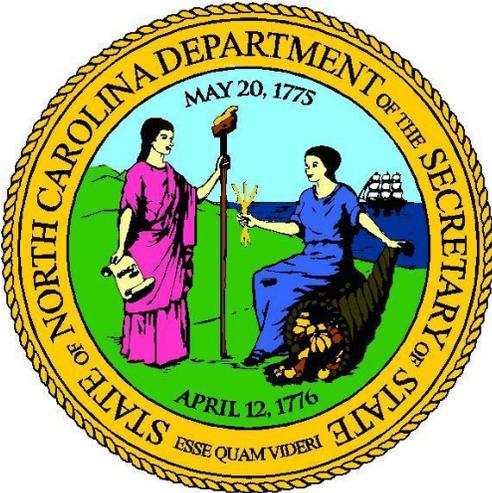


Fiscal and Regulatory Impact Analysis for Adoption and Amendment of
Select Notary Public Division Rules

North Carolina Department of the Secretary of State



July 24, 2023

Rules: 18 NCAC 07B Sections .200, .300, and .400, General Requirements
18 NCAC 07F, Electronic Notary Public Requirements
18 NCAC 07I, Journals
18 NCAC 07K, Miscellaneous Rules

Rulemaking Authority: G.S. § 10B-4
G.S. § 10B-14(a), (f)
G.S. § 10B-106(d)
G.S. § 10B-125(b)
G.S. § 10B-126(a), (d), (e), (f), (g)
G.S. § 10B-134.15(b), (d)
G.S. § 10B-134.17(c)
G.S. § 10B-134.21
S.L. 2023-57

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Impact Summary: State funds impact: Yes
Local funds impact: No
Private sector impact: Yes
Substantial economic impact: No
Federal requirement: No

Statement of Necessity: This rule package is proposed for adoption as required and authorized by the Notary Public Act (G.S. 10B Article 1) and the Electronic Notary Act (G.S. 10B Article 2) to further the purposes of those acts as described by G.S. 10B-2. These purposes include the implementation of recent laws authorizing remote electronic notarization in North Carolina for the first time. Moreover, this rule package is proposed to satisfy the Department’s requirement to periodically review rules pursuant to G.S. 150B-21.3A.

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Introduction

The North Carolina Department of the Secretary of State (hereafter “Department”) is charged under North Carolina’s Notary Public Act to educate, commission, and monitor notaries public. See G.S. 10B-1, *et seq.* Notaries public are public officers of the State of North Carolina charged with protecting its citizens from fraud and forgery by positively establishing the identity of persons appearing before them – “principals.” The General Assembly requires notaries public to be involved in certain defined activities requiring protection from identity fraud. The private sector separately may require the services of notaries to reduce transactional risks of contract repudiation on the basis of identity fraud, forgery, duress or coercion. Historically, the primary tools existing notaries use to meet their statutory obligations are requiring personal appearance of the principal, positively identifying the principals and recording evidence of the notarial action in a journal of notary acts.

Notaries have a vital role in protecting the citizens of North Carolina and facilitating commerce for those doing business in the State and beyond. They provide an important check to help ensure transactions are not repudiated due to mental incapacity of the principal; coercion or duress; and fraud. Notarial acts unobtrusively provide integrity to depositions, wills, advance directives (both health care and financial), automobile sales, real estate transactions, absentee voter ballots and more.

The North Carolina Notary Public Act establishes requirements to become a traditional notary public. Notaries public are public officials recognized by the North Carolina Constitution. A traditional notary performs notarial acts during an in-person meeting with the principal. A traditional notary must identify the principal using one of three specific methods. The Act and duly promulgated administrative rules govern the conduct of notaries as well as how to become an official notary instructor.

Article 2 of the Notary Public Act, adopted in 2005, governs electronic notaries public (eNotary). Like a traditional notary, an eNotary performs notarial acts during a meeting conducted physically in-person, but uses technology to electronically notarize the principal’s electronic signature on an electronic document. An eNotary must comply with most traditional notary requirements. The Act also regulates the technology used by the eNotary to perform electronic notarial acts.

Since there is no legal requirement that requires the reporting of all the events a notary may be asked to notarize, it is not possible to determine the number of notarial acts performed in North Carolina or the United States.

Baseline Regulatory Conditions

More recently, on May 4, 2020, SL 2020-3 (“EVN”) was enacted to authorize “emergency video notarization” in response to the COVID-19 pandemic. EVN supplemented existing laws governing traditional and electronic notarization to permit notarizations to occur between a notary and principal who were not in the physical presence of one another but located within the state and communicating directly through real-time audio-visual technology. Through subsequent bills, most recently S.L. 2023-57, the General Assembly has extended this emergency authorization to June 30, 2024 while charging the Department to establish permanent rules governing the practice of remote electronic notarization that EVN first permitted in this state.

S.L. 2022-54, known as the Remote Electronic Notarization Act or RENA, was enacted on July 8, 2022. Adoption of RENA was a direct outcome of the global pandemic, increasing economic activity being conducted remotely, and the need to conduct crucial business, legal, healthcare, and other transactions safely, securely and efficiently in the rapidly evolving remote environment. This law requires the Secretary of State to adopt permanent rules on many topics first addressed in temporary fashion by EVN. The rules must fulfill the long-standing purposes of the Notary Public Act, including:

- To simplify, clarify, and modernize the law governing notaries,
- To prevent fraud and forgery,
- To foster ethical conduct among notaries, and
- To enhance interstate recognition of notarial acts.

RENA expanded the purposes of the Notary Act to include a requirement to integrate procedures for traditional paper notarization, electronic notarization, and remote electronic notarization.

For the first time in North Carolina history, RENA allows an eNotary physically located in North Carolina to perform remote electronic notarizations for a remotely located principal. Under this new law, a remotely located principal can be physically located anywhere in the United States or its territories. Furthermore, in specific circumstances, the principal can be on a US military base or in a US embassy. RENA requires real-time, simultaneous communication between the eNotary and the remote principal using communications technology. Identification of the remotely located principal must be aided by identity and credential proofing technologies reviewed and licensed by the Department. RENA also establishes that this technology must meet security and performance criteria established by the Department. The law also establishes new and maximum fees that a notary can charge for their services. In all cases where the General Statutes provide a maximum fee amount and rules are amended to match, such conditions are considered part of the baseline condition and are thus excepted from further fiscal impact analysis as part of the Department's rulemaking efforts.

A 2023 amendment to RENA, S.L. 2023-57, makes other key provisions part of the regulatory baseline for the purposes of this analysis. For the first time it makes explicit a requirement for all notaries to maintain a journal of all notarial acts. Previously, only notarial acts performed pursuant to EVN were explicitly required to be entered into a journal, though harmonization of several existing statutes led to the reasonable conclusion that journals were required for all notarial acts, and were taught as best practice.

Emergency authorizations of remote electronic notarization by the General Assembly through EVN, in combination with the mandate to establish permanent rules governing the practice, firmly establish the legislature's intent to permanently authorize remote electronic notarizations. Therefore, this fiscal analysis treats the authorization of remote notarization as a baseline condition from which to evaluate the fiscal impacts of these rules.

G.S. 150B-21.3A separately requires all state agencies to review existing rules every 10 years in accordance with a prescribed process that includes rule readoption. Many rules associated with the notary program are nearing the end of their decadal cycle and thus are due for review and readoption. In combination with specific statutory mandates that require further rulemaking for the notary program,

the Department's approach to rulemaking also streamlines its compliance with rule readoption requirements.¹

Summary of the Proposed Regulations

To inform the current rulemaking process, the Secretary promulgated two Advance Notices of Proposed Rulemaking (ANPRs) covering a broad range of topics. The ANPRs were published on the Department's website and emailed to over 400 stakeholders and others. The ANPRs requested comments on many issues raised by RENA and requiring regulatory clarity. The first ANPR focused primarily on issues related to the relationship between traditional notaries and electronic notaries and the remote electronic notarial act. The second ANPR focused on issues related to the technology notaries must use to perform remote electronic notarial acts.

RENA requirements for remote electronic notarial acts (RENs) are based on the foundations of traditional notaries and notarial acts, the requirements for eNotaries and electronic notarial acts, and experience from the implementation of EVN. Rule updates must therefore harmonize the requirements for traditional notaries, electronic notaries, and electronic notaries performing remote electronic notarial acts to the extent feasible, as well as establish a permanent set of rules to reliably accomplish the beneficial effects of EVN without enabling an unacceptable risk of fraud.

The justification to further modernize notary rules extends beyond recent statutory requirements. For example, since well before the COVID-19 pandemic the Department and a large group of stakeholders have been developing the legal infrastructure to fully support electronic mortgage closings. Electronic mortgage closing promises benefits like more informed borrowers, more efficient loan closing meetings, fewer errors, reduced environmental impacts, and reduced cycle time for loans to enter the secondary mortgage market. The ability of lenders and principals to utilize the services of an electronic notary performing remote electronic notarial acts is integral to the success of this transformative initiative. Similarly, 96 counties in North Carolina are now recording electronically transmitted deeds, another process for which a notary's services are integral as a matter of law.

Due to the scope and scale of the requirements for this rulemaking process, the Secretary will propose the adoption or readoption of all notary rules in three sets. This first set of proposed rules deals with fundamental issues related to all three methods of performing notarial acts and establishes certain common rules, including some associated with RENA. The second set of rules will focus primarily on revising existing rules. The final set of rules will focus primarily on the process of performing remote electronic notarial acts, the technology used to perform remote electronic notarial acts and the licensure and approval of the providers of that technology.

This fiscal analysis covers the following rules proposed by the Department:

- 18 NCAC 07B Sections .200, .300, and .400, General Requirements (new and amended rules)
- 18 NCAC 07F, Electronic Notary Public Requirements (new and amended rules)
- 18 NCAC 07I, Journals (new rules)
- 18 NCAC 07K, Miscellaneous Rules (new rules)

¹ Notary rules appear on the Rules Review Commission's Periodic Review Schedule for September 2024. See <https://www.oah.nc.gov/documents/rules/periodic-review-report-schedule-2024-2027/open>.

Scope of Analysis

More than 160,000 notaries are presently commissioned by the Secretary of State. Of these, over 6,000 are further credentialed and commissioned as electronic notaries. Performing EVN does not require a unique notarial commission. Notaries are commissioned for a five-year term with potential for reappointment. As a result, the number of commissioned notaries in North Carolina is always in flux.

There is no central repository in which the performance of notarial acts is recorded, nor are there reliable studies estimating the number of notarial acts performed annually in North Carolina. The Department has identified no available data set that can be used to estimate the relative proportion of notarial acts performed traditionally, electronically, or remotely via communication technology. For these reasons, quantifying rule impacts upon notaries public would be exceptionally speculative in all but the rarest circumstances.

Stakeholders affected by notary rules can be similarly difficult to identify, but the influence of notaries can be traced throughout North Carolina's economy. Stakeholders most directly impacted by these rules include the Department, notaries public, principals to notary transactions, and electronic notary platform providers, licensees and vendors. Additional impacts might be traced to Registers of Deeds, Clerks of Court and other county offices; financial institutions; mortgage providers; title companies; ecommerce providers; the N.C. Department of Motor Vehicles; car dealerships; educational institutions; construction companies; realtors; medical providers; attorneys and other members of the legal profession; nursing homes; absentee voters; the N.C. State Board of Elections; and any other industry that benefits from the identity verification services that notaries provide.

At the outset of this analysis, the Department sought to identify costs over a 3-year timeframe where possible. However, due to a lack of data or even reliable estimates with uncertainty bounds, the only quantitative estimates provided in this analysis are one-time and annual estimates where some data is available.

Like many private industries, state and local governments in North Carolina employ notaries. The number of notaries serving in government, their job descriptions, and the extent to which notarial acts are conducted or required is unknown. Therefore, state and local government impacts are defined here to exclude incidental impacts upon notaries serving in state or local government positions. Instead, such impacts are discussed as they relate to the individual notary rather than the agency by which a notary may be employed.

Summary of Impacts

Table 1 provides a summary of fiscal impacts for this rule package. With few exceptions, all impacts are evaluated but unquantified due to a lack of available data. In the Department's professional judgment, the collective financial impact of these changes is less than \$1 million in any year. The Department further estimates that the operational efficiencies and benefits of these rules exceed any operational costs to the State, and that funds are available to implement this round of regulations. No impacts to local or federal expenditures were identified.

Table 1: Summary of Fiscal Impacts (as compared to the regulatory baseline).

	Private Benefits/ Amount	Private Costs/ Amount	State Benefits/ Amount	State Costs/ Amount
18 NCAC 07B, allowable payment methods	N	N	N	N
18 NCAC 07B, dishonored payment fees	Y (<\$500/yr)	Y (<\$500/yr)	Y (<\$500/yr)	Y (<\$500/yr)
18 NCAC 07B, form and electronic processing requirements	Y	Y	Y	N
18 NCAC 07F, electronic notary training	N	N	N	N
18 NCAC 07F, notary certificate delivery	N	N	N	N
18 NCAC 07F, electronic notary seal	Y	Y (\$90,000 one-time)	Y	N
18 NCAC 07I, journal requirements	N	N	N	N
18 NCAC 07K, travel fees	Y	Y	Y	N

* Quantified impact estimates provided where available. For rules providing statutory clarifications in all subchapters, incremental State and private benefits are expected due to improved regulatory certainty.

Impact Analysis: 18 NCAC 07B Sections .0200, .0300, and .0400

Subchapter Overview

New and amended rules proposed in this subchapter relate to notary filing fees set by statute (Section .0200) and notary filing requirements also established by statute (Section .0300). Because the amended rules govern the process and payments for persons submitting applications, once rules implementing RENA are adopted in the future, these amendments will at that time also be applicable to those wishing to become licensed or approved technology providers. Section .0400 establishes the required contents of key forms used by the Department. Excepting the two provisions addressed below, proposed rule amendments either codify current Departmental operating practices or clarify existing legislative and regulatory rule requirements. As such, these changes have no fiscal impact.

Table 2. Notary appointment volume.

