

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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SENATE BILL 934

Short Title: Notary Public Act.-AB

(Public)

Sponsors: Senator Hartsell.

Referred to: Judiciary II.

March 24, 2005

1 A BILL TO BE ENTITLED
2 AN ACT TO ADD CHAPTER 10B TO THE GENERAL STATUTES RELATING TO
3 NOTARIES.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. Chapter 10A of the General Statutes is repealed.

6 SECTION 2. The General Statutes of North Carolina are amended by
7 adding a new Chapter to read:

8 "**Chapter 10B.**

9 "**Notaries.**

10 "**Article 1.**

11 "**Notary Public Act.**

12 "**Part 1. General Provisions.**

13 "**§ 10B-1. Short title.**

14 This act is the Notary Public Act and may be cited by that name.

15 "**§ 10B-2. Purposes.**

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

18 (1) To promote, serve, and protect the public interests.

19 (2) To simplify, clarify, and modernize the law governing notaries.

20 (3) To prevent fraud and forgery.

21 (4) To foster ethical conduct among notaries.

22 (5) To enhance cross-border recognition of notarial acts.

23 (6) To integrate procedures for traditional paper and electronic notarial
24 acts.

25 "**§ 10B-3. Definitions.**

26 The following definitions apply in this Chapter:

27 (1) Acknowledgment. – "Acknowledgment" means a notarial act in which
28 an individual, at a single time and place:

29 a. Appears in person before the notary and presents a record;

- 1 b. Is personally known to the notary or identified by the notary
2 through satisfactory evidence and indicates to the notary that
3 the signature on the record was voluntarily affixed by the
4 individual for the purposes stated within the record and, if
5 applicable, that the individual had due authority to sign in a
6 particular representative capacity.
- 7 (2) Affirmation. –"Affirmation" means a notarial act, or part thereof,
8 which is legally equivalent to an oath and in which an individual at a
9 single time and place:
- 10 a. Appears in person before the notary;
11 b. Is personally known to the notary or identified by the notary
12 through satisfactory evidence; and
13 c. Makes a vow of truthfulness on penalty of perjury, based on
14 personal honor and without invoking a deity or using any form
15 of the word "swear".
- 16 (3) Commission. –"Commission" means the empowerment to perform
17 notarial acts and the written evidence of authority to perform those
18 acts.
- 19 (4) Credible Witness. –"Credible Witness" means an honest, reliable, and
20 impartial person who is personally known to the notary and takes an
21 oath or affirmation from the notary to confirm a signer's identity.
- 22 (5) Director. –"Director" means the Division Director for the North
23 Carolina Department of the Secretary of State Notary Public Section.
- 24 (6) Jurat. –"Jurat" means an act in which the notary certifies the date,
25 place, and person before whom an affidavit is sworn or affirmed.
- 26 (7) Moral Turpitude. –"Moral Turpitude" means conduct contrary to
27 expected standards of honesty, morality, or integrity.
- 28 (8) Nickname. –"Nickname" means a descriptive, familiar, or shortened
29 form of a proper name.
- 30 (9) Notarial Act; Notary Act; Notarization. –"Notarial Act," "Notary Act,"
31 and "Notarization" mean any act that a notary is empowered to
32 perform under this Chapter.
- 33 (10) Notarial Certificate; Certificate. –"Notarial Certificate" and
34 "Certificate" mean the portion of a notarized record that is completed
35 by the notary, bears the notary's signature and seal, and states the facts
36 attested by the notary in a particular notarization.
- 37 (11) Notary Public; Notary. –"Notary Public" and "Notary" mean a person
38 commissioned to perform notarial acts under this Chapter. A notary is
39 a public officer of the State of North Carolina and shall act in full and
40 strict compliance with this act.
- 41 (12) Oath. –"Oath" means a notarial act, or part thereof, which is legally
42 equivalent to an affirmation and in which an individual at a single time
43 and place:
- 44 a. Appears in person before a notary;

- 1 b. Is personally known to the notary or identified by the notary
2 through satisfactory evidence; and
- 3 c. Makes a vow of truthfulness on penalty of perjury while
4 invoking a deity or using any form of the word "swear".
- 5 (13) Official Misconduct. –"Official Misconduct" means either of the
6 following:
- 7 a. A notary's performance of a prohibited act or failure to perform
8 a mandated act set forth in this Chapter or any other law in
9 connection with notarization.
- 10 b. A notary's performance of a notarial act in a manner found by
11 the Secretary to be negligent or against the public interest.
- 12 (14) Personal Appearance; Appear in Person Before a Notary. –"Personal
13 Appearance" and "Appear in Person Before a Notary" mean an
14 individual and a notary are physically before each other, e.g., in the
15 same room, such that they may freely see and communicate with one
16 another and exchange records back and forth during the notarization
17 process.
- 18 (15) Personal Knowledge of Identity. –"Personal Knowledge of Identity"
19 means familiarity with an individual resulting from interactions with
20 that individual over a period of time sufficient to eliminate every
21 reasonable doubt that the individual has the identity claimed.
- 22 (16) Principal. –"Principal" means a person whose signature is notarized; or
23 a person, other than a credible witness, taking an oath or affirmation
24 from the notary.
- 25 (17) Record. –"Record" means information that is inscribed on a tangible
26 medium and called a traditional or paper record.
- 27 (18) Regular Place of Work or Business. –"Regular Place of Work or
28 Business" means a location (office or other workspace) where an
29 individual regularly spends all or part of his or her work time.
- 30 (19) Satisfactory Evidence of a Signer's Identity. –"Satisfactory Evidence
31 of a Signer's Identity" means identification of an individual based on
32 either of the following:
- 33 a. At least one current document issued by a federal, state, or
34 federal- or state-recognized tribal government agency bearing
35 the photographic image of the individual's face and either the
36 signature or a physical description of the individual.
- 37 b. The oath or affirmation of one credible witness unaffected by
38 the record or transaction who is personally known to the notary
39 and who personally knows the individual seeking to be
40 identified.
- 41 (20) Seal; Stamp. –"Seal" and "Stamp" mean a device for affixing on a
42 paper record an image containing a notary's name, the words "Notary
43 Public," and other information as required in G.S. 10B-24 of this
44 Chapter.

