3; C.S., s. 3301; 1939, c. 136; 1977, c. 375, s. 12.)

**§ 47-10. Probate before stockholders or directors in banking corporations.**

No acknowledgment or proof of execution, including privy examination of married women, of any mortgage, or deed of trust executed to secure the payment of any indebtedness to any banking corporation, taken prior to the first day of January, 1929, shall be held invalid by reason of the fact that the officer taking such acknowledgment, proof or privy examination, was a stockholder or director in such banking corporation.

(1929, c. 302, s. 1.)

**§ 47-11. Subpoenas to maker and subscribing witnesses.**

The grantee or other party to an instrument required or allowed by law to be registered may at his own expense obtain from the clerk of the superior court of the county in which the instrument is required to be registered a subpoena for any or all of the makers of or subscribing witnesses to such instrument, commanding such maker or subscribing witness to appear before such clerk at his office at a certain time to give evidence concerning the execution of the instrument. The subpoena shall be directed to the sheriff of the county in which the person upon whom it is to be served resides. If any person refuses to obey such subpoena he is liable to a fine of forty dollars (\$40.00) or to be attached for contempt by the clerk, upon its being made to appear to the satisfaction of

the clerk that such disobedience was intentional, under the same rules of law as are prescribed in the cases of other defaulting witnesses.

(Code, s. 1268; 1897, c. 28; 1899, c. 235, s. 16; Rev., s. 996; C.S., s. 3302.)

**§ 47-12. Proof of attested instrument by subscribing witness.**

Except as provided by G.S. 47-12.2, the execution of any instrument required or permitted by law to be registered, which has been witnessed by one or more subscribing witnesses, may be proved for registration before any official authorized by law to take proof of such an instrument, by a statement under oath of any such subscribing witness that the maker either signed the instrument in his presence or acknowledged to him the execution thereof. Nothing in this section in anywise affects any of the requirements set out in G.S. 52-10 or 52-10.1.

(1899, c. 235, s. 12; Rev., s. 997; C.S., s. 3303; 1935, c. 168; 1937, c. 7; 1945, c. 73, s. 11; 1947, c. 991, s. 1; 1949, c. 815, ss. 1, 2; 1951, c. 379, s. 1; 1953, c. 1078, s. 1; 1977, c. 375, s. 12.)

**§ 47-12.1. Proof of attested instrument by proof of handwriting.**

(a) If all subscribing witnesses have died or have left the State or have become of unsound mind or otherwise incompetent or unavailable, the execution of such instrument, except as provided by G.S. 47-12.2, may be proved for registration, before any official authorized by law to take proof of such an instrument, by a statement under oath that the affiant knows the handwriting of the maker and that the purported signature of the maker is in the handwriting of the maker, or by a statement under oath that the affiant knows the handwriting of a particular subscribing witness and that the purported signature of such subscribing witness is in the handwriting of such subscribing witness.

(b) Nothing in this section in anywise affects any of the requirements set out in G.S. 52-10 or 52-10.1.

(1899, c. 235, s. 12; Rev., s. 997; C.S., s. 3303; 1935, c. 168; 1937, c. 7; 1945, c. 73, s. 11; 1947, c. 991, s. 1; 1949, c. 815, ss. 1, 2; 1951, c. 379, s. 1; 1977, c. 375, s. 12.)

**§ 47-12.2. Subscribing witness incompetent when grantee or beneficiary.**

The execution of an instrument may not be proved for registration by a subscribing witness who is the grantee or beneficiary therein nor by proof of his signature as such subscribing witness. Nothing in this section invalidates the registration of any instrument registered prior to April 9, 1935.

(1899, c. 235, s. 12; Rev., s. 997; C.S., s. 3303; 1935, c. 168; 1937, c. 7; 1945, c. 73, s. 11; 1947, c. 991, s. 1; 1949, c. 815, ss. 1, 2; 1951, c. 379, s. 1.)

**§ 47-13. Proof of unattested writing.**

If an instrument required or permitted by law to be registered has no subscribing witness, the execution of the same may be proven before any official authorized to take the proof and acknowledgment of such instrument by proof of the handwriting of the maker and this shall likewise apply to proof of execution of instruments by married persons.

(1899, c. 235, s. 11; Rev., s. 998; C.S., s. 3304; 1945, c. 73, s. 12; 1977, c. 375, s. 12.)

**§ 47-13.1. Certificate of officer taking proof of instrument.**

The person taking proof of an instrument pursuant to G.S. 47-12, 47-12.1 or 47-13 shall execute a certificate on or attached to the instrument being proved, certifying to the fact of proof substantially as provided in the certificate forms set out in G.S. 47-43.2,

47-43.3 and 47-43.4, and such certificate shall be prima facie evidence of the facts therein certified.

(1951, c. 379, s. 2; 1953, c. 1078, s. 2.)

**§ 47-14. Register of deeds to verify the presence of proof or acknowledgement and instruments and electronic documents; order by judge; instruments to which register of deeds is a party.**

(a) Verification of Instruments. The register of deeds shall not accept for registration any instrument that requires proof or acknowledgement unless the execution of the instrument by one or more signers appears to have been proved or acknowledged before an officer with the apparent authority to take proofs or acknowledgements, and the said proof or acknowledgement includes the officer's signature, commission expiration date, and official seal, if required. The register of deeds shall accept an instrument for registration that does not require proof or acknowledgement if the instrument otherwise satisfies the requirements of G.S. 161-14. Any instrument previously recorded or any certified copy of any instrument previously recorded may be rerecorded provided the instrument is conspicuously marked on the first page as a rerecording. The register of deeds may rely on the marking and the appearance of the original recording office's recording information to determine that an instrument is being presented as it was previously recorded. The register of deeds is not required to further verify the proof or acknowledgement of or determine whether any changes or alterations have been made after the original recording to an instrument presented for rerecording. The register of deeds is not required to verify or make inquiry concerning any of the following:

- (1) The legal sufficiency of any proof or acknowledgement.
- (2) The authority of any officer who took a proof or acknowledgement.
- (3) The legal sufficiency of any document presented for registration.