Year	Notary Appointments	Notary Reappointments	eNotary Appointments
2018	13,453	18,424	644
2019	14,899	17,953	380
2020	10,778	18,525	2,291
2021	18,816	17,663	1,146
2022	20,362	17,798	1,425

Allowable Payment Methods

Proposed Rule .0202 of this subchapter addresses the Department’s acceptance of online payments. While prior rules only referenced online payment from an automated clearinghouse debit account (ACH), the proposed rule also allows payment by credit card or debit card. Such a change theoretically could have benefits associated with convenience for filers, or costs to the Department associated with credit card processing fees. However, the Department has not interpreted the existing rule to exclude credit or debit payments, and it has further relied upon statutory authorities in the E-Commerce Act (G.S. Chapter 66) to accept credit and debit card payments. The Department presently

charges a \$3.00 fee for credit card transactions and a \$2.00 fee for ACH transactions if a filer chooses to utilize these methods of payment. Because Rule .0202 is being updated to reflect current practice, this proposed change has no impact from the baseline.

Dishonored Payment Fees

Rules .0205 through .0210 collectively clarify the Secretary of State's procedures to collect a processing fee for dishonored payments (insufficient funds or no bank account). The rules include two changes with impacts from the baseline: a potential increase in the fee charged for nonpayment and new discretion not to charge these fees. The existing rule language requires the Department to charge a \$25.00 fee for dishonored payments. The proposed rule language gives the Department discretion to levy such a fee and incorporates the maximum fee amount allowed by G.S. 25-3-506 (currently \$35.00). Dishonored payment fees are directed to the Secretary of State's General Fund.

The proposed language more accurately reflects current Departmental processes in relation to fees. When filing payments are dishonored, departmental staff typically notify the filer and discontinue processing a filing until the issue of payment is resolved. Frequently, dishonored payments are simply the result of typographical errors such as the transposition of digits in an account number.

By changing the fee from a mandatory fee to a discretionary one, the rule acknowledges the practical reality that any State benefit arising from the collection of dishonored payment fees is typically outweighed by the costs of collection, including both employee wage costs and opportunity costs. In FY 2022-2023 the Department had 33 checks dishonored in connection with notary filings, which resulted in up to \$825 in dishonored payment fees assessed. Inadequate information is available regarding the dishonored fees collected in connection with the notary program in this year or prior years. A \$35.00 dishonored payment fee in future years for the same number of dishonored checks would have resulted in up to \$1,155 in fee assessments, a difference of \$330. Regardless of the Department's dishonored fee collection rate, actual state impacts associated with this change are vanishingly small.

Analogous private sector impacts, though minimal, potentially accrue to notary filers who made dishonored payments. These filers may be subject to slightly higher dishonored payment fees but under the proposed rules allowing discretionary action are less likely to have any such fees assessed against them.

Costs and benefits to both the private sector and to State government are estimated at less than \$500 annually.

Form and Electronic Processing Requirements

Rules in this section establish a new requirement to use existing Departmental forms and to file those forms electronically in many circumstances. A key exception is for forms associated with traditional notaries public, for which paper filings will be permitted even though electronic filings will be strongly encouraged. While the requirement is new, the forms are preexisting and the electronic processing of certain forms is already available. Promulgation of this rule will have a minimal fiscal cost upon departmental operations while at the same time increasing operational efficiencies.

For this analysis, traditional notaries public are assumed to have a baseline level of technological access and competency to apply for their certification, register and complete required coursework, and conduct notarial acts. Electronic notaries public must have a higher level of technological sophistication

and access because use of computers and various software platforms are required to conduct electronic notarial acts.

Quantitative data associated with this new requirement is not available. However, the electronic processing of filings results in considerable net benefits for the private sector and the State. Establishing the required content for forms provides regulatory certainty for the private sector and the Department alike. In combination with data validation features, electronic processing of these forms will speed application review by reducing form errors and incomplete form filings. Lack of clarity due to poor handwriting will be lessened. Reducing these errors also reduces the time the private sector and departmental staff must devote to addressing these errors.

Separate from speedier document processing due to error reduction, electronic processing also reduces the need for departmental staff to electronically enter handwritten forms into its databases. This too reduces the approval time for filings because it bypasses delays associated with the data entry and mailing of forms. Finally, it will result in savings to notary filers through increased convenience and reduced postage, paper, and printing costs.

In sum, requiring electronic processing might result in minimal unspecified costs for some filers who might prefer to use paper forms. However, such costs are outweighed by the benefits resulting from the efficiency, convenience, and validation tools that electronic filing can provide.

Impact Analysis: 18 NCAC 07F

Subchapter Overview

New and amended rules in this subchapter address electronic notary public requirements. Many of these rules have been in place since 2007 and govern electronic notarial acts that occur while the principal is within the notary's physical presence. With the adoption of RENA and subsequent laws, these rules are amended to incorporate foundational requirements for remote electronic notarization.

Nearly all significant costs and benefits associated with the emerging practice of remote electronic notarization can be attributed to the statutory framework authorizing it. Rule amendments associated with (in-person) electronic notarization generally either clarify existing language or codify current practice. However, two aspects of this subchapter merit further analysis to fully assess potential regulatory impacts. A third change establishing a new electronic notary seal requirement has minor impacts which are evaluated below.

Electronic Notary Training

Rule .0301 of this subchapter governs the approved course of study for electronic notaries. Presently, the Department is tasked to "administer the training course and testing." Proposed amendments to the rule instead require the Department to "develop the training course and testing" and then "train certified notary instructors." Such changes bring the rule in line with current practice, which is to administer the training course and testing program through a system of certified notary instructors who deliver the training course and testing that has been prepared by the Department.

Such language will have no impact and reflects the current notary public training infrastructure in North Carolina. Since at least 2007 the Department has adopted a "train the trainer" approach, with electronic notary public classes being offered by North Carolina's community colleges and some four-year

institutions. Moreover, new rule requirements regarding student identity verification and passing test scores are consistent with current practice. Finally, S.L. 2023-47 increased the minimum electronic notarization course time from three to four hours, a requirement mirrored by proposed Rule .0303 of this subchapter.

Notary Certificate Delivery

New provisions in Rule .0508 of this subchapter specify requirements for the Register of Deeds to deliver notary commission certificates, potentially affecting local government operations in each of North Carolina's 100 counties. Further analysis shows that no new impacts are created. Instead, the proposed rules clarify administrative procedures for the delivery of commission certificates that were either implied by existing rule or that are required by statute. The new rule language reflects current longstanding practice for Register of Deeds' offices statewide.

Electronic Notary Seal

Rule .0807 of this subchapter specifies the required elements of an electronic notary seal. The Department has proposed supplementing statutory requirements with the inclusion of a unique identifier assigned to the technology provider creating the electronic seal.

Inclusion of the identifier supplements the Department's fraud-fighting capabilities by providing an independent means of verification for the electronic notarial act. The identifier might also dissuade some criminals from seeking, tampering with or trying to reproduce an electronic notary seal. Moreover, the Department can investigate fraud by making inquiries upon the technology provider that created the seal. Thus, the rule promotes investigative efficiencies for the Department while supporting the purposes of the Notary Public Act by reducing the amount of time it will take to investigate the source components of an alleged identity fraud.

This new requirement will necessitate the programming of a new identifier into the electronic notary software and seal. Presently there are nine approved electronic notary solution providers in North Carolina, all of whom would be required to reprogram their software and distribute updates to their clients. No reliable estimate of these reprogramming and distribution costs is presently available. For the purposes of this fiscal note, a one-time expense of \$10,000 per technology provider is assumed to provide an order-of-magnitude estimate of programming labor costs for this change, for a total one-time cost of \$90,000. Future technology providers would also be required to incur the estimated \$10,000 one-time cost. If public comments suggest these impacts are substantially underestimated, the Department may amend this fiscal note at a later stage in the rulemaking process.

The central, express goal of the Notary Public Act is to reduce identity fraud and resulting economic harm. Individualized identification of the manufacturer of the electronic seal will help limit the number of victims, which has the collateral benefit of reducing pressure on law enforcement and the court system.

Impact Analysis: 18 NCAC 071

Subchapter Overview

Subchapter 071 is comprised of entirely new rules. For decades, maintenance of a journal by notaries public was taught as a best practice that could corroborate notarizations, help mitigate risk for the notary and that could be read to be statutorily required, though the requirement was not explicit. The

EVN statute explicitly required documentation in a journal of all notarial acts performed remotely over audio-visual technology. In 2022, RENA followed EVN to require that an electronic journal be maintained to record remote electronic notarial acts. The journal requirement was then explicitly expanded to all notarial acts by S.L. 2023-57.

Journal Requirements

Both RENA and S.L. 2023-57 require the Department to engage in rulemaking to clarify requirements associated with maintaining journals. Therefore, requirements for notaries to purchase, maintain, make entries upon, and securely store a journal are treated as a baseline condition for analysis of this rule section. As such, no rule impacts are identified in this subchapter.

Impact Analysis: 18 NCAC 07K

Subchapter Overview

Rules of this subchapter provide definitions to be used throughout 18 NCAC Chapter 07 and specify the procedures notaries must follow to charge travel fees. Allowance to charge for travel fees was first authorized by RENA in 2022, and such fees are presently eligible to be collected by notaries.

Travel Fees

RENA requires all notaries to obtain advance written consent from a principal before charging travel fees. The new regulations associated with travel fees require notaries to provide advance cost estimates upon request, secure advance consent for travel, provide receipts upon request, and document the basis for fees. These regulations collectively are intended to provide safe harbor protections for notaries, protections for notary principals, and adequate enforcement information for the Department. These benefits can be weighed against the minimal and unquantified costs to notaries for implementing these requirements, which are typical of other transactional business practices. A notary's willingness to perform traveling services suggests that the costs of compliance with the regulation are less than the financial benefits to the notary for providing traveling services.

Appendix I: Proposed 18 NCAC 07B Rules

18 NCAC 07B .0201 is proposed for amendment as follows:

SECTION .0200 – FEES PAID TO THE ~~DIVISION~~ DEPARTMENT

18 NCAC 07B .0201 US U.S. CURRENCY

Fees Filers shall be paid by a personal or business check, a money order, or a cashier's check tender fees in U.S. dollars and cents. ~~cents made payable to the N.C. Department of the Secretary of State.~~

History Note: Authority G.S. 10B-4; 10B-13; 10B-14(f); 10B-108; 10B-134.19(b), (f), (g); 25-3-506; 147-37;
Eff. April 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December
6, 2016;
Transferred from 18 NCAC 07B .0105(a) Eff. June 1, ~~2023~~; 2023;
Amended Eff. July 1, 2024.

18 NCAC 07B .0202 is proposed for amendment as follows:

18 NCAC 07B .0202 ONLINE FEE PAYMENT

Fees for on-line applications may be paid by Filers who tender fees online shall pay by:

- (1) an automated clearinghouse debit account ~~(ACH)~~; (ACH);
- (2) a credit card; or
- (3) a debit card.

History Note: Authority G.S. 10B-4; 10B-13; ~~10B-14(f)~~; 10B-108; 10B-134.19(b), (f), (g); 25-3-506; 147-37;
Eff. April 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December
6, 2016;
Transferred from 18 NCAC 07B .0105(a) Eff. June 1, ~~2023~~; 2023;
Amended Eff. July 1, 2024.

18 NCAC 07B .0203 is proposed for adoption as follows:

18 NCAC 07B .0203 FEES PAID IN PERSON

Filers who tender fees in person shall pay with:

- (1) one of the following types of checks, made payable to the N.C. Department of the Secretary of State:
 - (a) a personal or business check;
 - (b) a money order;
 - (c) a cashier's check;
- (2) cash; or
- (3) a credit or debit card.

History Note: Authority G.S. 10B-4; 10B-13; 10B-14(b); 10B-108; 10B-134.19(b), (f), (g); 25-3-506; 147-37;
Eff. July 1, 2024.

18 NCAC 07B .0204 is proposed for adoption as follows:

18 NCAC 07B .0204 FEES PAID BY USPS OR BY DELIVERY SERVICE

Filers who tender fees through delivery by United States Postal Service (USPS) or by a designated delivery service authorized pursuant to 26 U.S.C. 7502(f)(2) shall pay with one of the following types of checks, made payable to the N.C. Department of the Secretary of State:

- (1) a personal or business check;
- (2) a money order; or
- (3) a cashier's check.

History Note: Authority G.S. 10B-4; 10B-13; 10B-14(b); 10B-108; 10B-134.19(b), (f), (g); 25-3-506; 147-37;
Eff. July 1, 2024.

18 NCAC 07B .0205 is proposed for amendment as follows:

18 NCAC 07B .0205 UNPAID FEES FOR DISHONORED PAYMENT

Pursuant to G.S. 25-3-506, the Department may charge a \$35.00 fee to a filer if a tendered payment is dishonored by a bank or financial institution. If a fee is paid with a check or other instrument which is returned by the institution upon which it was issued for “insufficient funds” or for other similar reason:

- ~~(1) The Division shall issue a notice of intent to deny the application or revoke the commission; and~~
- ~~(2) The Division shall issue a denial or revocation if the fee is not paid in full within 10 business days after the date on the notice of intent to deny or revoke.~~
- ~~(3) The Division shall charge a twenty five dollar (\$25.00) fee for which payment has been refused by the payer’s bank for insufficient funds or for no account.~~

History Note: Authority G.S. 10B-4; 10B-13; 10B-14(b); ~~10B-14(f)~~; 10B-108; 10B-134.19(b), (f), (g); 25-3-506; 147-37;
Eff. April 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
Transferred from 18 NCAC 07B .0105(c) Eff. June 1, ~~2023~~, 2023;
Amended Eff. July 1, 2024.

18 NCAC 07B .0206 is proposed for adoption as follows:

18 NCAC 07B .0206 FILING NOT PROCESSED IF PAYMENT DISHONORED

The Department shall not process a filing for which processing has not been completed if the Department receives notice that a payment has been dishonored.

History Note: Authority G.S. 10B-4; 10B-13; 10B-14(b); 10B-108; 10B-134.19(b), (f), (g); 25-3-506; 147-37;
Eff. July 1, 2024.

18 NCAC 07B .0207 is proposed for adoption as follows:

18 NCAC 07B .0207 DEPARTMENT ACTIONS UPON DISHONORED PAYMENT

If the Department has received notice that a tendered payment has been dishonored, regardless of whether the Department has completed processing the filing:

- (1) the filing shall be deemed incomplete;
- (2) the filing shall be voided if payment is not made in full within 15 calendar days of the dishonor pursuant to Rule .0208 of this Section; and
- (3) if any information has been posted on the Department's website indicating that commissioning, registration, licensure, or approval has occurred, the Department shall:
 - (a) remove the information from the website; or
 - (b) annotate the entry as incomplete or void.