- 1 (21) Secretary. –"Secretary" means the North Carolina Secretary of State or
2 the Secretary's designee.
- 3 (22) Signature. –"Signature" means a traditional original signature ink on
4 paper transactions of the notary's name under which the notary is
5 commissioned. A facsimile signature is not acceptable for notary
6 purposes unless otherwise permitted by law.
- 7 (23) Subscribing Witness. –"Subscribing Witness" means a person who
8 either watches another individual sign a record or takes that
9 individual's acknowledgment of an already-signed record and appears
10 before the notary on behalf of the principal. The subscribing witness
11 must sign the document in addition to the principal, must be personally
12 known by the notary or prove identity to the notary by satisfactory
13 evidence, and must take an oath or affirmation stating that he or she
14 witnessed the principal sign.
- 15 (24) Verification; Proof. –"Verification" or "Proof" means a notarial act
16 where a person certifies under oath or affirmation that he or she
17 witnessed the principal either execute, record, or acknowledge his or
18 her signature on an already-executed record.

"Part 2. Commissioning.

"§ 10B-4. Qualifications.

21 (a) Except as provided in subsection (d) of this section, the Secretary shall
22 commission as a notary any qualified person who submits an application in accordance
23 with this Chapter.

24 (b) A person qualified for a notarial commission shall meet all of the following
25 requirements:

- 26 (1) Be at least 18 years of age or legally emancipated.
- 27 (2) Reside or have a regular place of work or business in this State.
- 28 (3) Reside legally in the United States.
- 29 (4) Speak, read, and write the English language.
- 30 (5) Possess a high school diploma or equivalent.
- 31 (6) Pass the course of instruction described in this Article, unless the
32 person is a licensed member of the North Carolina State Bar.
- 33 (7) Purchase and keep as a reference the most recent manual approved by
34 the Secretary that describes the duties and authority of notaries public.
- 35 (8) Submit an application containing no significant misstatement or
36 omission of fact. The application form shall be provided by the
37 Secretary and be available at the register of deeds office in each
38 county. Every application shall bear the signature of the applicant
39 written with pen and ink, and the signature shall be acknowledged by
40 the applicant before a person authorized to administer oaths. The
41 applicant shall also obtain the recommendation of one publicly elected
42 official in North Carolina whose recommendation shall be contained
43 on the application.
- 44 (9) Pay a nonrefundable application fee of fifty dollars (\$50.00).

1 (c) The notary shall be commissioned in his or her county of residence, unless
2 the notary is not a North Carolina resident, in which case he or she shall be
3 commissioned in the county of his or her employment or business.

4 (d) The Secretary may deny an application for commission or recommission
5 based upon:

- 6 (1) Submission of an incomplete application or an application containing
7 material misstatement or omission of fact;
- 8 (2) The applicant's conviction or plea of admission or nolo contendere to a
9 felony or any crime involving dishonesty or moral turpitude. In no
10 case may a commission be issued to an applicant within 10 years after
11 release from prison, probation, or parole, whichever is later;
- 12 (3) A finding or admission of liability against the applicant in a civil
13 lawsuit based on the applicant's deceit;
- 14 (4) The revocation, suspension, restriction, or denial of a notarial
15 commission or professional license by this or any other state or nation.
16 In no case may a commission be issued to an applicant within five
17 years after the completion of all conditions of any disciplinary order;
- 18 (5) A finding that the applicant has engaged in official misconduct,
19 whether or not disciplinary action resulted;
- 20 (6) An applicant knowingly using false or misleading advertising in which
21 the applicant as a notary represents that the applicant has powers,
22 duties, rights, or privileges that the applicant does not possess by law;
- 23 (7) A finding by a state bar or court that the applicant has engaged in the
24 unauthorized practice of law.

25 **"§ 10B-5. Application for commission.**

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

- 28 (1) A statement of the applicant's personal qualifications as required by
29 this Chapter;
- 30 (2) A certificate or signed statement by the instructor evidencing
31 successful completion of the course of instruction as required by this
32 Chapter;
- 33 (3) A notarized declaration of the applicant, as required by this Chapter;
- 34 (4) Any other information that the Secretary deems appropriate; and
- 35 (5) The application fee required by this Chapter.

36 **"§ 10B-6. Statement of personal qualification.**

37 (a) The application for a notary commission shall state or include at least:

- 38 (1) The applicant's full legal name and the name to be used for
39 commissioning, excluding nicknames;
- 40 (2) The applicant's date of birth;
- 41 (3) The applicant's residence mailing and street address(es) and telephone
42 number(s);
- 43 (4) The applicant's county of residence;

- 1 (5) The applicant's employer's name, business street and mailing
2 address(es) and telephone number(s);
3 (6) The applicant's last four digits of his or her social security number;
4 (7) The applicant's personal and business e-mail addresses;
5 (8) A declaration that the applicant is a citizen of the United States or
6 proof of the applicant's legal residency in this country;
7 (9) A declaration that the applicant can speak, read, and write in the
8 English language;
9 (10) A complete listing of any issuances, denials, revocations, suspensions,
10 restrictions, and resignations of a notarial commission, professional
11 license, or public office involving the applicant in this or any other
12 state or nation;
13 (11) A complete listing of any criminal convictions of the applicant,
14 including any pleas of admission or nolo contendere, in this or any
15 other state or nation;
16 (12) A complete listing of any civil findings or admissions of fault or
17 liability regarding the applicant's activities as a notary, in this or any
18 other state or nation.