(a1) Verification of Electronic Documents. The requirements of subsection (a) of this section for verification of the execution of an instrument are satisfied with respect to an electronic document if all of the conditions in this subsection are met. For purposes of this subsection, the term "electronic document" is as defined in G.S. 47-16.2(3). The conditions are:

- (1) The register of deeds has authorized the submitter to electronically register the electronic document.
- (2) The document is submitted by a United States federal or state governmental unit or instrumentality or a trusted submitter. For purposes of this subsection, "a trusted submitter" means a person or entity that has entered into a memorandum of understanding regarding electronic recording with the register of deeds in the county in which the electronic document is to be submitted.
- (3) The execution of the instrument by one or more signers appears to have been proved or acknowledged before an officer with the apparent authority to take proofs or acknowledgements, and the proof or acknowledgment includes the officer's signature, commission expiration date, and official seal, if required, based on the appearance of these elements on the digitized image of the document as it will appear on the public record.
- (4) Evidence of other required governmental certification or annotation appears on the digitized image of the document as it will appear on the public record.

(5) With respect to a document submitted by a trusted submitter, the digitized image of the document as it will appear on the public record contains the submitter's name in the following completed statement on the first page of the document image: "Submitted electronically by \_\_\_\_\_ (submitter's name) in compliance with North Carolina statutes governing recordable documents and the terms of the submitter agreement with the \_\_\_\_\_ (insert county name) County Register of Deeds."

(6) Except as otherwise provided in this subsection, the digitized image of the electronic document conforms to all other applicable laws and rules that prescribe recordation.

(a2) Verification of Officer's Signature. - Submission to a register of deeds of an electronic document requiring proof or acknowledgement is a representation by the submitter that, prior to submission, the submitter verified the officer's signature required under subdivision (a1)(3) of this section to be one of the types of signatures listed in this subsection. The register of deeds may rely on this representation for purposes of determining compliance with the signature requirements of this section. The electronic registration of a document with a register of deeds prior to the effective date of this statute is not invalid based on whether the register verified the officer's signature in accordance with this subsection. The types of signatures are:

(1) A signature in ink by hand.

(2) An electronic signature as defined in G.S. 10B-101(7).

(b) Order by Judge. If a register of deeds denies registration pursuant to subsection (a), the person offering the instrument for registration may apply to any judge of the district court in the district, including the county in which the instrument is to be registered, for an order for registration. Upon finding all of the requirements in this subsection, the judge shall order the instrument to be registered, together with the certificates, and the register of deeds shall register them accordingly. The requirements are:

(1) If the instrument requires proof or acknowledgement, that the signature of one or more signers has been proved or acknowledged before an officer authorized to take proofs and acknowledgements.

(2) That the proof or acknowledgement includes the officer's signature and commission expiration date and official seal, if required.

(d) Scope. Registration of an instrument pursuant to this section is not effective with regard to parties who have not executed the instrument or whose execution thereof has not been duly proved or acknowledged.

(e) Register of Deeds as Party. - Any instrument required or permitted by law to be registered in which the register of deeds of the county of registration is a party may be proved or acknowledged before any magistrate or any notary public. The clerk of superior court of the county of registration shall examine any instrument presented for registration. If it appears that the execution and acknowledgment are in due form, the clerk shall so certify and the instrument shall then be recorded in the office of the register of deeds.

(f) Presumption of Notarial Seal. The acceptance of a record for registration by the register of deeds shall give rise to a presumption that, at the time the record was presented for registration, a clear and legible image of the notary's official seal was affixed or embossed on the record near the notary's official signature. This presumption applies regardless of whether the image is legible or photographically reproduced in the

records maintained by the register of deeds. A register of deeds may not refuse to accept a record for registration because a notarial seal does not satisfy the requirements of G.S. 10B-37.

(1899, c. 235, s. 7; 1905, c. 414; Rev., s. 999; C.S., s. 3305; 1921, c. 91; 1939, c. 210, s. 2; 1967, c. 639, s. 1; 1969, c. 664, s. 2; 1973, c. 60; 2005-123, s. 2; 2006-59, s. 26; 2008-194, s. 7; 2008-194, s. 6.)

**§ 47-14.1. Repeal of laws requiring private examination of married women.**

All deeds, contracts, conveyances, leaseholds or other instruments executed from and after February 7, 1945, shall be valid for all purposes without the separate, privy, or private examination of married woman where she is a party to or a grantor in such deed, contract, conveyance, leasehold or other instrument, and it shall not be necessary nor required that the separate or privy examination of such married woman be taken by the certifying officer. From and after February 7, 1945, all laws and clauses of laws contained in any section of the General Statutes requiring the privy or private examination of a married woman are hereby repealed. (1945, c. 73, s. 21; 1951, c. 893, s. 1.)

**§ 47-15. Repealed by Session Laws 1985, c. 589, s. 26, effective January 1, 1986.**

**§ 47-16. Probate of corporate deeds, where corporation has ceased to exist.**

It is competent for the clerk of the superior court in any county in this State, on proof before him upon the oath and examination of the subscribing witness to any contract or instrument required to be registered under the laws of this State, to adjudge and order that such contract or instrument be registered as by law provided, when such contract or instrument is signed by any corporation in its corporate name by its president, and when such corporation has been out of existence for more than 10 years when the said contract or instrument is offered for probate and registration, and when the grantee and those claiming under any such grantee have been in the uninterrupted possession of the property described in said contract or instrument since the date of its execution; and said contract or instrument so probated and registered shall be as effective to all intents and purposes as if signed, sealed, and acknowledged, or proven, as provided under the existing laws of this State.

(1911, c. 44, s. 1; C.S., s. 3307.)

**ARTICLE 3. FORMS OF ACKNOWLEDGMENT,  
PROBATE AND ORDER OF REGISTRATION.**

**§ 47-37:** Repealed by Session Laws 2005-123, s. 3, effective October 1, 2005.

**§ 47-37.1. Other forms of proof.**

(a) The proof and acknowledgment forms set forth in this Article are not exclusive. Without regard to whether an instrument presented for registration was signed by an individual acting in his or her own right or by an individual acting in a representative capacity, a notarial certificate that complies with the provisions of Part 6 of Article 1 of Chapter 10B shall be deemed a sufficient form of probate or acknowledgment for purposes of this Chapter. Use of a notarial certificate that satisfies the requirements of Part 6 of Article 1 of Chapter 10B shall not be grounds for a register of deeds to refuse to accept a record for registration.

