

March 17, 2005

**S 671. REAL PROPERTY ELECTRONIC RECORDING (=H 762).** *TO ENACT THE UNIFORM REAL PROPERTY ELECTRONIC RECORDING ACT, AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION.* Identical to H 762, introduced 3/17/05.

**Intro. by Hartsell.**

Ref. to Judiciary II

GS 47

May 4, 2005

**S 671. REAL PROPERTY ELECTRONIC RECORDING.** Intro. 3/17/05. Senate committee substitute makes the following changes to 1st edition. Modifies proposed GS 47-16.3 to provide that act does not prohibit the NC Board of Examiners for Engineers and Surveyors from requiring a seal on any plat or map submitted for electronic recording. Modifies proposed GS 47-16.5(a) to authorize the Secretary of State to direct the Electronic Recording Council to revise electronic recording standards that are not in compliance with existing law or consistent with accepted industry technical standards that are necessary for nationwide uniformity. Makes technical changes.

August 23, 2005

**S 671. REAL PROP. ELECTRONIC RECORDING/NOTARY ACT (NEW).** Intro. 3/17/05. House committee substitute adopted 8/22/05 makes the following changes to 2nd edition. Makes technical changes to Uniform Real Property Electronic Recording Act as set forth in original bill. In addition, committee substitute adds new section to repeal Chapter 10A of the General Statutes and replace it with new Chapter 10B. Changes title accordingly. New sections in bill dealing with notaries are substantially similar to S 934.

Replaces GS Chapter 10A (Notary Public Act) with a new GS Chapter 10B, Article 1 (Notary Act) and Article 2 (Electronic Notary Act), and Article 3 (Notary Public Special Fund). All Articles effective December 1, 2005.

*Revisions to Notary Act.* New GS Chapter 10B, Article 1 adds to purposes of original Act: (1) fostering ethical conduct among notaries, (2) enhancing cross-border recognition of notary acts, and (3) integrating traditional paper and electronic notarial acts. Also adds new definitions, including "attestation", "jurat", "notarial act", "notarial certificate", "revocation", "signature", "subscribing witness", and "suspension." Adds new requirements for becoming a notary, including being a US resident; speaking, reading, and writing English; and possessing a high school diploma or its equivalent. Adds to grounds under which a notary commission may be denied submission of incomplete application or an application containing a material misstatement or omission of fact, and a finding or admission of liability against an applicant in a civil lawsuit based on the applicant's deceit. Expands educational requirements for commission of non-attorneys to include 6 hours (now, between 3 and 6 hours) approved by the Secretary of State and taken within the 3 months preceding the application, adds minimum passing grade of 80% on written exam, and requires that non-attorney notaries seeking recommissioning pass a written exam. Licensed members of the NC Bar have no additional educational requirements and do not have to take exam. Changes time period in which an appointee must appear before the register of deeds to take an oath from 90 days to 45 days. Requires that registers of deeds and clerks of superior court send the pages and documents contained in their "Records of Notaries Public" created prior to 1991 to the Secretary of State for permanent storage as soon as practical or within 24 months of effective date of bill.

Adds execution of jurats to list of permitted notarial acts [GS 10B-14(a)]. Adds conditions that disqualify a notary from performing a notarial act [GS 10B-14(c)], including absence and inadequate identification of principal, a principal's demeanor that causes the notary to have compelling doubt about whether the principal knows the consequences of the transaction, and appearance that the principal is not acting with free will. Provides procedure for acknowledging an instrument for a person who is unable to sign or make a mark [GS 10B-14(e)]. Adds new sections to prohibit certain kinds of execution and notarization, including executing documents that contain information known by the notary to be false, that are not in the English language, notarizing blank signature lines, and notarizing or authenticating photographs. Requires that notary cross out or

mark through all blank lines or spaces in the certificate, except as provided in new section 10B-14(o). Increases maximum fee for notarial act from \$3 to \$5. Expands description and requirements for official seal used by notaries [GS 10B-23 and 10B-24]. Provides form requirements for certain acknowledgements, including general acknowledgment, verification or proof of acknowledgment, and affirmation of a subscribing witness of an absent signer. Expands statutes that outline process for a notary's change of status with the Secretary of State, including resignation and change of name, address, or county. Generally, time-frame requirements are increased from 30 days to 45 days.