19 (b) Except as provided herein, the information contained on an application shall
20 be a public record. The applicant's date of birth, social security number, personal e-mail
21 address(es), residence street address and residence telephone number(s) shall be
22 considered confidential information.

23 **"§ 10B-7. Course of study and examination.**

24 (a) Every applicant for an initial notary commission shall, within the three
25 months preceding application, take a course of classroom instruction of not less than six
26 hours approved by the Secretary of State and pass an examination approved by the
27 Secretary. Each examination approved by the Director has a minimum passing grade of
28 eighty percent (80%).

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

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

34 (d) The Secretary may charge such fees as are reasonably necessary to pay the
35 cost associated with developing and administering examinations permitted by this
36 Chapter and for conducting the training of notaries and notary instructors. All funds
37 received by the Secretary under this section shall be deposited into a Notary Public
38 Special Fund, which shall be subject to audit pursuant to the Executive Budget Act and
39 shall not revert to the General Fund. The Special Fund shall be used for the
40 administration of this Chapter.

41 **"§ 10B-8. Length of term and jurisdiction.**

42 A person commissioned under this Chapter may perform notarial acts in any part of
43 this State for a term of five years, unless the commission is earlier revoked or resigned.

44 **"§ 10B-9. Commission; oath of office.**

1 (a) If granted, the Secretary shall notify the appointee and shall instruct the
2 appointee regarding the proper procedure for taking the oath at the register of deeds
3 office in the county of his or her commissioning.

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

7 (c) The register of deeds shall then place the notary record in a book designated
8 for that purpose, or the notary record may be recorded in the Consolidated Document
9 Book and indexed in the Consolidated Real Property Index under the notary's name in
10 the grantor index. The notary record may be kept in electronic format so long as the
11 signature of the notary public may be viewed and printed. The notary record shall
12 contain the name and the signature of the notary as commissioned, the effective date
13 and expiration date of the commission, the date the oath was administered, and the date
14 of any restriction, suspension, revocation, or resignation. The record shall constitute the
15 official record of the qualification of notaries public.

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

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

24 (f) As soon as practicable, or within six months of the effective date of this act,
25 North Carolina registers of deeds and clerks of superior court shall send the pages and
26 documents contained in their "Records of Notaries Public" created prior to 1991 to the
27 Department for permanent storage.

28 **"§ 10B-10. Recommissioning.**

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

31 (b) A previously commissioned individual may apply for recommissioning as a
32 notary within one year after the expiration of a previous commission; the Secretary may
33 wave the educational requirements of this Chapter.

34 (c) Except as hereinafter set forth, an applicant for recommissioning as a notary
35 shall submit a new application and comply anew with the provisions of this Chapter,
36 except that an applicant for recommissioning shall not be required to complete the
37 classroom course of study required by this Chapter if he or she complies with subsection
38 (d) of this section and shall not be required to obtain the recommendation of a publicly
39 elected official.

40 (d) An applicant for recommissioning shall be required to pass a written
41 examination required by this Chapter, unless the person is a licensed member of the
42 North Carolina State Bar.

43 **"§ 10B-11. Notarized declaration.**

1 (e) Assistant and deputy registers of deeds and assistant and deputy clerks of
2 court must have a regular notary commission prior to receiving a certification or
3 recertification as a notary public instructor.

4 (f) The Secretary may suspend or revoke the certification of a notary instructor
5 for violating the provisions of this Chapter or any of the administrative rules
6 promulgated hereunder.

7 "Part 3. Notarial Acts, Powers, and Limitations.

8 **"§ 10B-14. Powers and limitations.**

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

- 10 (1) Acknowledgments.
- 11 (2) Oaths and affirmations.
- 12 (3) Execute jurats.
- 13 (4) Verifications or proofs.

14 (b) A notarial act shall be attested by all of the following:

- 15 (1) The signature of the notary, exactly as shown on the notary's
16 commission.
- 17 (2) The readable appearance of the notary's name, either from the notary's
18 signature or from the notary's typed or printed name near the signature.
- 19 (3) The clear and legible appearance of the notary's stamp or seal.
- 20 (4) A statement of the date the notary's commission expires.

21 (c) A notary is disqualified from performing a notarial act if any of the following
22 apply:

- 23 (1) The principal is not in the notary's presence at the time the notarial act
24 is to be performed.
- 25 (2) The principal is not personally known to the notary or identified by the
26 notary through satisfactory evidence.
- 27 (3) The principal shows a demeanor that causes the notary to have a
28 compelling doubt about whether the principal knows the consequences
29 of the transaction requiring a notarial act.
- 30 (4) The principal, in the notary's judgment, is not acting of his or her own
31 free will.
- 32 (5) The notary is a signer of or is named, other than as a trustee in a deed
33 of trust, in the document that is to be notarized.
- 34 (6) The notary will receive directly from a transaction connected with the
35 notarial act any commission, fee, advantage, right, title, interest, cash,
36 property, or other consideration exceeding in value the fees specified
37 in G.S. 10B-20, other than fees or other consideration paid for services
38 rendered by a licensed attorney, a licensed real estate broker or
39 salesperson, a motor vehicle dealer, or a banker.
- 40 (7) The notary is a spouse, domestic partner, or relative by blood or
41 marriage within two degrees of the principal, including in-law, step,
42 and half relatives, unless the notary is an employee or a partner of an
43 attorney licensed to practice law in North Carolina.

1 (d) A notary may certify the affixation of a signature by mark on a record
2 presented for notarization if:

3 (1) The mark is affixed in the presence of the notary;

4 (2) The notary writes below the mark: "Mark affixed by (name of signer
5 by mark) in presence of undersigned notary"; and

6 (3) The notary notarizes the signature by performing an acknowledgment,
7 oath or affirmation, jurat, or verification or proof.