(b) When an instrument presented for registration purports to be signed by an

individual in a representative capacity, the acknowledgment or proof of that individual's signature may:

(1) State that the individual signed the instrument in a representative or fiduciary capacity.

(2) State that the individual who signed the instrument in a representative or fiduciary capacity had due authority to do so.

(3) Identify the represented person or the fiduciary capacity.

(c) This section relates only to the form of proof or acknowledgment. The capacity and authority of the individual who signs an instrument presented for registration are governed by other provisions of law.

(d) This section applies to proofs and acknowledgments made before, on, or after December 1, 2005.

(2005-391, s. 9; 2006-59, s. 27.)

**§ 47-38. Acknowledgment by grantor.**

When properly completed, a 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 one or more individuals, acting in his, her, or their own right or, whether or not so stated in the notarial certificate, in a representative or fiduciary capacity, including one or more individuals acting on behalf of an unincorporated association, as an officer or director of a corporation, as a partner of a general or limited partnership, as a manager or member of a limited liability company, as the trustee of a trust, as the personal representative of a decedent's estate, as an agent or attorney in fact for another, as the guardian of a minor or an incompetent, or as a public official. The authorization of the form in this section does not preclude the use of other forms. This section applies to notarial certificates made before, on, and after December 1, 2005.

North Carolina, \_\_\_\_\_ County.

I (here give the name of the official and his official title), do hereby certify that (here give the name of the individual whose acknowledgment is being taken) personally appeared before me this day and acknowledged the due execution of the foregoing instrument. Witness my hand and (where an official seal is required by law) official seal this the \_\_\_\_\_ day of \_\_\_\_\_ (year).

(Official seal.)

(Signature of officer.)

(Title)

(Rev., s. 1002; C.S., s. 3323; 1945, c. 73, s. 13; 1977, c. 375, s. 12; 2006-59, s. 28.)

**§ 47-39. Repealed by Session Laws 1977, c. 375, s. 16, effective January 1, 1978.**

**§ 47-40. Husband's acknowledgment and wife's acknowledgment before the same officer.**

Where the instrument is acknowledged by both husband and wife or by other grantor before the same officer the form of acknowledgment shall be in substance as follows:

I (here give name of official and his official title), do hereby certify that (here give

names of the grantors whose acknowledgment is being taken) personally appeared before me this day and acknowledged the due execution of the foregoing (or annexed) instrument.  
(1899, c. 235, s. 8; 1901, c. 299; Rev., s. 1004; C.S., s. 3325; 1945, c. 73, s. 15.)

**§ 47-41: Repealed by Session Laws 1991, c. 647, s. 3.**

**§ 47-41.01. Corporate conveyances.**

(a) The following forms of probate for deeds and other conveyances executed by a corporation shall be deemed sufficient, but shall not exclude other forms of probate which would be deemed sufficient in law.

(b) If the deed or other instrument is executed by an official of the corporation, signing the name of the corporation by him in his official capacity, or any other agent authorized by resolution pursuant to G.S. 47-18.3(e), is sealed with its common or corporate seal, and is attested by another person who is an attesting official of the corporation, the following form of acknowledgment is sufficient:

(State and county, or other description of place where acknowledgment is taken)

I, \_\_\_\_\_,  
(Name of officer taking acknowledgment) (Official title of officer taking acknowledgment)  
certify that \_\_\_\_\_ personally came before me this day and  
(Name of attesting official)  
acknowledged that he (or she) is \_\_\_\_\_ of \_\_\_\_\_,  
(Title of attesting official) (Name of corporation)  
a corporation, and that by authority duly given and as the act of the corporation, the  
foregoing instrument was signed in its name by its \_\_\_\_\_,  
(Title of official)  
sealed with its corporate seal, and attested by himself (or herself) as its  
\_\_\_\_\_  
(Title of attesting official)

Witness my hand and official seal, this the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_  
(Month) (Year)

\_\_\_\_\_  
(Signature of officer taking acknowledgment)  
(Official seal, if officer taking acknowledgment has one)  
My commission expires \_\_\_\_\_  
(Date of expiration of commission as notary public)

(c) If the deed or other instrument is executed by an official of the corporation, signing the name of the corporation in his official capacity, or any other agent authorized by resolution pursuant to G.S. 47-18.3(e) the following form of acknowledgment is sufficient:

(State and county, or other description of place where acknowledgment is taken)

I, \_\_\_\_\_,  
(Name of officer taking acknowledgment) (Official title of officer taking acknowledgment)

certify that \_\_\_\_\_ personally came before me this day and  
(Name of official)  
acknowledged that he (or she) is \_\_\_\_\_ of \_\_\_\_\_,  
(Title of official)  
a corporation, and that he/she, as \_\_\_\_\_, being authorized to do  
(Title of official)  
so, executed the foregoing on behalf of the corporation.  
Witness my hand and official seal, this the \_\_\_\_\_ day of \_\_\_\_\_,  
(Month) (Year)

\_\_\_\_\_  
(Signature of officer taking acknowledgment)  
(Official seal, if officer taking acknowledgment has one)  
My commission expires \_\_\_\_\_  
(Date of expiration of commission as notary public)

(d) For purposes of this section:

(1) The words “a corporation” following the blank for the name of the corporation may be omitted when the name of the corporation ends with the word “Corporation” or “Incorporated.”

(2) The words “My commission expires” and the date of expiration of the notary public’s commission may be omitted except when a notary public is the officer taking the acknowledgment. The fact that these words and this date may be located in a position on the form different from the position indicated in this subsection does not by itself invalidate the form.

(3) The phrase “and official seal” and the seal itself may be omitted when the officer taking the acknowledgment has no seal or when such officer is the clerk, assistant clerk, or deputy clerk of the superior court of the county in which the deed or other instrument acknowledged is to be registered.

(4) The official of the corporation is the corporation’s chairman, president, chief executive officer, a vice-president or an assistant vice-president, treasurer, or chief financial officer, or any other agent authorized by resolution pursuant to G.S. 47-18.3(e).

(5) The attesting official of the corporation is the corporation’s secretary or assistant secretary, trust officer, assistant trust officer, associate trust officer, or in the case of a bank, its secretary, assistant secretary, cashier or assistant cashier.