History Note: Authority G.S. 10B-4; 10B-13; 10B-14(b); 10B-108; 10B-134.19(b), (f), (g); 25-3-506; 147-37; Eff. July 1, 2024.

18 NCAC 07B .0208 is proposed for adoption as follows:

18 NCAC 07B .0208 NOTICE TO FILER OF DISHONORED PAYMENT

Upon receipt of notice of dishonor of a tendered payment, the Department shall notify a filer orally or in writing that:

- (1) the payment the filer tendered has been dishonored by a bank or financial institution; and
- (2) the filing shall:
 - (a) not be deemed completed or processed until the filer has tendered in full the payment and the fee in Rule .0205 of this Section; and
 - (b) be voided if payment and fees are not tendered in full within 15 calendar days of the date the Department orally or in writing notifies the filer of the dishonor.

History Note: Authority G.S. 10B-4; 10B-13; 10B-108; 10B-134.19(b), (f), (g); 25-3-506; 147-37; Eff. July 1, 2024.

18 NCAC 07B .0209 is proposed for adoption as follows:

18 NCAC 07B .0209 NO REFUNDS

Payments and fees tendered to the Department are not refundable.

History Note: Authority G.S. 10B-4; 10B-13; 10B-14(b); 10B-108; 10B-134.19(b), (f), (g); 25-3-506; 147-37;
Eff. July 1, 2024.

18 NCAC 07B .0301 is proposed for adoption as follows:

SECTION .0300 – FILING, SIGNATURES ON FILINGS, AND RESPONSES TO REQUESTS FOR INFORMATION

18 NCAC 07B .0301 FORM USE REQUIRED

A filer shall use a form in Section .0400 of this Subchapter unless:

- (1) there is not a form for the filer’s purpose in Section .0400 of this Subchapter; or
- (2) there is an exception in Chapter 10B of the General Statutes or a rule in this Chapter.

History Note: Authority G.S. 10B-4; 10B-14(a), (f); 10B-106; 10B-125; 10B-126; 10B-134.15; 10B-134.17; 10B-134.21; 10B-134.23;
Eff. July 1, 2024.

18 NCAC 07B .0302 is proposed for adoption as follows:

18 NCAC 07B .0302 MODE OF FILING

Filers shall submit filings electronically by means established by the Department unless paper filing is permitted pursuant to:

- (1) Chapter 10B of the General Statutes; or
- (2) Rule .0303 of this Section.

History Note: Authority G.S. 10B-4; 10B-14; 10B-106; 10B-125; 10B-126; 10B-134.15; 10B-134.17; 10B-134.21; 10B-134.23;
Eff. July 1, 2024.

18 NCAC 07B .0303 is proposed for adoption as follows:

18 NCAC 07B .0303 PAPER FILINGS PERMITTED

Paper filings shall be permitted:

- (1) where the Department has not established electronic means for submittal of a filing; or
- (2) in the case of a traditional notary public:
 - (a) initial applications;
 - (b) re-commissioning applications; and
 - (c) documents required to verify qualifications of a notary applicant, an electronic notary applicant, or a notary instructor applicant pursuant to Chapter 10B of the General Statutes or the Rules in this Chapter.

History Note: Authority G.S. 10B-4; 10B-14; 10B-106; 10B-125; 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23;
Eff. July 1, 2024.

18 NCAC 07B .0304 is proposed for adoption as follows:

18 NCAC 07B .0304 INAPPLICABLE QUESTIONS

If a question or item is not applicable to a filer, the filer shall not leave the question or item blank but shall respond not applicable or N/A.

History Note: Authority G.S. 10B-4; 10B-14; 10B-106; 10B-125; 10B-126; 10B-134.15; 10B-134.17; 10B-134.21; 10B-23;
Eff. July 1, 2024.

18 NCAC 07B .0305 is proposed for adoption as follows:

18 NCAC 07B .0305 RESPONSE TO QUESTIONS AND REQUESTS FOR INFORMATION

A filer shall respond to departmental requests for information within the time and in the manner specified by the Department, after consideration of:

- (1) the nature of the information requested;
- (2) the urgency of the Department’s need for the information; and
- (3) the ease of production by the recipient of the request.

History Note: Authority G.S. 10B-4; 10B-14; 10B-106; 10B-125; 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23;
Eff. July 1, 2024.

18 NCAC 07B .0306 is proposed for adoption as follows:

18 NCAC 07B .0306 ATTACHMENTS

A filer shall use an attachment to a form to provide a complete and accurate response to a question or request for information from the Department if additional space is needed.

History Note: Authority G.S. 10B-4; 10B-14; 10B-106; 10B-125; 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23;
Eff. July 1, 2024.

18 NCAC 07B .0307 is proposed for adoption as follows:

18 NCAC 07B .0307 NOTICE OF ATTACHMENT

A filer shall:

- (1) make a note at the location of a question or request for information that an attachment has been added in order to fully respond. NOTE: an example is “See Attachment 1”; and
- (2) make a note on the attachment as to which question or request for information the additional information relates.

History Note: Authority G.S. 10B-4; 10B-14; 10B-106; 10B-125; 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23;
Eff. July 1, 2024.

18 NCAC 07B .0308 is proposed for adoption as follows:

18 NCAC 07B .0308 SIGNATURE FOR ENTITY

(a) If a person is signing a form or other document for a technology provider:

(1) the signer shall be duly authorized by law or the entity to sign; and

(2) the signer shall state on the form the signer’s title, position, and authorization to sign.

(b) For purposes of this Rule, “duly authorized by law” means as required by G.S. 55D-10(b)(5) for an entity, by the owner for a sole proprietorship, or by a general partner for a general partnership.

*History Note: Authority G.S. 10B-4; 10B-14; 10B-106; 10B-125; 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23;
Eff. July 1, 2024.*

18 NCAC 07B .0309 is proposed for adoption as follows:

18 NCAC 07B .0309 FORM PREPARER SIGNATURE REQUIRED

A form preparer signing for a technology provider shall:

(1) sign in the space provided for a preparer’s signature on a form; or

(2) document and note “form preparer” next to the signature in the space provided for a preparer’s signature on a form.

*History Note: Authority G.S. 10B-4; 10B-14; 10B-106; 10B-125; 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23;
Eff. July 1, 2024.*

18 NCAC 07B .0310 is proposed for adoption as follows:

18 NCAC 07B .0310 INCOMPLETE FILINGS

The Department shall consider a filing incomplete for:

(1) failure to provide information required pursuant to Chapter 10B of the General Statutes or the Rules in this Chapter; or

(2) lack of a signature required by Chapter 10B of the General Statutes or this Chapter.

*History Note: Authority G.S. 10B-4; 10B-14; 10B-106; 10B-125; 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23;
Eff. July 1, 2024.*

18 NCAC 07B .0311 is proposed for adoption as follows:

18 NCAC 07B .0311 REJECTION OF INCOMPLETE FILINGS

The Department shall reject a filing if it is incomplete and not remedied by the filer.

History Note: Authority G.S. 10B-4; 10B-14; 10B-106; 10B-125; 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23;
Eff. July 1, 2024.

18 NCAC 07B .0312 is proposed for adoption as follows:

18 NCAC 07B .0312 FILING DATE OF DOCUMENT

A form or document is deemed filed on the day that it is deemed complete pursuant to Section .0200 of the Rules in this Chapter and this Section and shall not relate back to the date the filing was received.

History Note: Authority G.S. 10B-4; 10B-14; 10B-106; 10B-125; 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23; 147-36; 150B-2(8a)(d);
Eff. July 1, 2024.

18 NCAC 07B .0401 is proposed for amendment as follows:

18 NCAC 07B .0401 GENERAL

All forms issued pursuant to Chapter 10B of the General Statutes may be found on the Department's website ~~or~~ or, where not available through the website, may be obtained by contacting the Department using one of the means set out in ~~Rule .0103~~ Section .0100 of this Subchapter.

History Note: Authority G.S. 10B-2; 10B-4; 10B-14; ~~10B-14(f)~~; 10B-106; 10B-125; 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23;
Eff. April 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
Transferred from 18 NCAC 07B .0104 Eff. June 1, ~~2023~~; 2023;
Amended Eff. July 1, 2024.

18 NCAC 07B .0402 is proposed for adoption as follows:

18 NCAC 07B .0402 CONTACT INFORMATION

For purposes of the rules in this Section, unless otherwise indicated, “contact information” means:

- (1) for an individual who is identified pursuant to G.S. 10B-134.19(c)(2):
 - (a) the full name of the individual;
 - (b) the following addresses:
 - (i) physical residential address that is not a post office box;
 - (ii) business address;
 - (iii) mailing address;
 - (c) business telephone numbers;
 - (d) business email addresses;
 - (e) any other names by which the individual is known, including nicknames;
- (2) for a business entity:
 - (a) the name of the entity on record with the Secretary of State or filing office in its state, tribe, or country of formation;
 - (b) the name of the state, tribe, or country of formation;
 - (c) the street address, and the mailing address if different, of the entity’s principal office;
 - (d) the street address, and the mailing address if different, of the entity’s registered office;
 - (e) the name, street address, and mailing address if different, of the entity’s registered agent;
 - (f) the telephone numbers of the entity;
 - (g) the email address of the entity;
 - (h) the URL for the entity’s website, if any;
 - (i) the name of the individual designated as the primary contact between the Department and the entity, and for that individual:
 - (i) title and position;
 - (ii) telephone number;
 - (iii) mailing address if different from the addresses provided in SubItems (2)(c) and (d) of this Item;
 - (iv) primary email address;
 - (v) secondary email address, if applicable;
 - (j) the name of an individual designated as the secondary contact between the Department and the entity if the individual named in SubItem (2)(i) of this Item is not available; and
 - (k) the information in SubItem (2)(i) of this Item for the secondary contact individual named in SubItem (j) of this Rule; or
- (3) for a registered agent listed on an application filed pursuant to G.S. 10B-134.19:

- (a) the name of the registered agent;
- (b) the registered office address for the registered agent and mailing address if different; and
- (c) a business email address for the registered agent.

History Note: Authority G.S. 10B-4; 10B-125; 10B-126; 10B-127; 10B-134.17; 10B-134.19; 10B-134.21; Eff. July 1, 2024.

18 NCAC 07B .0403 is proposed for adoption as follows:

18 NCAC 07B .0403 CERTIFICATE OF APPOINTMENT FORM

The certificate of appointment form includes:

- (1) space for the entry by the Register of Deeds in the county of the commission to enter:
 - (a) the name of the Register of Deeds or designee administering the oath;
 - (b) the title of the Register of Deeds or designee administering the oath;
 - (c) the name of the appointee who appeared before the Register of Deeds or designee and took the oath; and
 - (d) the signature of the Register of Deeds or designee who administers the oath; and
- (2) space for the signature of the notary after the oath has been administered by the Register of Deeds or designee.

History Note: Authority G.S. 10B-4; 10B-14; 10B-106; 10B-125; 10B-126; 10B-134.15; 10B-134.21; 10B-134.23; Eff. July 1, 2024.

18 NCAC 07B .0404 is proposed for adoption as follows:

18 NCAC 07B .0404 ELECTRONIC NOTARY REGISTRATION FORM

An electronic notary applicant registration form includes:

- (1) the name on the applicant's commission;
- (2) the commission number of the individual;
- (3) whether the applicant has any changes to report under G.S. 10B-50, G.S. 10B-51, G.S. 10B-52, G.S. 10B-53, G.S. 10B-54, 18 NCAC 07F .0404, 18 NCAC 07F .1106, or 18 NCAC 07F .1110;
- (4) for reapplications, a statement with regard to technology providers that:
 - (a) the notary will continue to use:
 - (i) the electronic notarization system of the technology provider for which the notary has previously provided notice; and
 - (ii) the custodian for the electronic journal for which the notary has previously provided notice;
 - (b) the names of the technology provider that the notary will now use; or
 - (c) at this time, the notary does not have a technology provider;
- (5) the signature of the electronic notary; and
- (6) the date on which the notary signs the form.

History Note: Authority G.S. 10B-4; 10B-14; 10B-106; 10B-125; 10B-126; 10B-127; 10B-134.17; 10B-134.15; 10B-134.19; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07B .0405 is proposed for adoption as follows:

18 NCAC 07B .0405 NOTICE OF SELECTION OF TECHNOLOGY PROVIDERS FORM

The selection of technology providers form includes:

- (1) the name on the electronic notary's commission;
- (2) the commission number of the electronic notary;
- (3) the name of the technology providers selected by the electronic notary to provide:
 - (a) electronic signatures and seals; and
 - (b) electronic journals;
- (4) the name of the custodian selected by the electronic notary to provide custodial services for electronic journals;
- (5) for an electronic notary who plans to perform remote electronic notarial acts, the names of the technology providers selected by the notary to provide platform services;
- (6) the anticipated dates on which the notary will begin using the technology providers;
- (7) the signature of the electronic notary; and
- (8) the date on which the electronic notary signs the form.

History Note: Authority G.S. 10B-4; 10B-106; 10B-125; 10B-126; 10B-127; 10B-134.17; 10B-134.15; 10B-134.19; 10B-134.21; 10B-134.23;
Eff. July 1, 2024.

18 NCAC 07B .0406 is proposed for adoption as follows:

18 NCAC 07B .0406 NOTICE OF CHANGE IN TECHNOLOGY PROVIDER

The notice of change in technology provider form includes:

- (1) the name of the technology provider that the electronic notary previously notified the Department the notary would use;
- (2) the type of service the technology provider previously provided to the notary;
- (3) the date on which the notary stopped or will stop using the technology provider to perform electronic notarizations;
- (4) the name of the technology provider that the notary will now use;
- (5) the date on which the notary anticipates beginning to use the new technology provider;
- (6) the signature of the notary; and
- (7) the date on which the notary signs the form.

History Note: Authority G.S. 10B-4; 10B-106; 10B-125; 10B-126; 10B-127; 10B-134.17; 10B-134.19; 10B-134.21;
Eff. July 1, 2024.