8 (e) If a principal is physically unable to sign or make a mark on a record
9 presented for notarization, that principal may designate another person as his or her
10 designee, who shall be a disinterested party, to sign on the principal's behalf pursuant to
11 the following procedure:

12 (1) The principal directs the designee to sign the record in the presence of
13 the notary and two witnesses unaffected by the record;

14 (2) The designee signs the principal's name in the presence of the
15 principal, the notary, and the two witnesses;

16 (3) Both witnesses sign their own names to the record near the principal's
17 signature;

18 (4) The notary writes below the principal's signature: "Signature affixed
19 by designee in the presence of (names and addresses of principal and
20 witnesses)"; and

21 (5) The notary notarizes the signature through an acknowledgment, oath
22 or affirmation, jurat, or verification or proof.

23 (f) A notarial act performed in another jurisdiction by a notary public of that
24 jurisdiction is valid to the same extent as if it had been performed by a notary
25 commissioned under this Chapter.

26 (g) Commissioned officers on active duty in the United States armed forces who
27 are authorized to perform notarial acts may perform the acts for persons serving in or
28 with the United States armed forces, their spouses, and their dependents.

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

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

41 (j) A notary public who is not an attorney licensed to practice law in this State is
42 prohibited from representing or advertising that the notary public is an "immigration
43 consultant" or expert on immigration matters unless the notary public is an accredited
44 representative of an organization recognized by the Board of Immigration Appeals

1 pursuant to Title 8, Part 292, Section 2(a-e) of the Code of Federal Regulations (8 CFR
2 § 292.2(a-e)).

3 (k) A notary public who is not an attorney licensed to practice law in this State is
4 prohibited from rendering any service that constitutes the unauthorized practice of law.

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

11 (m) If notarial certificate wording is not provided or indicated for a record, a
12 nonattorney notary shall not determine the type of notarial act or certificate to be used.
13 This does not prohibit a notary from offering the selection of certificate forms
14 recognized in this Chapter or promulgated by the Department of the Secretary of State.

15 (n) A nonattorney notary shall not assist another person in drafting, completing,
16 selecting, or understanding a record or transaction requiring a notarial act.

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

20 **"§ 10B-15. Notaries ex officio.**

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

26 (1) Oaths and affirmations.

27 (2) Verifications or proofs.

28 Upon completion of the course of study provided for in G.S. 10B-4(b), assistant and
29 deputy clerks of superior court may, by virtue of their offices, perform all other notarial
30 acts and may certify these notarial acts only under the seals of their respective courts. A
31 course of study attended only by assistant and deputy clerks of superior court may be
32 taught at any mutually convenient location agreed to by the Secretary and the
33 Administrative Officer of the Courts.

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

39 (1) Oaths and affirmations.

40 (2) Verifications or proofs.

41 Upon completion of the course of study provided for in G.S. 10B-4(b), assistant and
42 deputy registers of deeds may, by virtue of their offices, perform all other notarial acts
43 and may certify these notarial acts only under the seals of their respective offices. A
44 course of study attended only by assistant and deputy registers of deeds may be taught

1 at any mutually convenient location agreed to by the Secretary and the North Carolina
2 Association of Registers of Deeds.

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

6 (d) Unless otherwise provided by law, a person designated a notary public by this
7 section may charge a fee for a notarial act performed in accordance with G.S. 10A-20.
8 The fee authorized by this section is payable to the governmental unit or agency by
9 whom the person is employed.

10 (e) Nothing in this section shall authorize a person to act as a notary public other
11 than in the performance of the official duties of the person's office unless the person
12 complies fully with the requirements of G.S. 10B-4.

13 **"§ 10B-16. False certificate.**

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

16 (b) A notary shall not provide or send a signed or sealed notarial certificate to
17 another person with the understanding that it will be completed or attached to a record
18 outside of the notary's presence.

19 (c) A notary shall not affix an official signature or seal on a notarial certificate
20 that is incomplete. Prior to performing a notarial act, the notary shall cross out blank
21 lines and spaces in the certificate.

22 (d) A notary shall not execute a certificate that is not written in the English
23 language. A notary may execute a certificate written in the English language that
24 accompanies a record written in another language, which record may include a
25 translation of the notarial certificate into the other language. In such cases, the notary
26 shall execute only the English language certificate.

27 **"§ 10B-17. Improper records.**

28 (a) A notary shall not notarize a signature:

29 (1) On a blank or incomplete record; or

30 (2) On a record without a notarial certificate indicating what type of
31 notarial act was performed.

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

34 **"§ 10B-18. Testimonials.**

35 A notary shall not use the official notary title or seal in a manner intended to
36 endorse, promote, denounce, or oppose any product, service, contest, candidate, or other
37 offering. This section does not prohibit a notary public from performing a notarial act
38 upon a record executed by another individual.

39 "Part 4. Fees.

40 **"§ 10B-19. Imposition and waiver of fees.**

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

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

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

2 **"§ 10B-20. Fees for notarial acts.**

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

4 (1) For acknowledgments, jurats, verifications or proofs, five dollars
5 (\$5.00) per principal signature.

6 (2) For oaths or affirmations without a signature, five dollars (\$5.00) per
7 person, except for an oath or affirmation administered to a credible
8 witness to vouch for a principal's identity.

9 **"§ 10B-21. Notice of fees.**

10 Notaries who charge for their notarial services shall conspicuously display in their
11 places of business, or present to each principal outside their places of business, an
12 English-language schedule of fees for notarial acts. No part of any notarial fee schedule
13 shall be printed in smaller than 10-point type.

14 "Part 5. Signature and Seal.

15 **"§ 10B-22. Official signature.**

16 When notarizing a paper record, a notary shall sign by hand in ink on the notarial
17 certificate exactly and only the name indicated on the notary's commission. The notary
18 shall print or type his or her name directly below the official signature. The notary shall
19 affix the official signature only at the time the notarial act is performed. The notary shall
20 not sign a paper record using a facsimile stamp or an electronic or other printing
21 method.