(6) The phrase “sealed with its corporate seal” may be omitted if the seal of the corporation has not been affixed to the instrument being acknowledged.

(e) The forms of probate set forth in this section may be modified and adopted for use in the probate of deeds and other conveyances and instruments executed by entities other than corporations, including general and limited partnerships, limited liability companies, trusts, and unincorporated associations. This subsection applies to notarial certificates and forms of probate made before, on, or after December 1, 2005.

(1991, c. 647, s. 4; 1995 (Reg. Sess., 1996), c. 742, s. 18; 1999-221, s. 1; 2006-59, s. 29.)

#### § 47-41.02. Other forms of probate for corporate conveyances.

(a) The following forms of probate for deeds and other conveyances executed by a corporation shall also be deemed sufficient but shall not exclude other forms of probate which would be deemed sufficient in law.

(b) If the instrument is executed by the president or presiding member or trustee and

two other members of the corporation, and sealed with the common seal, the following form shall be sufficient:

North Carolina, \_\_\_\_\_ County.

This \_\_\_\_\_ day of \_\_\_\_\_ A.D. \_\_\_\_\_, personally came before me (here give the name and official title of the officer who signs this certificate) A.B. (here give the name of the subscribing witness), who, being by me duly sworn, says that he knows the common seal of the (here give the name of the corporation), and is also acquainted with C.D., who is the president (or presiding member or trustee), and also with E.F. and G.H., two other members of said corporation; and that he, the said A.B., saw the said president (or presiding member or trustee) and the two said other members sign the said instrument, and saw the said president (or presiding member or trustee) affix the said common seal of said corporation thereto, and that he, the said subscribing witness, signed his name as such subscribing witness thereto in their presence. Witness my hand and (when an official seal is required by law) official seal, this \_\_\_\_ day of \_\_\_\_\_ (year).

(Official seal.)

(Signature of officer.)

(c) If the deed or other instrument is executed by the president, presiding member or trustee of the corporation, and sealed with its common seal, and attested by its secretary or assistant secretary, either of the following forms of proof and certificate thereof shall be deemed sufficient:

North Carolina, \_\_\_\_\_ County.

This \_\_\_\_\_ day of \_\_\_\_\_, A.D. \_\_\_\_\_, personally came before me (here give name and official title of the officer who signs the certificate) A.B. (here give the name of the attesting secretary or assistant secretary), who, being by me duly sworn, says that he knows the common seal of (here give the name of the corporation), and is acquainted with C.D., who is the president of said corporation, and that he, the said A.B., is the secretary (or assistant secretary) of the said corporation, and saw the said president sign the foregoing (or annexed) instrument, and saw the said common seal of said corporation affixed to said instrument by said president (or that he, the said A.B., secretary or assistant secretary as aforesaid, affixed said seal to said instrument), and that he, the said A.B., signed his name in attestation of the execution of said instrument in the presence of said president of said corporation. Witness my hand and (when an official seal is required by law) official seal, this the \_\_\_\_\_ day of \_\_\_\_\_ (year).

(Official seal.)

(Signature of officer.)

North Carolina, \_\_\_\_\_ County.

This is to certify that on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, before me personally came \_\_\_\_\_ (president, vice-president, secretary or assistant secretary,

as the case may be), with whom I am personally acquainted, who, being by me duly sworn, says that \_\_\_\_\_ is the president (or vice-president), and \_\_\_\_\_ is the secretary (or assistant secretary) of the \_\_\_\_\_, the corporation described in and which executed the foregoing instrument; that he knows the common seal of said corporation; that the seal affixed to the foregoing instrument is said common seal, and the name of the corporation was subscribed thereto by the said president (or vice-president), and that said president (or vice-president) and secretary (or assistant secretary) subscribed their names thereto, and said common seal was affixed, all by order of the board of directors of said corporation, and that the said instrument is the act and deed of said corporation. Witness my hand and (when an official seal is required by law) official seal, this the \_\_\_\_\_ day of \_\_\_\_\_ (year).

(Official seal.)

(Signature of officer.)

(d) If the deed or other instrument is executed by the signature of the president, vice-president, presiding member or trustee of the corporation, and sealed with its common seal and attested by its secretary or assistant secretary, the following form of proof and certificate thereof shall be deemed sufficient:

This \_\_\_\_\_ day of \_\_\_\_\_, A.D. \_\_\_\_\_, personally came before me (here give name and official title of officer who signs the certificate) A.B., who, being by me duly sworn, says that he is president (vice-president, presiding member or trustee) of the \_\_\_\_\_ Company, and that the seal affixed to the foregoing (or annexed) instrument in writing is the corporate seal of said company, and that said writing was signed and sealed by him in behalf of said corporation by its authority duly given. And the said A.B. acknowledged the said writing to be the act and deed of said corporation.

(Official seal.)

(Signature of officer.)

(e) All corporate conveyances probated and recorded prior to February 14, 1939, wherein the same was attested by the assistant secretary, instead of the secretary, and otherwise regular, are hereby validated as if attested by the secretary of the corporation.

(f) The following forms of probate for contracts in writing for the purchase of personal property by corporations providing for a lien on the property or the retention of a title thereto by the vendor as security for the purchase price or any part thereof, or chattel mortgages, chattel deeds of trust, and conditional sales of personal property executed by a corporation shall be deemed sufficient but shall not exclude other forms of probate which would be deemed sufficient in law:

North Carolina

\_\_\_\_\_ County

I, \_\_\_\_\_, do hereby certify that \_\_\_\_\_  
(Name of president, secretary or treasurer)  
personally came before me this day and acknowledged that he is \_\_\_\_\_

(President, secretary or treasurer)  
of \_\_\_\_\_ and acknowledged, on behalf of \_\_\_\_\_, the  
(Name of corporation) (Name of corporation)  
grantor, the due execution of the foregoing instrument.

Witness my hand and official seal, this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

(Official seal)  
(Title of officer)

(Name of state)  
(County)

I, \_\_\_\_\_  
(Name of officer taking proof) (Official title of officer taking proof)  
of \_\_\_\_\_, certify that \_\_\_\_\_  
(County) (Name of state) (Name of subscribing witness)  
personally appeared before me, and being duly sworn, stated that in his presence  
\_\_\_\_\_ )signed the foregoing instrument)  
(Name of president, secretary or treasurer of maker)  
(acknowledged the execution of the foregoing instrument.) (Strike out the words not  
applicable.)