Appendix II: Proposed 18 NCAC 07F Rules

18 NCAC 07F .0101 is proposed for amendment as follows:

SECTION .0100 – GENERAL PROVISIONS

18 NCAC 07F .0101 SCOPE

~~(a)~~ The rules in this Subchapter implement ~~G.S. Chapter 10B, Article 2, of the General Statutes,~~ the Electronic Notary Act, and ~~G.S. 47-16.1. Act.~~

~~(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-4; 10B-125(b); 47-16.5; 47-16.7; 147-36; 15 USC 7002; 10B-126; 10B-134.15; 10B-134.17; 10B-134.21;~~
~~Eff. April 1, 2007;~~
~~Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;~~
~~Transferred from 18 NCAC 07C .0101 Eff. June 1, 2023- 2023;~~
~~Amended Eff. July 1, 2024.~~

18 NCAC 07F .0102 is proposed for amendment as follows:

18 NCAC 07F .0102 DEFINITIONS

~~In addition to terms defined in Article 1 of Chapter 10B of the General Statutes and for~~ 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)~~~~(1)~~ "Approved Electronic Notary Solution Provider" "Approved vendor for electronic notarizations," "approved electronic notary solution provider," or "AVEN" means a person ~~or entity~~ approved by the Department to provide an ~~Electronic Notarization System by the Department~~ electronic notarization system pursuant to Article 2 of Chapter 10B of the General Statutes ~~and Article 1A of Chapter 47 of the General Statutes.~~
- ~~(3)~~~~(2)~~ "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)(3) ~~"Electronic Notarization System"~~ notarization system means a set of applications, programs, hardware, software, or technology designed to enable a notary to perform electronic or remote electronic notarizations.
- (4) ~~"Electronic notary applicant" means a commissioned North Carolina notary public who applies to be registered or re-registered as an electronic notary public.~~
- (5) ~~"Electronic notary's electronic signature" means:~~
- (a) ~~an electronic image of the handwritten signature of the electronic notary public in the name of the notary as it appears on the notary's commission; and~~
- (b) ~~the AVEN's or other technology provider's security features attached to the signature in SubItem (5)(a) of this Rule.~~
- (6) ~~"Independently Verifiable" verifiable" means capable of government or third-party authentication of a notarial act, a an electronic notary's identity, identity and a notary's relevant authority. current status with the Department.~~
- (7) ~~"In the presence of the electronic notary at the time of notarization" means that an individual and an electronic notary are in close physical proximity to one another without using technology to establish personal appearance.~~
- (7)(8) ~~"Password Authentication"~~ 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)(9) ~~"Token Authentication"~~ 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"- 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-4; 10B-106; ~~10B-125(b)~~; 10B-125(b); ~~10B-126(d)~~; 10B-126; 10B-134.15; 10B-134.17; 10B-134.21; 47-16.5; 47-16.7; 147-36; 15 USC 7002;
Eff. January 1, 2007;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
Transferred from 18 NCAC 07C .0102 Eff. June 1, 2023- 2023;
Amended Eff. July 1, 2024.

18 NCAC 07F .0103 is proposed for adoption as follows:

18 NCAC 07F .0103 ELECTRONIC NOTARIES PERFORMING REMOTE ELECTRONIC NOTARIAL ACTS

An electronic notary public shall not perform a remote electronic notarial act until the notary has complied with the requirements of this Chapter.

History Note: Authority G.S. 10B-4; 10B-125; 10B-126; 10B-134.15; 10B-134.17; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07F .0201 is proposed for amendment as follows:

18 NCAC 07F .0201 VALID COMMISSION

~~(a) Qualifications.~~ An electronic notary applicant shall ~~provide:~~

- ~~(1) All information required for registration pursuant to G.S. 10B-106(d);~~
- ~~(2) Verification that the applicant holds hold a valid North Carolina notary commission and shall affirm that the applicant continues to meet the qualifications to hold the notary commission;~~
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.~~

History Note: Authority G.S. 10B-4; 10B-106; 10B-125(b); 10B-125(b); 10B-126(d); 10B-126; 10B-134.15; 10B-134.17; 10B-134.21; 47-16.5; 47-16.7; 147-36; 15 USC 7002;
Eff. January 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
Transferred from 18 NCAC 07C .0201(a) Eff. June 1, 2023- 2023;
Amended Eff. July 1, 2024.

18 NCAC 07F .0301 is proposed for amendment as follows:

SECTION .0300 – EDUCATION OF ELECTRONIC NOTARIES PUBLIC

18 NCAC 07F .0301 APPROVED COURSE OF STUDY FOR ELECTRONIC NOTARIES PUBLIC

- (a) The Department shall develop ~~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~~ The Department ~~may~~ shall train certified notary ~~public~~ instructors who are ~~also~~ registered as electronic notaries public to ~~administer~~ teach the training course and administer testing ~~for applicants~~ for electronic notary ~~registration~~. applicants.

History Note: Authority G.S. 10B-4; 10B-14; 10B-107; 10B-125; 10B-125; 10B-126; 47-16.5; 47-16.7; 147-36; 15-USC-7002;
Eff. January 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
Transferred from 18 NCAC 07C .0301 Eff. June 1, 2023. 2023;
Amended Eff. July 1, 2024.

18 NCAC 07F .0302 is proposed for adoption as follows:

18 NCAC 07F .0302 COURSES TO BE TAUGHT BY CERTIFIED NOTARY INSTRUCTORS

Before submitting an application for registration as an electronic notary public, an individual shall attend an electronic notary course taught by a certified notary instructor.

History Note: Authority G.S. 10B-4; 10B-14; 10B-125; 10B-126; 10B-134.15; 10B-134.17; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07F .0303 is proposed for adoption as follows:

18 NCAC 07F .0303 ELECTRONIC NOTARY COURSE

Electronic notaries registered prior to July 1, 2024, shall either:

- (1) successfully complete a remote electronic notarization course module before performing a remote electronic notarization; or
- (2) successfully complete an electronic notary class including training on remote electronic notarization before performing a remote electronic notarization.

History Note: Authority G.S. 10B-4; 10B-14; 10B-125; 10B-126; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07F .0304 is proposed for adoption as follows:

18 NCAC 07F .0304 STUDENT IDENTITY

Each electronic notary course student shall:

- (1) be personally known to the certified notary instructor; or
- (2) present satisfactory evidence of identity to the certified notary instructor.

History Note: Authority G.S. 10B-4; 10B-14; 10B-125; 10B-126; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07F .0305 is proposed for adoption as follows:

18 NCAC 07F .0305 PASSING SCORE ON EXAMINATION

A passing score on the electronic notary course examination shall be 80 percent.

History Note: Authority G.S. 10B-4; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07F .0401 is proposed for amendment as follows:

SECTION .0400 – APPLICATION FOR REGISTRATION AS ELECTRONIC NOTARY PUBLIC

18 NCAC 07F .0401 SUBMISSION

The electronic notary applicant shall electronically submit the electronic notary registration form, 18 NCAC 07B .0404.

~~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-4; 10B-125(b); 10B-126(d); 47-16.5; 47-16.7; 147-36; 15-UNC 7002;
Eff. January 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
Transferred from 18 NCAC 07C .0201(b) Eff. June 1, ~~2023;~~ 2023;
Amended Eff. July 1, 2024.*

18 NCAC 07F .0402 is proposed for adoption as follows:

18 NCAC 07F .0402 TIMING OF APPLICATION

An electronic notary applicant shall submit an application to be registered as an electronic notary within 90 days of successfully completing the electronic notary course.

*History Note: Authority G.S. 10B-4; 10B-134.21;
Eff. July 1, 2024.*

18 NCAC 07F .0403 is proposed for adoption as follows:

18 NCAC 07F .0403 NOTICE TO DEPARTMENT OF CHANGES

An electronic notary applicant shall have notified the Department of changes as required by Chapter 10B of the General Statutes and the Rules in this Chapter before submitting an application.

History Note: Authority G.S. 10B-4; 10B-50; 10B-51; 10B-52; 10B-53; 10B-106; 10B-127; 10B-127; 10B-126(d); 10B-134.15;
Eff. July 1, 2024.

18 NCAC 07F .0404 is proposed for adoption as follows:

18 NCAC 07F .0404 FAILURE TO SUBMIT APPLICATION IN TIME

The Department shall deny an application that does not comply with Rule .0402 of this Section. If the applicant reapplies, the electronic notary applicant shall comply with the following:

- (1) successfully complete the electronic notary course again;
- (2) submit a new application; and
- (3) tender applicable fees.

History Note: Authority G.S. 10B-4; 10B-106; 10B-125; 10B-126; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07F .0501 is proposed for adoption as follows:

SECTION .0500 – REGISTRATION AND OATH

18 NCAC 07F .0501 APPOINTMENT

The Department shall appoint qualified notaries to the office of electronic notary public.

History Note: Authority G.S. 10B-4; 10B-5; 10B-10; 10B-105; 10B-106; 10B-125; 10B-126; 10B-134.121;
Eff. July 1, 2024.

18 NCAC 07F .0502 is proposed for adoption as follows:

18 NCAC 07F .0502 ISSUANCE OF CERTIFICATES

The Department:

- (1) shall provide the Register of Deeds in the county of the notary's commissioning with:
 - (a) a certificate of appointment; and
 - (b) a commission certificate in the name of the appointee to be used to confirm that the electronic notary oath has been administered to the appointee by the Register of Deeds;
and
- (2) may provide a notary public a duplicate commission certificate.

History Note: Authority G.S. 10B-4; 10B-10; 10B-11; 10B-105; 10B-106; 10B-107; 10B-108;
Eff. July 1, 2024.

18 NCAC 07F .0503 is proposed for adoption as follows:

18 NCAC 07F .0503 NOTICE OF DEPARTMENT'S ACTIONS FOR QUALIFIED ENOTARY APPLICANTS

The Department shall notify the notary electronically or in writing within five days of the decision that the notary is qualified that:

- (1) the Department has:
 - (a) appointed the notary as an electronic notary public;
 - (b) provided the certificate of appointment to the Register of Deeds; and
- (2) the appointee shall take the oath of office in the Register of Deeds office within 45 days of the issue date on the notice of appointment.

History Note: Authority G.S. 10B-4; 10B-10; 10B-105; 10B-106;
Eff. July 1, 2024.

18 NCAC 07F .0505 is proposed for amendment as follows:

18 NCAC 07F .0505 OATHS OATH TIMING

The ~~applicant~~ appointee shall take the oath in the Register of Deeds office within 45 days of the issue date on the ~~electronic notary oath notification letter.~~ notice of appointment.

*History Note: Authority G.S. 10B-4; 10B-10; 10B-105; ~~10B-125(b); 10B-126(d); 47-16.5; 47-16.7; 147-36; 15 USC 7002;~~
Eff. January 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
Transferred from 18 NCAC 07C .0202(a) Eff. June 1, ~~2023;~~ 2023;
Amended Eff. July 1, 2024.*

18 NCAC 07F .0506 is proposed for amendment as follows:

18 NCAC 07F .0506 EVIDENCE OF IDENTITY

Before taking the oath of office, ~~an applicant shall:~~ the appointee shall:

- (1) be personally known to the Register of Deeds; or
- (2) present to the Register of Deeds with satisfactory evidence of the appointee's identity. ~~applicant's identity as defined in G.S. 10B-3(22).~~

*History Note: Authority G.S. 10B-4; 10B-10; 10B-106; ~~10B-125(b); 10B-126(d); 47-16.5; 47-16.7; 147-36; 15 USC 7002;~~
Eff. January 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
Transferred from 18 NCAC 07C .0202(b) Eff. June 1, ~~2023;~~ 2023;
Amended Eff. July 1, 2024.*

18 NCAC 07F .0507 is proposed for amendment as follows:

18 NCAC 07F .0507 ~~CERTIFICATE DELIVERY~~ ADMINISTRATION OF OATH

~~After administering the oath of office, the Register of Deeds shall deliver the electronic notary registration certificate to the electronic notary.~~ The Register of Deeds shall administer an oath to an appointee registered to perform electronic and remote electronic notarizations.

*History Note: Authority G.S. ~~10B-4; 10B-10; 10B-125(b); 10B-126(d); 47-16.5; 47-16.7; 147-36; 15 USC 7002;~~
Eff. January 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December
6, 2016;
Transferred from 18 NCAC 07C .0202(c) Eff. June 1, ~~2023;~~ 2023;
Amended Eff. July 1, 2024.*

18 NCAC 07F .0508 is proposed for amendment as follows:

18 NCAC 07F .0508 ~~REGISTRATION EFFECTIVE DATE~~ CERTIFICATE DELIVERY

~~The applicant's electronic notary registration shall not be effective until the applicant takes the oath.~~ After administering the oath of office, the Register of Deeds shall:

- (1) require that the electronic notary public sign the certificate of appointment;
- (2) sign the certificate of appointment;
- (3) file the certificate of appointment as required by G.S. 10B-10(c);
- (4) deliver the commission certificate to the oath taker; and
- (5) deliver notice to the Department as required by G.S. 10B-10(d).

*History Note: Authority G.S. ~~10B-4; 10B-10; 10B-106; 10B-125(b); 10B-126(d); 47-16.5; 47-16.7; 147-36; 15~~
~~USC 7002;~~
Eff. January 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December
6, 2016;
Transferred from 18 NCAC 07C .0202(d) Eff. June 1, ~~2023;~~ 2023;
Amended Eff. July 1, 2024.*

18 NCAC 07F .0509 is proposed for adoption as follows:

18 NCAC 07F .0509 REGISTRATION EFFECTIVE DATE

The appointee's electronic notary registration shall not be effective until the appointee takes the oath of office.

History Note: Authority G.S. 10B-4; 10B-10; 10B-106;

Eff. July 1, 2024.

18 NCAC 07F .0510 is proposed for adoption as follows:

18 NCAC 07F .0510 CANCELLATION OF CERTIFICATE

The Department shall notify the appointee of cancellation of the certificate of appointment in writing within 45 days of the appointee's failure to take the oath by the 45th day after the issuance of the certificate.

History Note: Authority G.S. 10B-4; 10B-10; 10B-106;

Eff. July 1, 2024.