22 **"§ 10B-23. Official seal.**

23 (a) A notary shall keep an official seal or stamp (herein "seal") that is the
24 exclusive property of the notary. The seal shall not be possessed or used by any other
25 person, nor surrendered to an employer upon termination of employment.

26 (b) The seal shall be placed by the notary near the notary's signature and on the
27 same page on every paper record notarized.

28 (c) The seal shall be impressed only at the time the notarial act is performed.

29 (d) When not in use, the seal shall be kept secure and accessible only to the
30 notary.

31 (e) If a seal is stolen, lost, damaged or otherwise rendered incapable of affixing a
32 legible image, within 10 days of such discovery the notary shall do the following:

33 (1) Inform the appropriate law enforcement agency in the case of theft or
34 vandalism.

35 (2) Notify the appropriate register of deeds and the Secretary of State in
36 writing and signed in the official name in which he or she was
37 commissioned.

38 As soon as is reasonably practicable after resignation, revocation, or expiration of a
39 notary commission, or death of the notary, the seal shall be delivered to the Secretary of
40 State for disposal.

41 **"§ 10B-24. Seal image.**

42 (a) Near the notary's official signature on the notarial certificate of a paper
43 record, the notary shall place a sharp, legible, permanent, and photographically
44 reproducible image of the official seal.

(b) A notary's official seal shall include 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."; and
- (4) The words "North Carolina" or the abbreviation "NC".

(c) The notary seal may be either circular or rectangular in shape. The circular seal may not be over 2 inches in diameter; the rectangular seal may not be over 1 inch wide and 2-1/2 inches long. The perimeter of the seal shall contain a border that is visible when impressed.

(d) After December 31, 2009, notary seals shall not contain a commission expiration date.

"Part 6. Certificate Forms.

"§ 10B-25. Notarial certificates in general.

(a) In addition to the notarial certificates contained in this section, a notary public shall also use certificates that are in substantially the same form as those contained in G.S. 47. All statutory forms for the certification of acknowledgment or proof of written instruments shall include:

- (1) The name of the state and county in which the certification occurs;
- (2) The body of the certificate, stating before whom, by whom, and in what manner the signature was acknowledged or proved;
- (3) The date of the acknowledgment or proof;
- (4) The signature and seal or stamp of the officer who took the acknowledgment or proof; and
- (5) The notary's commission expiration date.

(b) Any certificate of acknowledgment taken in another jurisdiction shall be sufficient in this State if it is taken in accordance with the laws of the jurisdiction where the acknowledgment is made.

"§ 10B-26. General acknowledgment.

A notary public shall use a certificate in substantially the following form in notarizing the signature or mark of persons acknowledging for themselves or as partners, corporate officers, attorneys-in-fact, or in other representative capacities:

State of North Carolina
_____ County

I, [name of notary], a notary public of _____ County, North Carolina, do certify that on this _____ day of _____, 20 ____, before me personally appeared [name], [and title, if applicable], (personally known to me) (proved to me by satisfactory evidence) (proved to me on the oath or affirmation of _____, who is personally known to me,) to be the person(s) whose name(s) (is) (are) signed on the preceding or attached record, and acknowledged to me that (he) (she) (they) signed it voluntarily for its stated purpose.

(Official Seal) Official Signature of Notary
My Commission Expires the day of , 20 .

"§ 10B-27. Verification or proof of acknowledgment.

A notary shall use a certificate in substantially the following form in notarizing a signature or mark on an affidavit or other sworn or affirmed written declaration:

State of North Carolina
County

I, [name of notary], a notary public of County, North Carolina, do certify that on this day of , 20 , before me personally appeared , (personally known to me) (proved to me by satisfactory evidence) (proved to me on the oath or affirmation of , who is personally known to me,) to be the person(s) who signed the preceding or attached record in my presence and who swore or affirmed to me that the signature(s) (is) (are) voluntary and the record truthful.

(Official Seal) Official Signature of Notary
My Commission Expires the day of , 20 .

"§ 10B-28. Subscribing witness of absent signer.

A notary shall use a certificate in substantially the following form to take an oath or affirmation from a subscribing witness that a signer, not appearing before the notary, did in fact execute or sign the record:

State of North Carolina
County

I, [name of notary], a notary public of County, North Carolina, do certify that on this day of , 20 , before me personally appeared , (personally known to me) (proved to me by satisfactory evidence) (proved to me on the oath or affirmation of , who is personally known to me,) or (proved to me by satisfactory evidence) to be the person whose name is signed on the preceding or attached record as subscribing witness and who declared to me under oath that (he) (she) personally knows (name of signer not appearing before notary), that they are not a named party to this and have no interest in this transaction, and that (he) (she) witnessed that individual sign or acknowledge the record having signed the same as witness.

Signature of Subscribing Witness

(Official Seal)

Official Signature of Notary

My Commission Expires the _____ day of _____, 20_____.

"§ 10B-29. Signer by mark; person unable to sign.

As modified by the following provisions, the certificates in this chapter may be used for signers by mark or persons physically unable to sign or make a mark.

(a) 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 or jurat.

(b) 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 or jurat.

"§ 10B-30. Other certificates allowed.

In addition to the notarial certificates contained in this section, a notary public may also use other certificates provided by North Carolina law.

"Part 7. Changes in Status.

"§ 10B-31. 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 of State 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.

"§ 10B-32. Change of name.

(a) Within 45 days after the change of a notary's name, the notary shall send to the Secretary of State by fax, e-mail, or certified mail, return receipt requested, a signed notice of the change, giving both former and new names.

1 (b) A notary with a new name may continue to use the former name in
2 performing notarial acts until all of the following steps have been completed, after
3 which point the notary shall use the new name:

- 4 (1) The notary has received a confirmation of Notary's Name Change from
5 the Secretary of State;
- 6 (2) A new seal bearing the new name exactly as in the confirmation has
7 been obtained; and
- 8 (3) The notary shall appear before the register of deeds to which the
9 commission was delivered within 45 days of the effective date of the
10 change to be duly qualified by taking the general oath of office
11 prescribed in G.S. 11-11 and the oath prescribed for officers in
12 G.S. 11-7 under the new name and to have the notary public record
13 changed to reflect the new commissioned name.