Witness my hand and official seal, this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_  
(Month) (Year)

(Signature of official taking proof)  
(Official title of official taking proof)

My commission expires \_\_\_\_\_  
(Date of expiration of official's commission)

(g) All deeds and other conveyances executed on or before April 12, 1974, by the president, any vice-president, assistant vice-president, manager, comptroller, treasurer, assistant treasurer, trust officer or assistant trust officer, or chairman or vice-chairman of a corporation are hereby validated to the extent that such deeds or other conveyances were otherwise properly executed, probated, and recorded.

(h) The forms of probate set forth in this section may be modified and adopted for use in the probate of deeds and other conveyances and instruments executed by entities other than corporations, including general and limited partnership, limited liability companies, trusts, and unincorporated associations. This subsection applies to notarial certificates and forms of probate made before, on, or after December 1, 2005.

(1991, c. 647, s. 5; 1991 (Reg. Sess., 1992), c. 1030, s. 14; 1999-456, s. 59; 2006-59, s. 30.)

#### § 47-41.1. Corporate seal.

All documents, including but not limited to deeds, deeds of trust, and mortgages, required or permitted by law to be executed by corporations, shall be legally valid and binding when a legible corporate stamp which is a facsimile of its seal is used in lieu of an imprinted or embossed corporate seal.

(1971, c. 340, s. 1.)

**§ 47-41.2. Technical defects.**

(a) Technical defects, including technical defects under G.S. 10B-68, and errors or omissions in a form of probate or other notarial certificate, shall not affect the sufficiency, validity, or enforceability of the form of probate or the notarial certificate or the related instrument or document. A register of deeds may not refuse to accept an instrument or document for registration because of technical defects, errors, or omissions in a form of probate or other notarial certificate. This subsection applies to notarial certificates and forms of probate made on or after December 1, 2005.

(b) This section does not apply to the requirements for registration contained in G.S. 47-14(a) and a register of deeds shall not accept for registration an instrument that does not comply with the requirements of G.S. 47-14(a).

(2006, c. 59, s. 31; 2006-199, s.3.)

**§ 47-42. Attestation of bank conveyances by secretary or cashier.**

(a) Repealed by Session Laws 2002-26, s. 1.

(b) All deeds and conveyances executed prior to February 14, 1939, by banking corporations, where the cashier of said banking corporation has attested said instruments, which deeds and conveyances are otherwise regular, are hereby validated.

(c) All deeds and conveyances executed by a banking corporation on or after October 1, 1999, that complied with G.S. 47-18.3 are hereby validated.

(1939, c. 20, s. 21/2; 1957, c. 783, s. 4; 2002-26, s. 1.)

**§ 47-43. Form of certificate of acknowledgment of instrument executed by attorney-in-fact.**

When an instrument purports to be signed by parties acting through another by virtue of the execution of a power of attorney, the following form of certificate shall be deemed sufficient, but shall not exclude other forms which would be deemed sufficient in law:

North Carolina, \_\_\_\_\_ County.

I (here give name of the official and his official title), do hereby certify that (here give name of attorney-in-fact), attorney-in-fact for (here give names of parties who executed the instrument through attorney-in-fact), personally appeared before me this day, and being by me duly sworn, says that he executed the foregoing and annexed instrument for and in behalf of (here give names of parties who executed the instrument through attorney-in-fact), and that his authority to execute and acknowledge said instrument is contained in an instrument duly executed, acknowledged, and recorded in the office of (here insert name of official in whose office power of attorney is recorded, and the county and state of recordation), on the (day of month, month, and year of recordation), and that this instrument was executed under and by virtue of the authority given by said instrument granting him power of attorney; that the said (here give name of attorney-in-fact) acknowledged the due execution of the foregoing and annexed instrument for the purposes therein expressed for and in behalf of the said (here give names of parties who executed the instrument through attorney-in-fact).

WITNESS my hand and official seal, this \_\_\_\_\_ day of \_\_\_\_\_, (year) \_\_\_\_\_

(Official seal.)  
Signature of Officer  
(1941, c. 238.)

**§ 47-43.1. Execution and acknowledgment of instruments by attorneys or attorneys-in-fact.**

When an instrument purports to be executed by parties acting through another by virtue of a power of attorney, it shall be sufficient if the attorney or attorney-in-fact signs such instrument either in the name of the principal by the attorney or attorney-in-fact or signs as attorney or attorney-in-fact for the principal; and if such instrument purports to be under seal, the seal of the attorney-in-fact shall be sufficient. For such instrument to be executed under seal, the power of attorney must have been executed under seal.

(1949, c. 66, s. 1.)

**§ 47-43.2. Officer's certificate upon proof of instrument by subscribing witness.**

When the execution of an instrument is proved by a subscribing witness as provided by G.S. 47-12, the certificate required by G.S. 47-13.1 shall be in substantially the following form:

STATE OF \_\_\_\_\_  
(Name of state)  
\_\_\_\_\_ COUNTY

I, \_\_\_\_\_, a \_\_\_\_\_  
(Name of officer taking proof) (Official title of officer taking proof)  
of \_\_\_\_\_ COUNTY, \_\_\_\_\_, certify that  
(Name of state)

\_\_\_\_\_ personally appeared before me this day,  
(Name of subscribing witness)  
and being duly sworn, stated that in his presence \_\_\_\_\_  
(Name of maker)

(signed the foregoing instrument) (acknowledged the execution of the foregoing instrument.) (Strike out the words not applicable.)

WITNESS my hand and official seal, this the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_  
(Month) (Year)

(Signature of officer taking proof)  
(Official title of officer taking proof)  
My commission expires  
(Date of expiration of officer's commission)

Provided, however, that when instruments have been recorded upon proof of execution of the instrument by certificate of a judicial officer, showing that execution was proven by oath and examination of the subscribing witness, the date of such examination, and the signature of the officer taking the proof, such proof of execution shall be deemed sufficient on all instruments filed for registration prior to March 15, 1961.

(1951, c. 379, s. 3; 1953, c. 1078, s. 3; 1955, c. 1345, s. 6; 1961, c. 237; 1999-456, s. 59.)