18 NCAC 07F .0511 is proposed for adoption as follows:

18 NCAC 07F .0511 CANCELLATION OF CERTIFICATE OF APPOINTMENT RESCINDED

A notary who has taken the oath but upon contacting a technology provider is told that the provider contacted the Department and the notary was not an active notary may contact the Department and present the notary's commission certificate to the Department.

History Note: Authority G.S. 10B-4; 10B-10;

Eff. July 1, 2024.

18 NCAC 07F .0512 is proposed for adoption as follows:

18 NCAC 07F .0512 CONFIRMATION OF ELECTRONIC NOTARY STATUS

The Department shall confirm to a technology provider a notary public's active status as an electronic notary registered to perform electronic and remote electronic notarizations only if:

- (1) the Department has received the completed certificate of appointment from the Register of Deeds;
or
- (2) the notary has presented the notary's commission certificate to the Department in the event of the failure of the Register of Deeds to provide the completed certificate of appointment to the Department.

History Note: Authority G.S. 10B-4; 10B-10;
Eff. July 1, 2024.

18 NCAC 07F .0513 is proposed for adoption as follows:

18 NCAC 07F .0513 PERFORMING ELECTRONIC AND REMOTE ELECTRONIC NOTARIAL ACTS

A notary shall not perform any electronic or remote electronic notarial act until:

- (1) the notary has taken the oath of office as an electronic notary public; and
- (2) the electronic notary has complied with the requirements of Sections .0600 through .0800 of this Subchapter.

History Note: Authority G.S. 10B-4; 10B-10; 10B-125; 10B-126; 10B-134.15; 10B-134.17; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07F .0601 is proposed for adoption as follows:

**SECTION .0600 – SELECTION AND USE OF TECHNOLOGY PROVIDER TO PERFORM
ELECTRONIC NOTARIAL ACTS**

18 NCAC 07F .0601 NOTICE TO DEPARTMENT OF TECHNOLOGY PROVIDER

An electronic notary shall use the form in 18 NCAC 07B .0405 to provide notice to the Department of all technology providers used:

- (1) to affix the electronic notary’s electronic signature and seal;
- (2) as the means to create and maintain the electronic notary’s electronic journal and a backup copy of the journal;
- (3) as the custodian of the electronic notary's journal; and
- (4) as the platform that the notary will use if the notary intends to perform remote notarial acts.

History Note: Authority G.S. 10B-4; 10B-125; 10B-126; 10B-127; 10B-134.15; 10B-134.17; 10B-134.21; Eff. July 1, 2024.

18 NCAC 07F .0602 is proposed for adoption as follows:

18 NCAC 07F .0602 APPROVED TECHNOLOGY PROVIDER

An electronic notary public shall use only technology providers approved or licensed by the Department-and listed on the Department’s website.

History Note: Authority G.S. 10B-4; 10B-125; 10B-126; 10B-134.15; 10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23; Eff. July 1, 2024.

18 NCAC 07F .0701 is proposed for amendment as follows:

18 NCAC 07F .0701 UNIQUE SIGNATURE

The electronic notary signature shall be independently verifiable and specific ~~unique~~ to each ~~the~~ electronic notary-notary public.

History Note: Authority G.S. 10B-4; ~~10B-125(b)~~; 10B-125(b); 10B-126(d); 10B-127; ~~47-16.5~~; ~~47-16.7~~; ~~147-36~~; ~~15-USC-7002~~;
Eff. January 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
Transferred from 18 NCAC 07C .0401(a) Eff. June 1, ~~2023~~; 2023;
Amended Eff. July 1, 2024.

18 NCAC 07F .0702 is proposed for amendment as follows:

18 NCAC 07F .0702 SOLE CONTROL

The electronic notary public signature shall ~~be retained~~ retain ~~under the~~ exclusive control of the electronic notary public signature such that the electronic signature can be attributed solely to the electronic notary. ~~electronic notary's~~ sole control.

History Note: Authority G.S. 10B-4; ~~10B-125(b)~~; 10B-125(b); 10B-126(d); 10B-127; ~~47-16.5~~; ~~47-16.7~~; ~~147-36~~; ~~15-USC-7002~~;
Eff. January 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
Transferred from 18 NCAC 07C .0401(b) Eff. June 1, ~~2023~~; 2023;
Amended Eff. July 1, 2024.

18 NCAC 07F .0703 is proposed for repeal as follows:

18 NCAC 07F .0703 EXCLUSIVE

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;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
Transferred from 18 NCAC 07C .0401(c) Eff. June 1, ~~2023~~; 2023;
Repealed Eff. July 1, 2024.

18 NCAC 07F .0704 is proposed for amendment as follows:

18 NCAC 07F .0704 ~~LOGICALLY ATTACHED~~ ELECTRONIC ATTRIBUTES OF SIGNATURE

The electronic notary signature ~~shall~~ shall:

- (1) be attached ~~to~~, or logically associated ~~with the document~~, with, the notarized document; and
- (2) ~~linking~~ link the data in such a manner that any subsequent alterations are observable through visual examination of:
 - (a) ~~to the underlying document~~ document; or
 - (b) electronic notary ~~certificate~~ certificate. ~~are observable through visual examination.~~

History Note: Authority G.S. ~~10B-4; 10B-125(b);~~ 10B-125(b); 10B-126(d); 10B-127; 10B-136; ~~47-16.5; 47-16.7; 147-36; 15 USC 7002~~;
Eff. January 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
Transferred from 18 NCAC 07C .0401(d) Eff. June 1, ~~2023~~; 2023;
Amended Eff. July 1, 2024.

18 NCAC 07F .0705 is proposed for amendment as follows:

18 NCAC 07F .0705 IMAGE

An ~~image of the electronic notary's handwritten signature shall~~ notary shall:

- (1) ~~electronically sign the~~ appear on any visual or printed representation of an electronic notary ~~certificate~~ certificate;
- (2) ~~regardless of the technology being used to affix~~ view the ~~electronic notary's~~ electronic signature. ~~signature after signing; and~~
- (3) verify that the image of the electronic notary's handwritten electronic signature is an accurate representation.

*History Note: Authority G.S. ~~10B-4; 10B-125(b); 10B-125(b); 10B-126(d); 10B-127; 10B-136; 47-16.5; 47-16.7; 147-36; 15-7002;~~
Eff. January 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
Transferred from 18 NCAC 07C .0401(e) Eff. June 1, ~~2023;~~ 2023;
Amended Eff. July 1, 2024.*

18 NCAC 07F .0706 is proposed for adoption as follows:

18 NCAC 07F .0706 SIGNATURE COMPLIANCE

An electronic notary shall ensure that the electronic notary's electronic signature complies with Chapter 10B of the General Statutes and the Rules in this Subchapter each time it is affixed.

*History Note: Authority G.S. ~~10B-4; 10B-125(b); 10B-126(d); 10B-127; 47-16.5; 47-16.7; 147-36; 15-7002;~~
Eff. July 1, 2024.*

18 NCAC 07F .0707 is proposed for adoption as follows:

18 NCAC 07F .0707 SIGNATURE REVIEW BEFORE USE

An electronic notary shall review the electronic notary's electronic signature for accuracy before the signature is used for the first time.

*History Note: Authority G.S. ~~10B-4; 10B-125(b); 10B-126(d); 10B-134.21;~~
Eff. July 1, 2024.*

18 NCAC 07F .0708 is proposed for adoption as follows:

18 NCAC 07F .0708 AFFIXING ELECTRONIC SIGNATURE

An electronic notary shall not affix the electronic notary's electronic signature until:

- (1) the principals have appeared before the notary as required by Article 2 of Chapter 10B of the General Statutes;
- (2) the principals have been identified;
- (3) the oath or affirmation has been administered, if required;
- (4) the principals have affixed their signatures to the electronic document or acknowledged them, if applicable;
- (5) any fees have been collected; and
- (6) the journal entry has been made in accordance with the Rules in Subchapter I of this Chapter.

History Note: Authority G.S. 10B-4; 10B-125(b); 10B-126(d); 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07F .0709 is proposed for adoption as follows:

18 NCAC 07F .0709 REVIEW AFTER AFFIXING ELECTRONIC SIGNATURE

After the electronic notary affixes the notary's electronic signature, and before the electronic signature is committed by the notary, the electronic notary shall review the electronic signature to ensure that it:

- (1) is present on the notarial certificate;
- (2) is legible; and
- (3) does not obscure:
 - (a) the notarial certificate;
 - (b) any content in the notarial certificate; or
 - (c) any content in the document being notarized.

History Note: Authority G.S. 10B-4; 10B-125(b); 10B-126(d); 10B-127;
Eff. July 1, 2024.

18 NCAC 07F .0801 is proposed for amendment as follows:

18 NCAC 07F .0801 UNIQUE SEAL

The electronic notary seal shall be independently verifiable and ~~unique~~ specific to each the electronic notary. ~~notary public.~~

*History Note: Authority G.S. 10B-4; ~~10B-125(b); 10B-125(b); 10B-126(d); 10B-127; 47-16.5; 47-16.7; 147-36; 15-USC 7002;~~
Eff. January 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
Transferred from 18 NCAC 07C .0402(a) Eff. June 1, ~~2023;~~ 2023;
Amended Eff. July 1, 2024.*

18 NCAC 07F .0802 is proposed for amendment as follows:

18 NCAC 07F .0802 SOLE CONTROL

The electronic notary ~~public seal~~ shall ~~be retained~~ retain under the exclusive control of the electronic notary seal such that the electronic notary seal can be attributed solely to the electronic notary. ~~electronic notary's sole control.~~

*History Note: Authority G.S. 10B-4; ~~10B-125(b); 10B-125(b); 10B-126(d); 10B-127; 10B-134.17; 10B-134.21; 47-16.5; 47-16.7; 147-36; 15-USC 7002;~~
Eff. January 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
Transferred from 18 NCAC 07C .0402(b) Eff. June 1, ~~2023;~~ 2023;
Amended Eff. July 1, 2024.*

18 NCAC 07F .0803 is proposed for repeal as follows:

18 NCAC 07F .0803 EXCLUSIVE

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;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December
6, 2016;
Transferred from 18 NCAC 07C .0402(c) Eff. June 1, ~~2023~~, 2023;
Repealed Eff. July 1, 2024.

18 NCAC 07F .0804 is proposed for amendment as follows:

18 NCAC 07F .0804 LOGICALLY ATTACHED ELECTRONIC ATTRIBUTES OF SEAL

The electronic notary seal ~~shall~~ shall:

- (1) be attached to, or logically associated ~~with the document~~, with, the notarized document; and
- (2) ~~linking link~~ the data in such a manner that any subsequent alterations are observable through visual examination of:
 - (a) ~~to the underlying document~~ document; or
 - (b) electronic notary certificate. ~~certificate are observable through visual examination.~~

History Note: Authority G.S. ~~10B-4; 10B-125(b);~~ 10B-125(b); 10B-126(d); 10B-127; 10B-136; ~~47-16.5; 47-16.7;~~
~~147-36; 15 USC 7002~~;
Eff. January 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December
6, 2016;
Transferred from 18 NCAC 07C .0402(d) Eff. June 1, ~~2023~~, 2023;
Amended Eff. July 1, 2024.

18 NCAC 07F .0805 is proposed for amendment as follows:

18 NCAC 07F .0805 IMAGE

An ~~image of the electronic notary's electronic seal~~ notary shall:

- (1) ~~electronically affix~~ appear on any visual or printed representation of the electronic notary certificate seal;
- (2) ~~regardless of the technology being used to affix~~ view the electronic notary's electronic seal. ~~image of the seal after affixing it; and~~
- (3) verify that the image is an accurate representation of the seal.

*History Note: Authority G.S. ~~10B-4; 10B-125(b); 10B-125(b); 10B-126(d); 47-16.5; 47-16.7; 147-36; 15-UNC 7002;~~
Eff. January 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
Transferred from 18 NCAC 07C .0402(e) Eff. June 1, ~~2023;~~ 2023;
Amended Eff. July 1, 2024.*

18 NCAC 07F .0806 is proposed for amendment as follows:

18 NCAC 07F .0806 PERIMETER

~~The~~ An electronic notary public shall ensure that 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.

*History Note: Authority G.S. ~~10B-125(b); 10B-126(d); 47-16.5; 47-16.7; 147-36; 15-UNC 7002;~~
Eff. January 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
Transferred from 18 NCAC 07C .0402(f) Eff. June 1, ~~2023;~~ 2023;
Amended Eff. July 1, 2024.*

18 NCAC 07F .0807 is proposed for amendment as follows:

18 NCAC 07F .0807 CONTENTS

~~The~~ An electronic notary shall ensure that the electronic notary's electronic notary seal ~~must have,~~ has:

- (1) ~~within its border;~~ a visible border:
 - (a) _____ with the size and shape required by G.S. 10B-37(c); and
 - (b) _____ that includes an identifier assigned by the Department to the AVEN or technology provider;
- (2) ~~within~~ inside its border, border:
 - (a) ~~the electronic notary's name exactly as commissioned,~~ the information required by G.S. 10B-117(1), (2), and (4);
 - (b) the words "Electronic Notary Public," words:
 - (i) _____ "State of North Carolina";
 - (ii) "North ~~Carolina~~ Carolina"; or
 - (iii) the abbreviation "N.C.";
 - (c) the name of the county of commission including with either:
 - (i) the word "~~County~~ "County"; or
 - (ii) the abbreviation "Co.";
 - (d) _____ the expiration date of the electronic notary's commission.

*History Note: Authority G.S. 10B-4; 10B-125(b); 10B-126(d); ~~47-16.5; 47-16.7; 147-36; 15-150-7002;~~
Eff. January 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December
6, 2016;
Transferred from 18 NCAC 07C .0402(g) Eff. June 1, ~~2023;~~ 2023;
Amended Eff. July 1, 2024.*

18 NCAC 07F .0808 is proposed for amendment as follows:

18 NCAC 07F .0808 ELECTRONIC NOTARY SEALS ARE PRIVATE PROPERTY

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

History Note: Authority G.S. 10B-4; 10B-125(b); 10B-126(d); 47-16.5; 47-16.7; 147-36; 15-USC 7002;
Eff. January 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December
6, 2016;
Transferred from 18 NCAC 07C .0602 Eff. June 1, 2023- 2023;
Amended Eff. July 1, 2024.