*Authorization of Electronic Notarization.* New GS Chapter 10B, Article 2, authorizes and creates standards for electronic notary (e-notary) acts. Outlines qualifications for a person to be an electronic notary, which include the basic requirements for being a notary, plus taking a course of at least 3 hours of instruction in electronic notarial acts. Establishes registration process for e-notaries and sets fees, including a maximum fee that an e-notary can charge of \$10 per signature. Also outlines requirements for electronic document components, e-notary electronic signature, and e-notary seal. Enacts new GS 10B-50(d)-(f) to authorize the Secretary of State to adopt rules to ensure the authenticity of electronic notarizations, to require that an electronic notary maintain a record of each electronic notarial act, and to provide that an electronic notary's failure to produce required records within 10 days of Department's request will result in the suspension of the notary's power to act as a notary. Provides process for issuing certificate of authority for an e-notarial act. Makes it a Class G felony to wrongfully manufacture or distribute hardware that permits a person to act as an e-notary without being commissioned and registered. Makes it a Class I felony to wrongfully obtain, conceal, damage, or destroy hardware, media, or software that enables an e-notary to affix an official e-signature. Allows the Secretary of State to utilize the Department of the Secretary of State's Information Technology staff and to expend up to \$200,000 from the Secretary's State E-Commerce Transaction Fund to implement this section of the bill.

*Notary Public Special Fund.* Article 3 of GS Chapter 10B establishes a fund within the office of the Secretary of State to be used for the administration of Chapter 10B. All monies collected from persons taking the notary exam are to be deposited into the Special Fund.

*Other Changes.* Provides that bill applies to notarial acts and applications for notary commissions made on or after effective date of December 1, 2005, and that any notary commission issued prior to that date will remain valid (unless otherwise revoked or suspended by the Secretary). Criminal penalties imposed by bill apply to offenses committed on or after December 1, 2005, regardless of whether commission was issued under new GS Chapter 10B or GS Chapter 10A (original notary act). Makes technical and conforming changes.

August 24, 2005

**S 671. REAL PROP. ELECTRONIC RECORDING/NOTARY ACT.** Intro. 3/17/05. House Finance committee substitute adopted 8/23/05 makes the following changes to 3rd edition. (1) GS 10B-4(b), which sets the requirements a person must meet to be qualified for a notarial commission, provides that, among other requirements, the person must obtain the recommendation of a publicly elected official; committee substitute amends the statute to provide an exception to this requirement for applicants who seek to receive the oath of office from the register of deeds of a county where more than 15,000 active notaries are on record. (2) Committee substitute adds a provision specifying that the act does not affect any civil or criminal litigation pending on the effective date of the act. (3) Committee substitute adds a provision specifying that notary instructor certifications previously issued remain valid until the date the certificate expires.

August 24, 2005

**S 671. REAL PROP. ELECTRONIC RECORDING/NOTARY ACT.** Intro. 3/17/05. House appropriations committee substitute makes the following changes to 4th edition, as amended. Deletes Article creating Notary Public Special Fund and makes conforming changes throughout bill. Provides for appropriation from the General Fund to the Department of the Secretary of State in the amount of \$100,000 for 2005-06 for the development of instruction for notaries as provided

by the act. Requires that all funds received by the Secretary of State for registration of electronic notaries be deposited into the General Fund.

August 24, 2005

**S 671. REAL PROP. ELECTRONIC RECORDING/NOTARY ACT.** Intro. 3/17/05. House amendments make the following changes to House appropriations committee substitute. Extend the \$100,000 appropriation to Secretary of State to the second year of the 2005-07 fiscal biennium and make technical changes.

September 21, 2005

**SL 2005-391 (S 671). REAL PROPERTY ELECTRONIC RECORDING/NOTARY ACT. AN ACT TO ENACT THE UNIFORM REAL PROPERTY ELECTRONIC RECORDING ACT, AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION, TO REPEAL CHAPTER 10A OF THE GENERAL STATUTES REGARDING THE REGULATION OF NOTARIES PUBLIC, AND TO ENACT CHAPTER 10B RELATING TO NOTARIES.** Summarized in *Daily Bulletin* 3/17/05, 5/4/05, 8/23/05, and 8/24/05. Enacted September 13, 2005. Sections 1, 2, 10, and 13 are effective September 13, 2005. The remainder is effective December 1, 2005.