**§ 47-43.3. Officer's certificate upon proof of instrument by proof of signature of maker.**

When the execution of an instrument is proved by proof of the signature of the maker as provided by G.S. 47-12.1 or as provided by G.S. 47-13, the certificate required by G.S. 47-13.1 shall be in substantially the following form:

STATE OF \_\_\_\_\_  
(Name of state)  
\_\_\_\_\_ COUNTY

I, \_\_\_\_\_, a \_\_\_\_\_  
(Name of officer taking proof) (Official title of officer taking proof)  
of \_\_\_\_\_ COUNTY, \_\_\_\_\_, certify that  
(Name of state)

\_\_\_\_\_ personally appeared before me  
(Name of person familiar with maker's handwriting)  
this day and being duly sworn, stated that he knows the handwriting of \_\_\_\_\_  
(Name of maker)  
and that the signature to the foregoing instrument is the signature of \_\_\_\_\_  
(Name of maker)

WITNESS my hand and official seal, this the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_  
(Month) (Year)

(Signature of officer taking proof)  
(Official title of officer taking proof)  
My commission expires  
(Date of expiration of officer's commission)  
(1951, c. 379, s. 3; 1999-456, s. 59.)

**§ 47-43.4. Officer's certificate upon proof of instrument by proof of signature of subscribing witness.**

When the execution of an instrument is proved by proof of the signature of a subscribing witness as provided by G.S. 47-12.1, the certificate required by G.S. 47-13.1 shall be in substantially the following form:

STATE OF \_\_\_\_\_  
(Name of state)  
\_\_\_\_\_ COUNTY

I, \_\_\_\_\_, a \_\_\_\_\_  
(Name of officer taking proof) (Official title of officer taking proof)  
of \_\_\_\_\_ COUNTY, \_\_\_\_\_, certify that  
(Name of state)

\_\_\_\_\_ personally appeared  
(Name of person familiar with handwriting of subscribing witness)  
before me this day, and being duly sworn, stated that he knows the handwriting of

\_\_\_\_\_, and that the signature of \_\_\_\_\_  
(Name of subscribing witness)

as a subscribing witness to the foregoing instrument is the signature of

\_\_\_\_\_  
(Name of subscribing witness)

WITNESS my hand and official seal, this the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_  
(Month) (Year)

(Signature of officer taking proof)

(Official title of officer taking proof)

My commission expires \_\_\_\_\_

(Date of expiration of officer's commission)

(1951, c. 379, s. 3; 1999-456, s. 59.)

**§ 47-44. Clerk's certificate upon probate by justice of peace or magistrate.**

When the proof or acknowledgment of any instrument is had before a justice of the peace of some other state or territory of the United States, or before a magistrate of this State, but of a county different from that in which the instrument is offered for registration, the form of certificate as to his official position and signature shall be substantially as follows:

North Carolina \_\_\_\_\_ County.

I, A.B. (here give name and official title of a clerk of a court of record), do hereby certify that C.D. (here give the name of the justice of the peace or magistrate taking the proof, etc.), was at the time of signing the foregoing (or annexed) certificate an acting justice of the peace or magistrate in and for the county of \_\_\_\_\_ and State (or territory) of \_\_\_\_\_, and that his signature thereto is in his own proper handwriting.

In witness whereof, I hereunto set my hand and official seal, this \_\_\_\_ day of \_\_\_\_\_, A.D. \_\_\_\_\_

(Official seal.)

(Signature of officer.)

(1899, c. 235, s. 8; Rev., s. 1006; C.S., s. 3327; 1971, c. 1185, s. 15.)

**§ 47-45. Clerk's certificate upon probate by nonresident official without seal.**

When the proof or acknowledgment of any instrument is had before any official of some other state, territory or country and such official has no official seal, then the certificate of such official shall be accompanied by the certificate of a clerk of a court of record of the state, territory or country in which the official taking the proof or acknowledgment resides, of the official position and signature of such official; such certificate of the clerk shall be under his hand and official seal and shall be in substance as follows:

\_\_\_\_\_ County.

I, A.B. (here give name and official title of the clerk of a court of record as provided herein), do hereby certify that C.D. (here give name of the official taking the proof, etc.) was at the time of signing the foregoing (or annexed) certificate (here give the official title of the officer taking proof, etc.) in and for the county of \_\_\_\_\_ and state of \_\_\_\_\_ (or other political division of the state, territory or country, as the case may be), and that his signature thereto is in his own proper handwriting.

In witness whereof, I hereunto set my hand and official seal, this \_\_\_\_\_ day of \_\_\_\_\_, A.D. \_\_\_\_\_

(Official seal.)

(Signature of Clerk.)

(1899, c. 235, s. 8; Rev., s. 1007; C.S., s. 3328.)

**§ 47-46: Repealed by Session Laws 2005-123, s. 4, effective October 1, 2005.**

**§ 47-46.1. Notice of satisfaction of deed of trust, mortgage, or other instrument.**

No particular phrasing is required for a notice of satisfaction pursuant to G.S. 45-37(a)(5) as it was prior to October 1, 2005, a satisfaction of a security instrument under G.S. 45-36.10, or a trustee's satisfaction under G.S. 45-36.20. The following form, when properly completed, is sufficient to satisfy the requirements (i) for a notice of satisfaction under G.S. 45-37(a)(5) as it was in effect prior to October 1, 2005, (ii) for a satisfaction under G.S. 45-36.10 if the form is signed and acknowledged by the secured creditor, and (iii) for a trustee's satisfaction under G.S. 45-36.20 if the security instrument is a deed of trust and the form is signed and acknowledged by the trustee:

North Carolina, \_\_\_\_\_ County.

I, \_\_\_\_\_ (name of trustee or mortgagee), certify that the debt or other obligation in the amount of \_\_\_\_\_ secured by the (deed of trust)(mortgage)(other instrument) executed by \_\_\_\_\_ (grantor)(mortgagor), \_\_\_\_\_ (trustee)(leave blank if mortgage), and \_\_\_\_\_ (beneficiary)(mortgagee), and recorded in \_\_\_\_\_ County at \_\_\_\_\_ (book and page) was satisfied on \_\_\_\_\_ (date of satisfaction).