14 **"§ 10B-33. Change of county.**

15 (a) A notary who has moved to another county in North Carolina remains
16 commissioned until the current commission expires and may continue to notarize
17 without changing his or her seal.

18 (b) When a notary who has moved applies to be recommissioned, if the
19 commission is granted the Secretary of State shall issue a notice of recommissioning.
20 The commission applicant shall then:

- 21 (1) Obtain a new seal bearing the new county exactly as in the notice of
22 recommissioning; and
- 23 (2) Appear before the register of deeds to which the commission was
24 delivered within 45 days of recommissioning, to be duly qualified by
25 taking the general oath of office prescribed in G.S.11-11 and the oath
26 prescribed for officers in G.S.11-7 under the new county and to have
27 the notary public record changed to reflect the new county name.

28 **"10B-34. Change of both name and county.**

29 (a) Within 45 days after the legal change of a notary's name, and if the notary has
30 also moved to a different county than as last commissioned, the notary shall submit to
31 the Secretary of State a recommissioning application and fee pursuant to this Chapter.

32 (b) A notary with a new name and county may continue to perform notarial acts
33 under his or her previous name and seal until the following steps have been completed:

- 34 (1) A transmittal receipt of reappointment due to name and county change
35 has been received from the Secretary of State;
- 36 (2) A new seal bearing the new name and county exactly as in the
37 transmittal receipt has been obtained; and
- 38 (3) The notary has appeared before the register of deeds to which the
39 commission was delivered within 45 days of recommissioning to be
40 duly qualified by taking the general oath of office prescribed in
41 G.S.11-11 and the oath prescribed for officers in G.S.11-7 under the
42 new name and county and to have the notary public record changed to
43 reflect the new name and county.

44 **"§ 10B-35. Resignation.**

1 (a) A notary who resigns his or her commission shall send to the Secretary of
2 State by fax, e-mail, or certified mail, return receipt requested, a signed notice
3 indicating the effective date of resignation.

4 (b) Notaries who cease to reside in or to maintain a regular place of work or
5 business in this State, or who become permanently unable to perform their notarial
6 duties, shall resign their commissions and shall deliver their seals to the Secretary of
7 State by certified mail, return receipt requested.

8 **"§ 10B-36. Disposition of seal; death of notary.**

9 (a) Except as provided below, when a notary commission expires, is resigned or
10 revoked, within 45 days the notary shall deliver his or her seal to the Secretary of State
11 for destruction. Delivery shall be accomplished by certified mail, return receipt
12 requested.

13 (b) A former notary who intends to apply for a new commission and whose
14 previous commission or application was not revoked or denied by this State, need not
15 deliver the seal within 45 days after commission expiration, but must do so within three
16 months after expiration unless recommissioned within that period.

17 (c) If a notary dies while commissioned or before fulfilling the disposition of seal
18 requirements in this section, the notary's estate shall, as soon as is reasonably
19 practicable and no later than the closing of the estate, notify the Secretary of State in
20 writing of the notary's death and deliver the notary's seal to the Secretary for
21 destruction.

22 "Part 8. Enforcement, Sanctions, and Remedies.

23 **"§ 10B-37. Enforcement and penalties.**

24 (a) The Secretary of State may warn, restrict, suspend, or revoke a notarial
25 commission for a violation of this Chapter and on any ground for which an application
26 for a commission may be denied under this Chapter.

27 (b) Except as otherwise permitted by law, any person without a commission who
28 holds himself or herself out to the public as a notary, or who performs notarial acts in
29 this State after his or her commission has expired, or during a period of commission
30 suspension or before a commission oath has been administered, is guilty of a Class 1
31 misdemeanor.

32 (c) Any notary who performs a notarial act without personal knowledge or
33 without satisfactory evidence of the signer's identity is guilty of a Class 1 misdemeanor.

34 (d) Any notary who:

35 (1) Takes an acknowledgment, performs an oath, affirmation, verification
36 or proof, or jurat knowing it is false or fraudulent; or

37 (2) Takes an acknowledgment or verification or proof or jurat without the
38 principal appearing before the notary is guilty of a Class I felony.

39 (e) Any person who holds himself or herself out to the public as a notary or who
40 performs notarial acts in this State and is knowingly not commissioned under this
41 Chapter is guilty of a Class I felony.

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

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

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

4 "Article 2.

5 "Electronic Notary Act.

6 "Part 1. General Provisions.

7 **"§ 10B-40. Short title.**

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

9 **"§ 10B-41. Definitions.**

10 The following definitions apply in this Article:

11 (a) Electronic: "Electronic" means relating to technology having electrical,
12 digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

13 (b) Electronic Notary Public and Electronic Notary: "Electronic Notary Public"
14 and "Electronic Notary" mean a notary public who has registered with the Secretary of
15 State the capability of performing electronic notarial acts in conformance with this
16 Article.

17 (c) Electronic Document: "Electronic Document" means information that is
18 created, generated, sent, communicated, received, or stored by electronic means.

19 (d) Electronic Notarial Act and Electronic Notarization: "Electronic Notarial
20 Act" and "Electronic Notarization" mean an official act by an electronic notary public
21 that involves electronic documents.

22 (e) Electronic Notary Seal: "Electronic Notary Seal" and "Electronic Seal" mean
23 information within a notarized electronic document that includes the notary's name,
24 jurisdiction, and commission expiration date, and generally corresponds to data in
25 notary seals used on paper documents.

26 (f) Electronic Signature: "Electronic Signatures" means an electronic symbol or
27 process attached to or logically associated with an electronic document and executed or
28 adopted by a person with the intent to sign the document.