18 NCAC 07F .0809 is proposed for adoption as follows:

18 NCAC 07F .0809 SEAL COMPLIANCE

An electronic notary shall ensure that the electronic notary's electronic seal complies with Chapter 10B of the General Statutes and the rules in this Subchapter each time it is affixed.

History Note: Authority G.S. 10B-4; 10B-125(b); 10B-126(d);
Eff. July 1, 2024.

18 NCAC 07F .0810 is proposed for adoption as follows:

18 NCAC 07F .0810 SEAL LIMITATION

An electronic notary's electronic seal shall include no information or images other than those required by:

- (1) G.S. 10B-117; and
- (2) the Rules in this Section.

History Note: Authority G.S. 10B-4; 10B-125(b); 10B-126(d);
Eff. July 1, 2024.

18 NCAC 07F .0811 is proposed for adoption as follows:

18 NCAC 07F .0811 SEAL REVIEW BEFORE USE

An electronic notary shall review the notary's electronic seal for compliance with the Rules in this Section before the seal is used for the first time.

*History Note: Authority G.S. 10B-4; 10B-125(b); 10B-126(d);
Eff. July 1, 2024.*

18 NCAC 07F .0812 is proposed for adoption as follows:

18 NCAC 07F .0812 AFFIXING ELECTRONIC SEAL

An electronic notary public shall not affix the notary's electronic seal until:

- (1) the principals have appeared before the notary as required by Article 2 of Chapter 10B of the General Statutes;
- (2) the principals have been identified;
- (3) the oaths or affirmations have been administered, if required;
- (4) the principals have affixed their signatures to the electronic document or acknowledged them if applicable;
- (5) any fees have been collected; and
- (6) the journal entry has been made in accordance with the rules in Subchapter I of this Chapter.

*History Note: Authority G.S. 10B-4; 10B-125(b); 10B-126(d); 10B-134.15;
Eff. July 1, 2024.*

18 NCAC 07F .0813 is proposed for adoption as follows:

18 NCAC 07F .0813 REVIEW AFTER AFFIXING ELECTRONIC SEAL

After the electronic notary affixes the notary's electronic seal, and before the electronic notary commits the electronic seal, the electronic notary shall review the notary's electronic seal to ensure that it:

- (1) is present on the notarial certificate;
- (2) is legible; and
- (3) does not obscure:
 - (a) the notarial certificate;
 - (b) any content in the notarial certificate; or
 - (c) any content in the document being notarized.

History Note: Authority G.S. 10B-4; 10B-125(b); 10B-126(d);
Eff. July 1, 2024.

18 NCAC 07F .0814 is proposed for adoption as follows:

18 NCAC 07F .0814 COMMITMENT

After an electronic notary public has complied with the requirements of Sections .0700 and .0800 of this Subchapter with regard to review of signatures and seals after affixing them, the notary shall:

- (1) ensure that the required journal entry has been made; and
- (2) then commit:
 - (a) the electronic notarial signature;
 - (b) the electronic notarial seal; and
 - (c) the content of the journal entry.

History Note: Authority G.S. 10B-4; 10B-125(b); 10B-126(d);
Eff. July 1, 2024.

18 NCAC 07F .0901 is proposed for amendment as follows:

18 NCAC 07F .0901 RE-REGISTRATION

~~A~~ An electronic notary applying to re-register as an electronic notary public shall comply with application procedures found in the Act

- (1) in Chapter 10B of the General Statutes; and
- (2) in this Subchapter.

*History Note: Authority G.S. ~~10B-4; 10B-125; 10B-125; 10B-126; 47-16.5; 47-16.7; 147-36; 15 USC 7002;~~
Eff. January 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
Transferred from 18 NCAC 07C .0203 Eff. June 1, ~~2023;~~ 2023;
Amended Eff. July 1, 2024.*

18 NCAC 07F .0902 is proposed for adoption as follows:

18 NCAC 07F .0902 TIMING OF RE-REGISTRATION

An electronic notary desiring to re-register who does not apply for re-registration at the same time the notary applies for re-commissioning shall comply with Rule .0905 of this Section.

*History Note: Authority G.S. 10B-4;
Eff. July 1, 2024.*

18 NCAC 07F .0903 is proposed for adoption as follows:

18 NCAC 07F .0903 FORM

An electronic notary shall use the form in 18 NCAC 07B .0404 to apply to be re-registered as an electronic notary.

*History Note: Authority G.S. 10B-4; 10B-125; 10B-126;
Eff. July 1, 2024.*

18 NCAC 07F .0904 is proposed for adoption as follows:

18 NCAC 07F .0904 EDUCATION

An applicant for re-registration as an electronic notary shall successfully complete the electronic notary course again before applying.

*History Note: Authority G.S. 10B-4; 10B-125; 10B-126;
 Eff. July 1, 2024.*

18 NCAC 07F .0905 is proposed for adoption as follows:

**18 NCAC 07F .0905 ELECTRONIC NOTARY RE-REGISTRATION OTHER THAN AT
 RECOMMISSIONING**

An electronic notary who does not apply for re-registration as an electronic notary at the same time that the notary applies for re-commissioning as a traditional notary and who later desires to re-register as an electronic notary shall:

- (1) successfully complete the electronic notary course again;
- (2) apply for re-registration; and
- (3) pay the applicable fees.

*History Note: Authority G.S. 10B-4; 10B-125; 10B-126;
 Eff. July 1, 2024.*

18 NCAC 07F .0906 is proposed for adoption as follows:

18 NCAC 07F .0906 REGISTRATION AND OATH

Section .0500 of this Subchapter shall apply to an electronic notary applicant who is appointed as a re-registered electronic notary.

*History Note: Authority G.S. 10B-4; 10B-125; 10B-126;
 Eff. July 1, 2024.*

18 NCAC 07F .1001 is proposed for amendment as follows:

18 NCAC 07F .1001 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 public to whom it is registered.

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

- (1) Relinquish control of the electronic notary public's electronic notary seal;
- (2) Transfer possession of the electronic notary seal to the electronic ~~notary~~, notary public; or
- (3) Eliminate the ability of any other person to use the former electronic notary public employee's electronic notary seal if the electronic notarization system ~~used~~ provided by the employer does not permit transfer of possession of the electronic notary ~~seal~~. seal to the electronic notary former employee.

*History Note: Authority G.S. 10B-125(b); 10B-126(d); 10B-134.15; 10B-134.17; 10B-134.21; 47-16.5; 47-16.7; 147-36; 15-UNC 7002;
Eff. January 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
Transferred from 18 NCAC 07C .0603 Eff. June 1, ~~2023~~. 2023;
Amended Eff. July 1, 2024.*

18 NCAC 07F .1002 is proposed for amendment as follows:

18 NCAC 07F .1002 ~~PROTECTED~~ PROTECTING ACCESS

An electronic notary shall limit Access access to the electronic notary signatures, ~~electronic notary~~ seals, and journals by complying with the provider’s requirements for the use of means of authentication approved by the Department. 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-4; ~~10B-125(b); 10B-125; 10B-126(d); 10B-126; 10B-134.15; 10B-134.17; 10B-134.21; 47-16.5; 47-16.7; 147-36; 15 USC 7002;~~
Eff. January 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
Transferred from 18 NCAC 07C .0604 Eff. June 1, ~~2023;~~ 2023;
Amended Eff. July 1, 2024.

18 NCAC 07F .1003 is proposed for adoption as follows:

18 NCAC 07F .1003 RETENTION OF ELECTRONIC JOURNAL

An electronic notary shall maintain a copy of the notary’s electronic journal for 10 years after the last notarial act.

History Note: Authority G.S. 10B-4; 10B-125(b); 10B-126(d); 10B-134.15; 10B-134.17; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07F .1004 is proposed for adoption as follows:

18 NCAC 07F .1004 NOTARY CREDENTIAL SHARING FORBIDDEN

An electronic notary shall not share the means of authentication that the notary uses to access an electronic notarization system with anyone.

History Note: Authority G.S. 10B-4; 10B-125; 10B-126; 10B-134.15; 10B-134.17; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07F .1101 is proposed for amendment as follows:

**18 NCAC 07F .1101 ~~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~~ the physical presence of the electronic notary during the entire electronic at the time of notarization so ~~that~~ that:

- (1) the principal and the electronic notary can see, hear, and communicate ~~with,~~ with each other; and
- (2) the principal can give the electronic notary identification documents as required under G.S. ~~10B-3(22)~~ 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-3; 10B-4; 10B-102; 10B-116(1); 10B-125(b); 10B-126(d); 47-16.5; 47-16.7; 147-36; 15 USC 7002;
Eff. January 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
Transferred from 18 NCAC 07C .0403 Eff. June 1, ~~2023.~~ 2023;
Amended Eff. July 1, 2024.*

18 NCAC 07F .1102 is proposed for amendment as follows:

18 NCAC 07F .1102 ~~SEPARATE ATTESTATIONS~~ PRESENCE REQUIREMENT FOR REMOTE ELECTRONIC NOTARIZATION

When an electronic notary performs a remote electronic notarization, the remotely located principal shall appear before the electronic notary at the time of notarization using communication technology. 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. 55-140(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-4; 10B-125(b); 10B-126(d); 47-16.5; 47-16.7; 147-36; 15 USC 7002;
Eff. January 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
Transferred from 18 NCAC 07C .0601 Eff. June 1, 2023. 2023;
Eff. July 1, 2024.*

18 NCAC 07F .1103 is proposed for adoption as follows:

18 NCAC 07F .1103 INDIVIDUAL PRINCIPAL SIGNATURES FOR ELECTRONIC ACKNOWLEDGEMENTS

An electronic notary public who performs an electronic or remote electronic acknowledgment shall require the principal to affix each signature individually.

*History Note: Authority G.S. 10B-3; 10B-4; 10B-102; 10B-116(1); 10B-125(b); 10B-126(d); 47-16.5; 47-16.7;
147-36; 15 USC 7002;
Eff. July 1, 2024.*

18 NCAC 07F .1104 is proposed for adoption as follows:

18 NCAC 07F .1104 ADDITIONAL OBLIGATIONS

In addition to complying with the continuing obligations imposed by the rules in Subchapter 07D of this Chapter, an electronic notary shall comply with the requirements of Subchapter 07I of this Chapter.

History Note: Authority G.S. 10B-3; 10B-4; 10B-102; 10B-116(1); 10B-125(b); 10B-126(d); 47-16.5; 47-16.7; 147-36; 15 7002;
Eff. July 1, 2024.

18 NCAC 07F .1105 is proposed for adoption as follows:

18 NCAC 07F .1105 NO ELECTRONIC NOTARIZATION OF INK SIGNATURE

An electronic notary shall not use the notary's electronic signature and seal to notarize an ink signature signed by hand.

History Note: Authority G.S. 10B-3; 10B-4; 10B-102; 10B-116(1); 10B-125(b); 10B-126(d);
Eff. July 1, 2024.

18 NCAC 07F .1106 is proposed for adoption as follows:

18 NCAC 07F .1106 NOTICE OF CHANGES

An electronic notary shall notify the Department using the form in 18 NCAC 07B 0406 within 10 business days of the notary choosing to use a different technology provider.

History Note: Authority G.S. 10B-3; 10B-4; 10B-102; 10B-106(f); 10B-116(1); 10B-125(b); 10B-126(d);
Eff. July 1, 2024.

18 NCAC 07F .1107 is proposed for adoption as follows:

**18 NCAC 07F .1107 TECHNOLOGICAL ISSUE AS REASON TO HALT ELECTRONIC OR REMOTE
ELECTRONIC NOTARIAL ACT**

An electronic notary public shall not perform an electronic notarial act or a remote notarial act if there is:

- (1) a complete technological failure that impedes the performance of the notarial act; or
- (2) a partial technological failure if the electronic notary decides that the failure warrants termination of the transaction.

*History Note: Authority G.S. 10B-3; 10B-4; 10B-102; 10B-116(1); 10B-125(b); 10B-126(d);
Eff. July 1, 2024.*

18 NCAC 07F .1108 is proposed for adoption as follows:

**18 NCAC 07F .1108 ELECTRONIC OR REMOTE ELECTRONIC NOTARIAL ACT CAN CONTINUE
IF TECHNOLOGICAL ISSUE RESOLVED OR NON-IMPAIRING**

An electronic notary may continue and complete an electronic or remote electronic notarial transaction if the electronic notary concludes that any technological failure:

- (1) has been resolved; and
- (2) will not impair performance of the notarial act.

*History Note: Authority G.S. 10B-3; 10B-4; 10B-102; 10B-116(1); 10B-125(b); 10B-126(d); 47-16.5; 47-16.7;
147-36; 15 7002;
Eff. July 1, 2024.*

18 NCAC 07F .1109 is proposed for adoption as follows:

18 NCAC 07F .1109 CEASING TO USE A TECHNOLOGY PROVIDER

An electronic notary shall notify the Department within 10 business days of the date on which:

- (1) the notary cancels a contract or subscription with a technology provider; or
- (2) the notary is prevented by the provider from accessing the technology provider's services.

*History Note: Authority G.S. 10B-3; 10B-4; 10B-102; 10B-106(f); 10B-116(1); 10B-125(b); 10B-126(d); 10B-
127(b);
Eff. July 1, 2024.*

18 NCAC 07F .1110 is proposed for adoption as follows:

18 NCAC 07F .1110 NOTICE OF CANCELLATION BY PROVIDER

An electronic notary shall notify the Department within 10 business days if the technology provider takes actions that:

- (1) suspend or halt the provider's operations or the availability of its technology; or
- (2) make changes to the technology that impair the ability of the notary to perform notarial functions.

History Note: Authority G.S. 10B-3; 10B-4; 10B-102; 10B-116(1); 10B-125(b); 10B-126(d); 10B-127(b);
Eff. July 1, 2024.

18 NCAC 07F .1111 is proposed for adoption as follows:

18 NCAC 07F .1111 CONTENT OF NOTICE

A notice pursuant to the Rule .1110 of this Section shall include:

- (1) the reason for the notice; and
- (2) any other information the notary thinks may help the Department to assess the action of the provider.

History Note: Authority G.S. 10B-3; 10B-4; 10B-102; 10B-116(1); 10B-125(b); 10B-126(d);
Eff. July 1, 2024.