\_\_\_\_\_  
(Signature of trustee or mortgagee)

(Acknowledgment before officer authorized to take acknowledgments)

My commission expires \_\_\_\_\_ (Date of expiration of official's commission).

(1987, c. 405, s. 2; c. 662, s. 4; 1989, c. 434, s. 2; 2005-123, s. 5.)

**§ 47-46.2. Certificate of satisfaction of deed of trust, mortgage, or other instrument.**

No particular phrasing is required for a certification of satisfaction pursuant to G.S. 45-37(a)(6) as it was in effect prior to October 1, 2005, or for a satisfaction of a security instrument under G.S. 45-36.10. The following form, when properly completed, is sufficient to satisfy the requirements (i) for a certificate of satisfaction under G.S. 45-37(a)(6) as it was in effect prior to October 1, 2005, and (ii) for a satisfaction of a

security instrument under G.S. 45-36.10 when signed and acknowledged by the secured creditor:

CERTIFICATE OF SATISFACTION

North Carolina, \_\_\_\_\_ County.

I, \_\_\_\_\_ (name of owner of the note or other indebtedness secured by the deed of trust or mortgage), certify that I am the owner of the indebtedness secured by the hereafter described deed of trust or mortgage and that the debt or other obligation in the amount of \_\_\_\_\_ secured by the (deed of trust)(mortgage)(other instrument) executed by \_\_\_\_\_ (grantor)(mortgagor), \_\_\_\_\_ (trustee)(leave blank if mortgage), and \_\_\_\_\_ (beneficiary)(mortgagee), and recorded in \_\_\_\_\_ County at \_\_\_\_\_ (book and page) was satisfied on \_\_\_\_\_ (date of satisfaction). I request that this certificate of satisfaction be recorded and the above-referenced security instrument be canceled of record.

\_\_\_\_\_  
(Signature of owner of note)

[Acknowledgment before officer authorized to take acknowledgments].

(1995, c. 292, s. 3; 2005-123, s. 5.)

**§ 47-46.3. Affidavit of lost note.**

No particular phrasing is required for an affidavit of lost note pursuant to G.S. 45-36(a)(6) as it was in effect prior to October 1, 2005. The following form, when properly completed, is sufficient to satisfy the requirements for an affidavit of lost note under G.S. 45-37(a)(6) as it was in effect prior to October 1, 2005.

AFFIDAVIT OF LOST NOTE

[Name of affiant] personally appeared before me in \_\_\_\_\_ County, State of \_\_\_\_\_, and having been duly sworn (or affirmed) made the following affidavit:

1. The affiant is the owner of the note or other indebtedness secured by the deed of trust, mortgage, or other instrument executed by \_\_\_\_\_ (grantor, mortgagor), \_\_\_\_\_ (trustee), and \_\_\_\_\_ (beneficiary, mortgagee), and recorded in \_\_\_\_\_ County at \_\_\_\_\_ (book and page); and
2. The note or other indebtedness has been lost and after the exercise of due diligence cannot be located.
3. The affiant certifies that all indebtedness secured by the deed of trust, mortgage, or other instrument was satisfied on \_\_\_\_\_, \_\_\_\_\_ (date of satisfaction), and the affiant is responsible for cancellation of the same.

\_\_\_\_\_  
(Signature of affiant)

Sworn to (or affirmed) and subscribed before me this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

[Signature and seal of notary public or other official authorized to administer oaths].

(1995, c. 292, s. 4; 1995 (Reg. Sess., 1996), c. 604, s. 2; c. 742, s. 19; 1999-456, s. 59; 2005-123, s. 6.)

**NORTH CAROLINA ADMINISTRATIVE CODE**  
**SUBCHAPTER 07C – ELECTRONIC NOTARY STANDARDS**  
**SECTION .0100 – GENERAL PROVISIONS**

**18 NCAC 07C .0101 SCOPE**

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

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

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

**18 NCAC 07C .0102 DEFINITIONS**

In addition to terms defined in Article 1 of Chapter 10B of the General Statutes and Subchapter 7B of this Chapter, and for purposes of Article 2 of Chapter 10B of the General Statutes and this Subchapter:

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

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

(3) Biometric Authentication means proving the identity of a user by requiring verification of the user's identity through technologies that require measurement and analysis of one or more human physiological or behavioral characteristics of the user in order to access and use an electronic notarization system. Biometric authentication technologies include fingerprint scanning devices, retinal scanning devices, and handwriting analysis devices.

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

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

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

(7) Password Authentication means requiring the user to enter a secret word, phrase, or symbol set in order to access and use an electronic notarization system.

(8) Token Authentication means requiring use of a physical device in addition to a password or personal identification number (PIN number) in order to access and use an electronic notarization system. Physical devices used in token authentication technologies include magnetic cards or smart cards and Universal Serial Bus (USB) memory sticks or USB keys.

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

(10) Under the notary public's sole control means accessible by and attributable solely to the notary to the exclusion of all other persons and entities, either through being in the direct physical custody of the notary or through being secured with one or more

biometric, password, token, or other authentication technologies in an electronic notarization system provided by an approved electronic notary solution provider approved pursuant to the Act and this Subchapter.

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

## **SECTION .0200 – REGISTRATION**

### **18 NCAC 07C .0201 APPLICATION**

(a) Qualifications. An applicant shall provide:

- (1) All information required for registration pursuant to G.S. 10B-106(d);
- (2) Verification that the applicant holds a valid North Carolina notary commission and continues to meet the qualifications to hold the notary commission;
- (3) Verification that the applicant is in compliance with all provisions of the Notary Act;
- (4) Any other information requested by the Department to prove the qualifications of the applicant.

(b) Submission. The applicant shall:

- (1) Complete the registration form on line;
- (2) Print the form;
- (3) Have the form notarized; and
- (4) Submit the form by:
  - (A) U.S. mail;
  - (B) In person delivery; or
  - (D) Courier service.

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

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

(a) The applicant shall take the oath in the Register of Deeds office within 45 days of the issue date on the electronic notary oath notification letter.

(b) Before taking the oath of office, an applicant shall present to the Register of Deeds evidence of the applicant's identity as defined in G.S. 10B-3(22).

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

(d) The applicant's electronic notary registration shall not be effective until the applicant takes the oath.