29 (g) Notary's Electronic Signature: "Notary's Electronic Signature" means those
30 forms of electronic signature which have been approved by the Secretary of State, as
31 authorized in G.S. 10B-53, as acceptable means for an electronic notary to affix his or
32 her official signature to an electronic record that is being notarized.

33 (h) Official Electronic Journal of Notarial Acts and Official Electronic Journal:
34 "Official Electronic Journal of Notarial Acts" and "Official Electronic Journal" mean
35 the electronic mechanism for creating and preserving a chronological record of
36 notarizations performed by a notary. It must be either (i) housed and maintained in the
37 custody of the Secretary, or (ii) at another location, but only if it is maintained pursuant
38 to standards set by the Secretary of State. If maintained by the notary at a location other
39 than the custody of the Secretary, the notary must provide to the Secretary the location,
40 password, or access instructions that will allow the journal to be viewed, minted out,
41 and copied, but not altered and shall notify the Secretary when the password or access
42 instructions are changed. The journal must:

43 (1) Allow entry by the notary only;

44 (2) Be maintained and accessible only by the notary;

- 1 (3) Not allow a journal entry to be altered in content or sequence by the
2 notary or another person after a record of the notarization is entered
3 and stored;
4 (4) Allow entries to be viewed, printed out, and copied electronically by
5 any person using a password or another access method approved by
6 the Secretary;
7 (5) Have a backup system in place to provide a duplicate record in the
8 event of loss of the original record;
9 (6) Have the capability of printing out on paper and of providing
10 electronic copies of any entry, any combination of entries, or all
11 entries, including the images of related handwritten signatures or other
12 identifiers which may be included in an electronic copy; and
13 (7) Contain the information for each notarial act as required in
14 G.S. 10B-51."

15 **"§ 10B-42. Scope of this Article.**

16 Article 1 of this Chapter applies to all acts authorized under this Article.

17 "Part 2. Registration.

18 **"§ 10B-43. Qualifications.**

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

- 21 (1) Hold a valid commission as a notary public in the State of North
22 Carolina.
23 (2) Except as otherwise provided, abide by all the provisions of Article 1.
24 (3) Satisfy the requirements of G.S. 10B-45.
25 (4) Submit an electronic registration form containing no significant
26 misstatement or omission of fact.
27 (5) Pay a nonrefundable registration fee of fifty dollars (\$50.00).

28 (b) The Secretary may deny a registration as an electronic notary as authorized in
29 G.S. 10B-4(d).

30 **"§ 10B-44. Registration with the Secretary of State.**

31 (a) Before performing electronic notarial acts electronically with the Secretary of
32 State.

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

35 (c) An electronic notary shall reregister the capability to notarize electronically at
36 the same time the notary reapplies for requirements for his or her regular
37 commissioning pursuant to the requirements of this Chapter.

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

- 40 (1) The official name of the registrant;
41 (2) The state and county of commissioning of the registrant;
42 (3) The expiration date of the registrant's notary commission;
43 (4) Proof of successful completion of the course of instruction on
44 electronic notarization as required by this Article;

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

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

11 (7) The e-mail address of the registrant; and

12 (8) The location of the notary's electronic journal, including password or
13 access instructions that will allow the journal to be viewed, printed
14 out, and copied, but not altered, if the same is not to be maintained in
15 the custody of the Secretary.

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

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

23 **"§ 10B-45. Course of instruction.**

24 (a) Before performing electronic notarial acts, a notary shall take a course of
25 instruction of least three hours approved by the Secretary of State and pass an
26 examination of this course, which shall be in addition to the educational requirements
27 provided in Article 1 of this Chapter.

28 (b) The content of the course and the basis for the examination shall be notarial
29 laws, procedures, technology, and ethics as they pertain to electronic notarization.

30 **"§ 10B-46. Fees for registration.**

31 The fee payable to the Secretary of State for registering or reregistering as an
32 electronic notary is fifty dollars (\$50.00), to be retained by the Secretary of State for the
33 administration of the electronic notary program.

34 "Part 3. Electronic Notarial Acts, Powers, and Limitations.

35 **"§ 10B-47. Types of electronic notarial acts.**

36 The following types of notarial acts may be performed electronically:

37 (1) Acknowledgments;

38 (2) Jurats;

39 (3) Verifications or proofs; and

40 (4) Oaths or affirmations.

41 **"§ 10B-48. Prohibitions.**

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

- 1 (1) Is not in the presence of the electronic notary at the time of
2 notarization; and
3 (2) Is not personally known to the notary or identified by the evidence in
4 accordance with other provisions of this Chapter.

5 **"§ 10B-49. Notarial components of electronic document.**

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

- 10 (a) The notary's name, state, and county of commissioning exactly as stated on
11 the commission issued by the Secretary;
12 (b) The words "Electronic Notary Public";
13 (c) The words "State of North Carolina";
14 (d) The expiration date of the commission;
15 (e) The notary's electronic signature;
16 (f) The notary's e-mail address, and
17 (g) The completed wording of one of the following notarial certificates:
18 (1) General acknowledgment;
19 (2) Jurat;
20 (3) Verification or proof; or
21 (4) Oath or affirmation.

22 **"§ 10B-50. Maximum fees.**

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

- 25 (1) For acknowledgments, \$10.00 per signature;
26 (2) For jurats, \$10.00 per signature;
27 (3) For verifications or proofs, \$10.00 per signature; and
28 (4) For oaths or affirmations, \$10.00 per signature.

29 "Part 4. Electronic Notary Records, Maintenance, and Disposition.

30 **"§ 10B-51. Requirements for official journal of electronic notarial acts.**

31 An electronic notary shall maintain a chronological official journal of electronic
32 notarial acts in accordance with G.S. 10B-41(h). The electronic notary shall record each
33 electronic notarial act in the official electronic journal in a form and manner required
34 and prescribed by the Secretary of State. It is the duty and responsibility of the
35 electronic notary to record the information required for the official electronic journal
36 within 24 hours of performing the electronic notarial act.