Appendix III: Proposed 18 NCAC 07I Rules

18 NCAC 07I .0101 is proposed for adoption as follows:

SECTION .0100 – GENERAL

18 NCAC 07I .0101 SCOPE

The rules in this Subchapter set forth the requirements applicable to a notary maintaining a journal.

History Note: Authority G.S. 10B-4; 10B-38; 10B-126; 10B-134.15; 10B-21;
Eff. July 1, 2024.

18 NCAC 07I .0102 is proposed for adoption as follows:

18 NCAC 07I .0102 DEFINITIONS

The definitions in this Rule apply to this Subchapter:

- (1) “Canceled act” means that a notary or a principal begins the notarial transaction process and halts it for any reason. An example of a canceled act would be one where the notary is not able to establish the identity of the signer as required by G.S. 10B-20.
- (2) “Journal” means a record of notarial acts that is created and maintained by a notary in compliance with Chapter 10B of the General Statutes and the Rules in this Subchapter.
- (3) “Mode of notarial act” means either a traditional notarization, an electronic notarization, or a remote electronic notarization.
- (4) “Supplemental information” means information that a notary public enters into a journal:
 - (a) as a separate entry that is not for a notarial act;
 - (b) that relates to a prior notarial act recorded in the journal; and
 - (c) that may be appended to the prior notarial act entry in the electronic journal.

Note: an entry six months after the initial committed entry stating that the notary received a subpoena for that initial committed journal entry is an example of supplemental information.

History Note: Authority G.S. 10B-4; 10B-38; 10B-126; 10B-134.15; 10B-21;
Eff. July 1, 2024.

18 NCAC 07I .0103 is proposed for adoption as follows:

18 NCAC 07I .0103 JOURNAL REQUIREMENT

In addition to the journal required by G.S. 10B-38:

- (1) an electronic notary shall maintain an accurate backup copy of the notary's journal; and
- (2) a traditional notary shall create and maintain an accurate backup copy of an original journal that the notary provides to the notary's employer upon termination of employment.

History Note: Authority G.S. 10B-4; 10B-38; 10B-126; 10B-134.15; 10B-21;
Eff. July 1, 2024.

18 NCAC 07I .0104 is proposed for adoption as follows:

18 NCAC 07I .0104 JOURNAL OWNERSHIP

The notary journal is the private property of the notary.

History Note: Authority G.S. 10B-4; 10B-38; 10B-126; 10B-134.15; 10B-21;
Eff. July 1, 2024.

18 NCAC 07I .0105 is proposed for adoption as follows:

18 NCAC 07I .0105 ENTRY OF DATA INTO JOURNAL

A notary public shall be the only person to make entries into the notary's journal, unless otherwise permitted for traditional notaries by Chapter 10B of the General Statutes or Rule .0106 of this Section.

History Note: Authority G.S. 10B-4; 10B-38; 10B-126; 10B-134.15; 10B-21;
Eff. July 1, 2024.

18 NCAC 07I .0106 is proposed for adoption as follows:

18 NCAC 07I .0106 EXCEPTIONS TO RULE .0105

Exceptions to Rule .0105 of this Section shall be limited to:

- (1) the signatures of the principals;
- (2) the signatures of credible witnesses; and
- (3) the signatures of the designees of the principals pursuant to G.S. 10B-20(e).

History Note: Authority G.S. 10B-4; 10B-38; 10B-126; 10B-134.15; 10B-21;
Eff. July 1, 2024.

18 NCAC 07I .0107 is proposed for adoption as follows:

18 NCAC 07I .0107 ACCESS TO THE JOURNAL

A notary shall not permit access to the journal by any person except to the extent permitted pursuant to Chapter 10B of the General Statutes and the rules in this Chapter.

History Note: Authority G.S. 10B-4; 10B-20(p); 10B-38; 10B-126; 10B-134.15; 10B-21;
Eff. July 1, 2024.

18 NCAC 07I .0201 is proposed for adoption as follows:

SECTION .0200 – JOURNAL BASICS

18 NCAC 07I .0201 FORM OF TRADITIONAL NOTARY JOURNAL

A traditional notary may meet the journal requirements by maintaining either a tangible or an electronic journal.

History Note: Authority G.S. 10B-4; 10B-38;
Eff. July 1, 2024.

18 NCAC 07I .0202 is proposed for adoption as follows:

18 NCAC 07I .0202 FORM OF ELECTRONIC NOTARY JOURNAL

Electronic notarizations and remote electronic notarizations shall be documented in an electronic journal that is maintained as an electronic document.

History Note: Authority G.S. 10B-4; 10B-38; 10B-126; 10B-134.15; 10B-21;
Eff. July 1, 2024.

18 NCAC 07I .0203 is proposed for adoption as follows:

18 NCAC 07I .0203 COMBINED JOURNAL

A notary public may maintain an electronic journal that includes entries for any of these acts that the notary is qualified to perform:

- (1) traditional notarial acts;
- (2) electronic notarial acts; and
- (3) remote electronic notarial acts.

History Note: Authority G.S. 10B-4; 10B-38; 10B-126; 10B-134.15; 10B-21;
Eff. July 1, 2024.

18 NCAC 07I .0204 is proposed for adoption as follows:

18 NCAC 07I .0204 ENTRIES IN A TANGIBLE JOURNAL

Entries in a tangible journal shall be:

- (1) entered in permanent ink;
- (2) in a bound journal:
 - (a) into which pages cannot be inserted;
 - (b) from which pages cannot be removed without the removal being visible; and
- (3) in chronological order.

History Note: Authority G.S. 10B-4; 10B-38;
Eff. July 1, 2024.

18 NCAC 07I .0205 is proposed for adoption as follows:

18 NCAC 07I .0205 REQUIREMENTS FOR A TANGIBLE JOURNAL

A tangible journal shall have:

- (1) on the first page:
 - (a) the name of the notary as commissioned;
 - (b) the commission date of the notary; and
 - (c) the county of the commission; and
- (2) a sequential page number on each page.

History Note: Authority G.S. 10B-4; 10B-38;
Eff. July 1, 2024.

18 NCAC 07I .0206 is proposed for adoption as follows:

18 NCAC 07I .0206 PROVISION OF JOURNAL TO DEPARTMENT

When a person responds to a request from the Department for all or part of a notary's journal, the person shall submit the journal together with a transmittal document containing:

- (1) the name on the notary's commission;
- (2) the most recent commission date of the notary; and
- (3) the dates of the first and last entries in the journal.

History Note: Authority G.S. 10B-4; 10B-38; 10B-126; 10B-134.15; 10B-134.17; 10B-21;
Eff. July 1, 2024.

18 NCAC 07I .0207 is proposed for adoption as follows:

18 NCAC 07I .0207 ACTS INCLUDED IN JOURNAL

A notary public shall make an entry into the journal for all notarial acts completed or canceled.

History Note: Authority G.S. 10B-4; 10B-38; 10B-126; 10B-134.15; 10B-21;
Eff. July 1, 2024.

18 NCAC 07I .0208 is proposed for adoption as follows:

18 NCAC 07I .0208 DESIGNATION OF NOTARIAL ACT

Except as set out in Rule .0209 of this Section, a notary public shall state in a journal whether each notarial act is:

- (1) traditional;
- (2) electronic; or
- (3) remote electronic.

History Note: Authority G.S. 10B-4; 10B-38; 10B-126; 10B-134.15; 10B-21;
Eff. July 1, 2024.

18 NCAC 07I .0209 is proposed for adoption as follows:

18 NCAC 07I .0209 EXCEPTION TO RULE .0208

A notary public who includes only a single mode of notarial act in a journal may:

- (1) make a single notation of the mode of notarial acts at the beginning of the journal; and
- (2) omit the notations required by Rule .0208 of this Section.

NOTE: An example would be a journal first-page statement that the journal documents only traditional notarial acts.

History Note: Authority G.S. 10B-4; 10B-38; 10B-126; 10B-134.15; 10B-21;
Eff. July 1, 2024.

18 NCAC 07I .0210 is proposed for adoption as follows:

18 NCAC 07I .0210 DESIGNATION OF TYPE OF NOTARIAL ACT

A notary public shall designate in the journal whether the type of a notarial act is:

- (1) an acknowledgement;
- (2) the taking of a verification or proof;
- (3) an administration of an oath or affirmation;
- (4) a notarization of an absentee voter application; or
- (5) an inventorying of an abandoned safe deposit box.

*History Note: Authority G.S. 10B-4; 10B-38; 10B-126; 10B-134.15; 10B-21;
Eff. July 1, 2024.*

18 NCAC 07I .0211 is proposed for adoption as follows:

18 NCAC 07I .0211 JOURNAL MAY COMBINE EMPLOYER-RELATED AND NON-EMPLOYER ACTS

If a notary performs both employer-related and non-employer related notarial acts, the notary may maintain:

- (1) a separate journal for each of the employer-related and non-employer related notarial acts; or
- (2) a single journal reflecting all notarial acts.

*History Note: Authority G.S. 10B-4; 10B-38; 10B-126; 10B-134.15; 10B-21;
Eff. July 1, 2024.*

18 NCAC 07I .0212 is proposed for adoption as follows:

18 NCAC 07I .0212 JOURNAL RETENTION PERIOD

For at least 10 years after the last notarial act entered into a journal by a notary, the journal or the backup copy of the journal shall be retained by:

- (1) the notary; or
- (2) a designated custodian.

*History Note: Authority G.S. 10B-4; 10B-38; 10B-126; 10B-134.15; 10B-21;
Eff. July 1, 2024.*

18 NCAC 07I .0301 is proposed for adoption as follows:

SECTION .0300 – GENERAL JOURNAL CONTENTS

18 NCAC 07I .0301 CONTENTS OF JOURNAL FOR CANCELED ACT

For each canceled act, a notary public shall include in the journal:

- (1) the date and time of the canceled act;
- (2) the names of the principals; and
- (3) the reason the act was canceled.

History Note: Authority G.S. 10B-4; 10B-38; 10B-126; 10B-134.15; 10B-21;
Eff. July 1, 2024.

18 NCAC 07I .0302 is proposed for adoption as follows:

18 NCAC 07I .0302 CONTENTS OF JOURNAL

Notaries shall enter the following information in the journal for each notarial act completed:

- (1) the date and time at the notary's location of the notarial act;
- (2) the names of the principals;
- (3) the types and modes of notarial acts performed;
- (4) the type of documents notarized, if any;
- (5) how the identities of the principals were determined;
- (6) if satisfactory evidence of the principal's identity was presented:
 - (a) the type of satisfactory evidence;
 - (b) if the satisfactory evidence was a document, the addresses of each principal as shown on the documents;
 - (c) if the satisfactory evidence was based on the sworn statement of a credible witness:
 - (i) the name of the credible witness;
 - (ii) the contact information of the credible witness;
 - (iii) the signature of the credible witness in a traditional notary's journal; or
 - (iv) the signature of the credible witness has been added to the journal by the notary;
- (7) the signatures of the principals or the notary's addition of the principals' acknowledged signatures to the journal;
- (8) information required by 18 NCAC 07K .0203 for any fees charged; and
- (9) designation of each notarial act as employer-related or non-employer related if the journal includes both categories of notarial acts.

History Note: Authority G.S. 10B-4; 10B-38; 10B-126; 10B-134.15; 10B-21;

Eff. July 1, 2024.

18 NCAC 07I .0303 is proposed for adoption as follows:

**18 NCAC 07I .0303 ADDITIONAL JOURNAL CONTENTS FOR REMOTE ELECTRONIC
NOTARIZATIONS**

In addition to the requirements of Rule .0302 of this Section, for each remote electronic notarial act completed, an electronic notary public shall enter in the journal:

- (1) the locations of the principals and notary public at the time of the act;
- (2) the method of establishing the location of the remotely located principals;
- (3) the names of any individuals who are physically present with the remotely located principals in the same location; and
- (4) the names of any individuals in addition to the principals and those listed in Item (3) of this Rule who are present remotely using the communications technology during the notarial transaction process.

*History Note: Authority G.S. 10B-4; 10B-38; 10B-126; 10B-134.15; 10B-21;
Eff. July 1, 2024.*

18 NCAC 07I .0304 is proposed for adoption as follows:

**18 NCAC 07I .0304 EMPLOYER REQUEST FOR INCLUSION OF ADDITIONAL INFORMATION
IN JOURNAL**

A notary public shall include additional information in the journal regarding an employer-related electronic notarial act if:

- (1) the employer so requests;
- (2) the request is made before the notary commits the journal entry; and
- (3) the information is directly related to the notarial act.

*History Note: Authority G.S. 10B-4; 10B-38; 10B-126; 10B-134.15; 10B-21;
Eff. July 1, 2024.*

18 NCAC 07I .0305 is proposed for adoption as follows:

18 NCAC 07I .0305 PARTY REQUEST FOR INCLUSION OF ADDITIONAL INFORMATION IN JOURNAL FOR REMOTE ELECTRONIC NOTARIZATION

A notary public shall include additional information in the journal if:

- (1) the notarial act is a remote electronic notarial act;
- (2) the requestor is a party involved in the transaction;
- (3) the request is made before the notary commits the journal entry; and
- (4) the information is directly related to the notarial act.

*History Note: Authority G.S. 10B-4; 10B-38; 10B-126; 10B-134.15; 10B-21;
Eff. July 1, 2024.*

18 NCAC 07I .0306 is proposed for adoption as follows:

18 NCAC 07I .0306 NOTATION OF REQUESTS FOR INCLUSION OF ADDITIONAL INFORMATION IN JOURNAL

If a notary receives a request for inclusion of additional information in the journal, the notary shall note in the journal:

- (1) who requested inclusion of the information; and
- (2) the reason for a refusal to include information.

*History Note: Authority G.S. 10B-4; 10B-38; 10B-126; 10B-134.15; 10B-21;
Eff. July 1, 2024.*

18 NCAC 07I .0307 is proposed for adoption as follows:

**18 NCAC 07I .0307 NOTARY SHALL NOT PROVIDE UNRELATED NOTARIAL ACT
INFORMATION TO EMPLOYER**

A notary who performs both employer-related and unrelated notarial acts shall not provide the notary's employer with:

- (1) information regarding the notarial acts unrelated to the employer; or
- (2) copies of, or access to, unrelated notarial act entries in the journal.