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

### **18 NCAC 07C .0203 RE-REGISTRATION**

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

*History Note: Authority G.S. 10B-125; 10B-126; 47-16.5; 47-16.7; 147-36; 15 USC 7002; Eff. January 1, 2007.*

## **SECTION .0300 – COURSE OF INSTRUCTION**

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

(a) The Department shall administer the training course and testing for applicants for

electronic notary registration.

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

*History Note: Authority G.S. 10B-107; 10B-125; 10B-126; 47-16.5; 47-16.7; 147-36; 15 USC 7002; Eff. January 1, 2007.*

## **SECTION .0400 – ELECTRONIC NOTARY STANDARDS**

### **18 NCAC 07C .0401 ELECTRONIC NOTARY SIGNATURE**

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

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

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

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

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

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

### **18 NCAC 07C .0402 ELECTRONIC NOTARY SEAL**

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

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

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

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

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

(f) The perimeter of the electronic notary seal shall contain a border such that the physical appearance of the seal replicates the appearance of an inked seal on paper.

(g) The electronic notary seal must have, within its border, the electronic notary's

name exactly as commissioned, the words Electronic Notary Public, the words North Carolina or N.C., and the county of commission including the word County or Co..  
*History Note: Authority G.S. 10B-2; 10B-125(b); 10B-126(d); 47-16.5; 47-16.7; 147-36; 15 USC 7002; Eff. January 1, 2007.*

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

When an electronic notary performs an electronic notarization, the principal and the electronic notary shall be in each other's physical presence during the entire electronic notarization so that the principal and the electronic notary can see, hear, communicate with, and give identification documents as required under G.S. 10B-3(22) to each other without the use of electronic devices such as telephones, computers, video cameras, or facsimile machines.

*History Note: Authority G.S. 10B-116(1); 10B-125(b); 10B-126(d); 47-16.5; 47-16.7; 147-36; 15 USC 7002; Eff. January 1, 2007.*

## **SECTION .0500 – ELECTRONIC NOTARY SOLUTION PROVIDERS**

### **18 NCAC 07C .0501 ELECTRONIC NOTARY SOLUTION PROVIDER APPLICATION**

(a) Any person or entity applying to the Department for designation as an approved electronic notary solution provider must complete and submit an application to the Department for review and approval before authorizing any electronic notary seals or electronic signatures to North Carolina electronic notaries. The application shall include the following information:

- (1) Hardware and software specifications and requirements for the provider's electronic notarization system,
- (2) A description of the type(s) of technology used in the provider's electronic notarization system, and
- (3) A demonstration of how the technology is used to perform an electronic notarization.

(b) An electronic notary solution provider may appeal the Department's rejection of the provider's application for designation as an approved electronic notary solution provider as provided under Article 3 of Chapter 150B of the General Statutes.

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

### **18 NCAC 07C .0502 CRITERIA FOR APPROVAL OF ELECTRONIC NOTARY SOLUTION PROVIDERS**

Each applicant and each approved electronic notary solution provider shall:

- (1) Provide a free and readily available viewer/reader so as to enable all parties relying on the electronically notarized record or document to view the electronic notary signature and the electronic notary seal without incurring any cost.
- (2) Comply with the laws, policies, and rules that govern North Carolina notaries;
- (3) Provide an electronic notarization system or solution that complies with the technical specifications of the rules and standards that govern electronic notarization processes and procedures in North Carolina;

(4) Require such of the provider's principals or employees to take the mandatory electronic notary education course online and pass the required examination as is necessary to ensure the provider possesses sufficient familiarity with North Carolina's electronic notary laws and requirements;

(5) Require notaries to present the NC Secretary of State's Electronic Notary Certificate to Perform Electronic Notary Acts prior to authorizing an electronic notary seal and signature;

(6) Verify the authorization of a North Carolina notary to perform electronic notary acts by logging on to the Department's website and comparing the name, notary commission number and commission expiration date with the information on the Electronic Notary Certificate to Perform Electronic Notary Acts prior to authorizing an electronic notary seal and signature;

(7) Provide prorated fees to align the usage and cost of the electronic notary system or solution with the commission term limit of the electronic notary purchasing the electronic notary seal and signature;

(8) Suspend the use of any electronic notarization system or solution for any notary whose commission has been revoked or suspended by the North Carolina Secretary of State; and

(9) Submit an exemplary of the electronic notary signature and the electronic notary seal to the Department for each electronic notary who subscribes to the provider's electronic notary solution.

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

## **18 NCAC 07C .0503 ELECTRONIC NOTARY SOLUTION PROVIDER CHANGES**

(a) An electronic notary solution provider shall notify the Department within 45 days of changes, modifications or updates to information previously submitted to the Department.

(b) An approved electronic notary solution provider shall obtain approval of the Department pursuant to the Act and this Subchapter before making available to North Carolina electronic notaries any updates or subsequent versions of the provider's electronic notarization system.

*History Note: Authority G.S. 10B-2; 10B-125(b); 10B-126(d); 47-16.5; 47-16.7; 147-36; 15 USC 7002; Eff. January 1, 2007.*

## **SECTION .0600 – SECURITY REQUIREMENTS**

### **18 NCAC 07C .0601 SEPARATE ATTESTATIONS**

Each electronic signature requiring notarization and attestation in the form of an acknowledgment shall be individually affixed to the electronic document by the principal signer and shall be acknowledged separately by the principal signer, except in the following situation:

(1) The notarized document is executed on behalf of an entity as defined in G.S. 55-1-40(9)(a) or (c); and

(2) The notarized document does not adversely affect the claim, right or obligation of another.

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

### **18 NCAC 07C .0602 ELECTRONIC NOTARY SEALS**

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

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

### **18 NCAC 07C .0603 EMPLOYERS OF ELECTRONIC NOTARIES**

(a) Neither the employer nor any of the employer's employees or agents shall use or permit the use of an electronic notary seal or signature by anyone other than the electronic notary to whom it is registered.

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

(1) Relinquish control of the electronic notary seal;

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

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

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

### **18 NCAC 07C .0604 PROTECTED ACCESS**

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

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

## **SECTION .0700 – RECORDS OF ELECTRONIC NOTARIAL ACTS – RESERVED**

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