37 (a) For every electronic notarial act, the electronic notary shall record in the
38 official electronic journal the following:

- 39 (1) The date and time of day of the electronic notarial act;
40 (2) The name of each principal;
41 (3) The evidence of identity of each principal, in the form of one of the
42 following:
43 a. A statement that the person is personally known to the notary;

1 b. A notation of the type of identification document presented and
2 its serial or identification number;

3 c. The name and address of each credible witness swearing or
4 affirming to the principal's identity;

5 (4) The fee, if any, charged for the electronic notarial act;

6 (5) The county where the electronic notarization was performed; and

7 (6) The type of electronic signature used by the principal to sign the
8 notarized document.

9 (b) An electronic notary shall not record a social security or credit card number
10 in the journal.

11 (c) This electronic journal requirement shall become effective one year after
12 adoption of standards by the Secretary of State regarding the Uniform Real Property
13 Electronic Recording Act.

14 **"§ 10B-52. Inspection of official journal of electronic notarial acts.**

15 (a) The official journal of electronic notarial acts shall be kept as a confidential
16 record.

17 (b) In the notary's presence, any person who was a principal may inspect an entry
18 in the official journal of electronic notarial acts during regular business hours, but only
19 if:

20 (1) The person's identity is personally known to the notary or proven
21 through satisfactory evidence;

22 (2) The person specifies the month, year, and name of act or acts sought;
23 and

24 (3) The person is shown only the entry or entries specified.

25 (c) The official electronic journal may be examined as permitted by applicable
26 law, subpoenaed by court order, or surrendered at the direction of the Secretary of State.

27 (d) Upon complying with a request under subsection (b) of this section, the
28 notary shall provide a copy of a specified entry or entries in the official electronic
29 journal at a cost of not more than one dollar (\$1.00) per page; other entries on the same
30 page shall be redacted.

31 **"§ 10B-53. Electronic signature, electronic seal, and official electronic journal.**

32 (a) The notary's electronic signature in combination with the electronic notary
33 seal shall be used only for the purpose of performing electronic notarial acts.

34 (b) The notary's official journal of electronic notarial acts shall be maintained and
35 shall be used only for the purpose of itemizing notarial acts, whether electronic or
36 otherwise.

37 (c) The Secretary of State shall promulgate rules necessary to establish standards,
38 procedures, practices, forms, and records relating to a notary's electronic signature, seal
39 and journal. The notary's electronic seal, signature and journal shall conform to any
40 standards promulgated by the Secretary.

41 **"§ 10B-54. Security measures.**

42 (a) A notary shall safeguard the notary's electronic signature, the official
43 electronic journal, and all other notarial records and surrender or destroy them only

1 pursuant to applicable law, by court order, at the direction of the Secretary of State
2 schedule established by rule by the Secretary of State.

3 (b) When not in use, the official electronic journal shall be kept in a secure area
4 under the exclusive control of the notary and shall not be used by any other notary.

5 (c) Within 10 days after the official electronic journal is stolen, lost, destroyed,
6 damaged, or otherwise rendered unusable or unreadable as a record of notarial acts, the
7 notary after informing the appropriate law enforcement agency in the case of theft or
8 vandalism, shall notify the Secretary of State by any tangible receipt or
9 acknowledgement, including certified mail and electronic transmission, and also
10 provide a copy or number of any pertinent police report.

11 (d) Upon resignation, revocation, or expiration of an electronic notary
12 commission, or death of the notary, the official electronic journal and notarial records
13 shall be delivered to the Secretary of State.

14 **"§ 10B-55. Maintenance of electronic device.**

15 (a) An electronic notary shall take reasonable steps to ensure that any registered
16 device used to create the notary's electronic signature is current and has not
17 been revoked or terminated by its issuing or registering authority.

18 (b) If the registration of the device used to create electronic signatures either
19 expires or is changed during the electronic notary's term of office, the notary shall cease
20 performing electronic notarizations until:

21 (1) A new device is duly issued or registered to the notary; and

22 (2) An electronically signed notice is sent to the Secretary that shall
23 include the starting and expiration dates of any new registration term
24 and any other new information at variance with information in the
25 most recently executed electronic registration form.

26 **"§ 10B-56 Disposition of records.**

27 (a) Upon compliance with G.S. 10B-54 and except as provided in subsection (b)
28 of this section, when an electronic notary's commission expires or is resigned or
29 revoked, or when an electronic notary dies, the notary or the notary's duly authorized
30 representative shall erase, delete, or destroy the coding, disk, certificate, card, software,
31 file, or program that enables electronic affixation of the notary's official electronic
32 signature.

33 (b) A former electronic notary whose previous commission or application was
34 not revoked or denied by the Secretary need not erase, delete, or destroy the coding,
35 disk, certificate, card, software, file, or program enabling electronic affixation of the
36 official electronic signature if he or she is recommissioned and reregistered as an
37 electronic notary using the same electronic signature within three months after
38 commission expiration.

39 "Part 5. Certificate Forms.

40 **"§ 10B-57. Validity of notarial certificates.**

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

43 **"§ 10B-58. Form of evidence of authority of electronic notarial act.**

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

7 **"§ 10B-59. Certificate of authority for electronic notarial act.**

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

11
12 Certificate of Authority for an Electronic Notarial Act

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

19
20 To verify this Certificate of Authority for an Electronic Notarial Act, I
21 have included herewith my electronic signature this _____ day of
22 _____, 20_____.

23 (Electronic signature (and seal) of commissioning official)

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

26 "Part 6. Enforcement.

27 **"§ 10B-60. Restriction or revocation of registration.**

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

32 **"§ 10B-61. Wrongful manufacture distribution, or possession of software or**
33 **hardware.**

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

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

41 **SECTION 3.** This act becomes effective December 1, 2005.