*History Note: Authority G.S. 10B-4; 10B-38; 10B-126; 10B-134.15; 10B-21;
Eff. July 1, 2024.*

18 NCAC 07I .0401 is proposed for adoption as follows:

SECTION .0400 – ELECTRONIC JOURNAL REQUIREMENTS

18 NCAC 07I .0401 MAINTAIN BACKUP COPY

A notary shall maintain an exact backup copy of the notary's electronic journal.

*History Note: Authority G.S. 10B-4; 10B-38; 10B-126; 10B-134.15; 10B-21;
Eff. July 1, 2024.*

18 NCAC 07I .0402 is proposed for adoption as follows:

18 NCAC 07I .0402 FORMAT OF BACKUP COPY

A notary may maintain the backup copy of the electronic journal:

- (1) on paper; or
- (2) as an electronic document on a separate physical device.

*History Note: Authority G.S. 10B-4; 10B-38; 10B-126; 10B-134.15; 10B-21;
Eff. July 1, 2024.*

18 NCAC 07I .0403 is proposed for adoption as follows:

18 NCAC 07I .0403 PRINTING OUT OF ELECTRONIC JOURNAL ENTRIES

A notary shall only use an electronic journal that can be printed out.

History Note: Authority G.S. 10B-4; 10B-38; 10B-126; 10B-134.15; 10B-21;
Eff. July 1, 2024.

18 NCAC 07I .0404 is proposed for adoption as follows:

18 NCAC 07I .0404 INCLUDING SIGNATURES IN JOURNAL

An electronic notary public shall ensure that:

- (1) the principals acknowledge that their electronic signatures have been captured as signed on the documents in the transaction and included in the journal;
- (2) the designee signs the designee’s name and the notary then includes the signature in the journal; or
- (3) the credible witness signs the credible witness’s name and the notary then includes the signature in the journal.

History Note: Authority G.S. 10B-4; 10B-38; 10B-126; 10B-134.15; 10B-21;
Eff. July 1, 2024.

18 NCAC 07I .0405 is proposed for adoption as follows:

18 NCAC 07I .0405 TECHNOLOGICAL ISSUES

An electronic notary public shall note in the journal complete or partial technological failures that lead the notary to terminate the act pursuant to 18 NCAC 07F .1107.

History Note: Authority G.S. 10B-4; 10B-38; 10B-126; 10B-134.15; 10B-21;
Eff. July 1, 2024.

18 NCAC 07I .0406 is proposed for adoption as follows:

18 NCAC 07I .0406 PRE-POPULATED DATA TO BE CONFIRMED BY NOTARY PUBLIC

A notary public may enter the information listed in Rules .0302 and .0303 of this Subchapter in an electronic journal by:

- (1) individually reviewing each item of information offered as an option or by pre-population; and
- (2) confirming that offered information is accurate by selecting:
 - (a) the offered information; or
 - (b) the accurate item from among other options offered.

*History Note: Authority G.S. 10B-4; 10B-38; 10B-126; 10B-134.15; 10B-21;
Eff. July 1, 2024.*

18 NCAC 07I .0407 is proposed for adoption as follows:

18 NCAC 07I .0407 STEPS BEFORE COMMITTING AN ELECTRONIC JOURNAL ENTRY

Before committing an electronic journal entry, a notary shall:

- (1) review the information entered for accuracy; and
- (2) correct any errors in the entry.

*History Note: Authority G.S. 10B-4; 10B-38; 10B-126; 10B-134.15; 10B-21;
Eff. July 1, 2024.*

18 NCAC 07I .0408 is proposed for adoption as follows:

18 NCAC 07I .0408 JOURNAL SUPPLEMENTS

A notary may add supplemental information to the journal if:

- (1) the notary does not in any way change the original committed journal entry; and
- (2) specifies the journal entry to which the supplemental information relates.

*History Note: Authority G.S. 10B-4; 10B-38; 10B-126; 10B-134.15; 10B-21;
Eff. July 1, 2024.*

Appendix IV: Proposed 18 NCAC 07K Rules

18 NCAC 07K .0101 is proposed for adoption as follows:

SUBCHAPTER 07K – MISCELLANEOUS RULES

SECTION .0100 – GENERAL

18 NCAC 07K .0101 DEFINITIONS

(a) The definitions in this Rule apply to this Chapter.

(b) For purposes of Chapter 10B of the General Statutes and the rules in this Chapter:

(1) “Accepted” means the Department has reviewed a filing and determined that:

(A) the filing satisfies the applicable information requirements in Chapter 10B of the General Statutes and this Chapter; and

(B) all required fees associated with the filing have been tendered without dishonor.

“Accepted” shall not mean that the Department has determined that the filer is qualified and will be appointed, approved, or licensed.

(2) “Approved” means that an applicant has been authorized by the Department to provide services as a technology provider in compliance with Chapter 10B of the General Statutes and the rules in this Chapter. Technology providers licensed by the Department are deemed approved.

(3) “Armed Forces of the United States” means the persons described in 10 U.S.C. 101(4) and G.S. 143B-1224(2), including their reserve components.

(4) “Bank or financial institution” means a “depository institution” as defined in G.S. 53-208.42.

(5) “Certificate of appointment” means a document issued by the Department notifying a Register of Deeds that:

(A) the named appointee is authorized to take the oath for the office specified in the document; and

(B) the Register of Deeds or designee shall provide the commission certificate to the notary after:

(i) administering the oath of office to the appointee; and

(ii) signing of the certificate by both the Register of Deeds or designee, and the notary.

(6) “Commission certificate” means the document confirming that an individual:

(A) has complied with all requirements of Chapter 10B of the General Statutes and the rules in this Chapter; and

(B) is authorized to act as the type of notary named in the document.

(7) “Commit” means the final step in the notarial act after which:

(A) the notarial act is complete;

- (B) all entries are permanent; and
 - (C) no changes can be made to the entries in SubPart (b)(7)(B) of this Rule.
- (8) “Dishonored payment” or “payment that has been dishonored” means money tendered to the Department by any means that is refused, rejected, or failed to be paid to the Department by the bank or financial institution upon which it is drawn.
- (9) “Enter information” means to:
 - (A) handwrite, type, or input data;
 - (B) confirm that pre-populated words or numbers are correct. NOTE: an example would be clicking a checkbox to select the correct date;
 - (C) select applicable options from among offered options. NOTE: an example would be selecting “oath or affirmation” from a drop-down list of the types of notarial acts; or
 - (D) include in the electronic journal acknowledged signatures of:
 - (i) principals;
 - (ii) a designee of a principal; or
 - (iii) a credible witness.
- (10) “Federal business mileage rate” shall mean the business mileage rate set by the U.S. Internal Revenue Service (IRS).
- (11) “Federally recognized Indian tribe” means a tribe on the list published in the Federal Register by the U.S. Secretary of the Interior pursuant to 25 U.S.C. 5131.
- (12) “File” means the date upon which a filing submitted to the Department is deemed complete by the Department.
- (13) “Filer” means a person that submits a filing to the Department.
- (14) “Filing” means a form or other document required or permitted to be filed with the Department pursuant to Chapter 10B of the General Statutes or the rules in this Chapter.
- (15) “Form” means a departmental data collection instrument that requires or requests information, without regard to the format.
- (16) “Form preparer” means a person who enters information on a form as defined in Subparagraph (b)(14) of this Rule:
 - (A) at the direction of another; and
 - (B) without exercising independent judgment or discretion as to the content entered.
- (17) “Information technology” or “IT” means that term as defined in G.S. 143B-1320(a)(11).
- (18) “Information technology security” or “IT security” means the tools, techniques, and strategies used to protect the confidentiality, integrity, and availability of data, information systems, and digital assets from:
 - (A) internal and external threats; and
 - (B) unauthorized access, use, disclosure, disruption, modification, or destruction.

- (19) “Initial appointment” means the first issuance by the Department of a commission certificate to a notary public.
- (20) “Instructor,” “certified notary public instructor,” “certified instructor,” “notary instructor,” and “certified notary instructor” mean a notary public who has complied with:
- (A) the requirements of G.S. 10B-14; and
 - (B) the rules in Subchapter 07E of this Chapter.
- (21) “Location” means a description establishing that a principal is present in a jurisdiction where the notarial act may take place. NOTE: a statement that the principal is then located inside the U.S. embassy in Paris, France, would suffice to establish that the principal is present in a jurisdiction where the notarial act may take place.
- (22) “Long-term” means a period of at least one year.
- (23) “Notarial transaction process” includes:
- (A) steps before the notarial act takes place. NOTE: the interactions establishing the date and location of a notarial act, obtaining advance consent to travel fees, and the steps required by G.S. 10B-134.9(a) are examples of steps before the notarial act;
 - (B) the notarial act; and
 - (C) steps following the notarial act.
- (24) “Person” means the term as defined in G.S. 12-3(6).
- (25) “State recognized tribe” means a group listed in G.S. 143B-407(a).
- (26) “Successfully complete” and “successful completion” mean that a notarial applicant has complied with Chapter 10B and the rules in this Chapter and has:
- (A) presented satisfactory evidence of identity;
 - (B) attended a notarial course taught by a certified notary instructor; and
 - (C) achieved a passing grade on the course examination.
- (27) “Technological failure” means a deficiency in:
- (A) any component of the electronic notarization system;
 - (B) any component of the computer systems of the notary or principals; or
 - (C) the connections linking Parts (b)(27)(A) and (b)(27)(B) of this Rule.

For purposes of this Rule, “component of the electronic notarization system” means any combination of hardware, software, a notary’s electronic journal, and communications technology recordings.

- (28) “Technology provider” means an AVEN, platform, depository, or custodial service.
- (29) “Termination of employment” means the cessation of permanent or temporary work, whether compensated or not, for an employer or contractor for any reason, including voluntary and involuntary cessation of work.
- (30) “Traditional notarization” means a notarial act in which:
- (A) there is personal appearance as defined in G.S. 10B-3(16); and
 - (B) either:

- (i) a document is executed and notarized with ink signatures signed by hand and affixed with the physical notary seal as defined in G.S. 10B-3(23); or
- (ii) an oath or affirmation is administered without the execution of a document.
- (31) “Traditional notary public” means an individual commissioned to perform traditional notarizations.
- (32) “Type of notarial act” means an acknowledgement, an oath or affirmation, verification or proof, inventory of an abandoned safe deposit box, or notarization of an absentee ballot.
- (33) “Under the exclusive control of the notary” means accessible by and attributable solely to the notary to the exclusion of all other persons through being:
 - (A) in the case of a physical seal:
 - (i) in the direct physical custody of the notary; or
 - (ii) physically secured; or
 - (B) in the case of an electronic seal, secured with one or more methods of authentication in an approved electronic notarization system.
- (34) “United States” or “U.S.” means the term as defined in G.S. 12-3(11).

History Note: Authority G.S. 10B-4; 10B-14; 10B-125; 10B-126; 10B-134.15; 10B-134.19; 10B-134.21;
Eff. July 1, 2024.

18 NCAC 07K .0201 is proposed for adoption as follows:

SECTION .0200 – CHARGING FEES FOR NOTARIAL ACTS

18 NCAC 07K .0201 TRAVEL FEE RATE

A notary public who charges travel fees shall refer to the IRS website for the current federal business mileage rate prior to charging the travel fee.

History Note: Authority G.S. 10B-4; 10B-126;
Eff. January 1, 2024.

18 NCAC 07K .0202 is proposed for adoption as follows:

18 NCAC 07K .0202 ESTIMATE OF CHARGES

In addition to the publication or provision of a notary's schedule of fees pursuant to G.S. 10B-32, if a principal requests a fee estimate from a notary public, the notary shall provide an estimate that:

- (1) includes the estimated total fee, and
- (2) the basis for the estimated charges.

History Note: Authority G.S. 10B-4; 10B-126;
Eff. January 1, 2024.

18 NCAC 07K .0203 is proposed for adoption as follows:

18 NCAC 07K .0203 INCLUSION OF FEES IN JOURNAL

A notarial journal maintained pursuant to the rules in Subchapter I of this Chapter shall include, with regard to a specific notarial act for which fees were charged:

- (1) how much the notary charged for each notarial act performed; and
- (2) if travel reimbursement was charged:
 - (a) the actual reimbursement charged;
 - (b) the fee charged per mile; and
 - (c) a copy of the principal's advance written consent to travel fees or reference to the location of the notary's copy of the principal's advance written consent to the travel fees.

History Note: Authority G.S. 10B-4; 10B-38; 10B-126; 10B-134.15;
Eff. January 1, 2024.

18 NCAC 07K .0204 is proposed for adoption as follows:

18 NCAC 07K .0204 CONSENT TO TRAVEL FEES MAY BE ELECTRONIC

A notary who charges travel fees pursuant to G.S. 10B-31(5) may obtain the advance written consent of the principal electronically.

History Note: Authority G.S. 10B-4; 10B-126; 10B-134.15;
Eff. January 1, 2024.

18 NCAC 07K .0205 is proposed for adoption as follows:

18 NCAC 07K .0205 CONTENTS OF ADVANCE CONSENT TO TRAVEL FEES

A notary who charges travel fees shall obtain advance written consent of the principal that includes the following information:

- (1) date of the consent;
- (2) name of the principal;
- (3) name of the notary;
- (4) estimated mileage that the notary will charge;
- (5) fee per mile that the notary will charge; and
- (6) planned date of the notary's travel.

History Note: Authority G.S. 10B-4; 10B-126; 10B-134.15;
Eff. January 1, 2024.

18 NCAC 07K .0206 is proposed for adoption as follows:

18 NCAC 07K .0206 NOTARIAL RECORD OF WRITTEN CONSENT TO TRAVEL FEES

A notary who charges travel fees shall preserve the advance written consent as a notarial record:

- (1) in the notary's journal; or
- (2) separately, if the written consent cannot be included in the journal, along with a supplemental journal entry describing the fact of written consent.

History Note: Authority G.S. 10B-4; 10B-126; 10B-134.15;
Eff. January 1, 2024.

18 NCAC 07K .0207 is proposed for adoption as follows:

18 NCAC 07K .0207 RECEIPT FOR FEES

Upon request of a principal, a notary shall provide a receipt for fees charged.

History Note: Authority G.S. 10B-4; 10B-126;
Eff. January 1, 2024.