

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

FILED SENATE
Apr 7, 2021
S.B. 680
PRINCIPAL CLERK

S

D

SENATE BILL DRS55041-MM-19I

Short Title: Remote Notarization Act. (Public)

Sponsors: Senators Britt, Daniel, and McInnis (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO ALLOW REMOTE ONLINE NOTARIZATION.

3 The General Assembly of North Carolina enacts:

4 **SECTION 1.** Chapter 10B of the North Carolina General Statutes is amended by
5 adding a new Article to read:

6 "Article 4.

7 "Remote Online Notarization Act.

8 "Part 1. General Provisions.

9 **§ 10B-205. Short title.**

10 This Article is the "Remote Online Notarization Act" and may be cited by that name.

11 **§ 10B-206. Definitions.**

12 The following definitions apply in this Article:

- 13 (1) Communication technology. – An electronic device, process, or system that
14 allows a remote online notary and a remotely located individual to
15 communicate with each other simultaneously by sight and sound using
16 audiovisual technology and that makes reasonable accommodation for
17 individuals with vision, hearing, or speech impairments.
- 18 (2) Communication technology recording. – The simultaneous, synchronous
19 audio and visual recording of a notarial act.
- 20 (3) Credential analysis. – The remote analysis of the characteristics and security
21 features of identity cards.
- 22 (4) Electronic. – As defined in G.S. 10B-101(1).
- 23 (5) Electronic document. – As defined in G.S. 10B-101(2).
- 24 (6) Electronic journal. – A secure electronic record of notarial acts that contains
25 the information required under this Article.
- 26 (7) Electronic seal. – As defined in G.S. 10B-101(5).
- 27 (8) Identity proofing. – A process or service through which a third person affirms
28 the identity of an individual through review of personal information from
29 public or proprietary data sources.
- 30 (9) Remote online notarial certificate. – The portion of a notarized electronic
31 document that is completed by the remote online notary and contains all of the
32 following:
- 33 a. The remote online notary's electronic signature and the remote online
34 notary's electronic seal.
- 35 b. A statement of the facts attested to by the remote online notary in a
36 particular notarization.



* D R S 5 5 0 4 1 - M M - 1 9 I *

- c. A statement that a remotely located individual made the acknowledgment, oath or affirmation, or verification or proof.
- d. A statement that the notarization is a remote online notarization performed using communication technology by a remote online notary.
- (10) Remote online notarization or remote online notarial act. – A notarial act performed by means of communication technology.
- (11) Remote online notary public or remote online notary. – A notary public who is registered with the Secretary to perform remote online notarizations provided the notary is physically present in this State at the time of the notarial act.
- (12) Remote presentation. – Transmission to the remote online notary through communication technology of an image of a government-issued identification credential that is of sufficient quality to enable the remote online notary to identify the individual seeking the remote online notary public's services and perform credential analysis.
- (13) Remotely located individual. – An individual who is physically present in this State at the time of the notarial act but is not in the physical presence of the notary.

"§ 10B-207. Scope of Article.

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

"§ 10B-208. Reserved for future codification purposes.

"§ 10B-209. Reserved for future codification purposes.

"Part 2. Registration.

"§ 10B-210. Qualifications.

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

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

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

"§ 10B-211. Registration with the Secretary of State.

(a) Before performing remote online notarial acts, a notary shall do all of the following:

- (1) Register the capability to perform electronic notarial acts with the Secretary under Article 2 of this Chapter.
- (2) Identify the communication technology the notary intends to use to perform remote online notarial acts, identity proofing, and credential analysis.

(b) The term of registration as a remote online notary shall coincide with the term of the notary's commission under Articles 1 and 2 of this Chapter.

(c) A notary may register or reregister the capability to perform remote online notarial acts at the same time the notary applies for recommissioning under the requirements of Articles 1 and 2 of this Chapter.

(d) The registrant shall use an electronic form developed by the Secretary when registering under this Article, and the form shall include at least all of the following:

- 1 (1) The registrant's full legal name and the name to be used for commissioning,
2 excluding nicknames.
- 3 (2) The State and county of commissioning of the registrant.
- 4 (3) The expiration date of the registrant's notary commission.
- 5 (4) Proof of successful completion of the course of instruction on remote online
6 notarization as required by this Article.
- 7 (5) Information for any device employing an approved communication
8 technology as required in G.S. 10B-215. If the registrant does not register a
9 device employing an approved communication technology under
10 G.S. 10B-215, then the registrant shall provide all of the following:
- 11 a. A description of the secure communication technology the registrant
12 will use to perform remote online notarial acts.
- 13 b. A description of the means by which the registrant will use secure
14 communication technology recording capabilities when performing
15 official acts.
- 16 c. A description of the secure storage means, repositories, or secure
17 custodian the registrant will use to store the remote online notarial acts.
- 18 (e) The electronic registration form for a remote online notary shall be transmitted
19 electronically to the Secretary in the same manner as an electronic notary in Article 2 of this
20 Chapter.
- 21 (f) Within 10 business days after the change of any registration information required of
22 a remote online notary, the remote online notary shall electronically transmit to the Secretary a
23 notice of the change of information signed with the remote online notary's official electronic
24 signature.

25 **"§ 10B-212. Course of instruction.**

- 26 (a) Before performing remote online notarial acts, the notary shall take a course of
27 instruction of at least two hours approved by the Secretary and pass an examination of this course.
28 This requirement is in addition to the educational requirements provided in Articles 1 and 2 of
29 this Chapter.
- 30 (b) The content of the course and the basis for the examination shall be notarial laws,
31 procedures, technology, and ethics as they pertain to remote online notarization.
- 32 (c) The notary may also take necessary courses and receive necessary approvals as may
33 be required by the various notarial communication technologies.

34 **"§ 10B-213. Fees for registration.**

35 The fee payable to the Secretary for registering or reregistering as a remote online notary is
36 ten dollars (\$10.00), which shall be in addition to the fee required in G.S. 10B-13 and
37 G.S. 10B-108. All funds received by the Secretary under this section shall be deposited into the
38 General Fund.

39 **"§ 10B-214. Database of remote online notaries.**

40 The Secretary shall maintain an electronic database that includes all remote online notaries
41 who register under this Article. Any person may use the database to verify the authority of a
42 notary to perform remote online notarial acts. The database shall indicate whether a notary public
43 has notified the commissioning officer or agency that the notary public will be performing
44 notarial acts on electronic documents.

45 **"§ 10B-215. Maintenance of electronic device.**

- 46 (a) The remote online notary shall register with the Secretary any device employing an
47 approved communication technology.
- 48 (b) If the registration of the device used to employ the approved communication
49 technology is either expired or is changed during the remote online notary's term of office, the
50 notary shall cease performing remote online notarizations until:
- 51 (1) A new device is duly issued or registered to the notary; and

- 1 (2) An electronically signed notice is sent to the Secretary that shall include the
2 starting and expiration dates of any new registration term.
- 3 "§ 10B-216. Reserved for future codification purposes.
4 "§ 10B-217. Reserved for future codification purposes.
5 "§ 10B-218. Reserved for future codification purposes.
6 "§ 10B-219. Reserved for future codification purposes.
7 "Part 3. Remote Online Notarial Acts; Powers; and Limitations.
- 8 "§ 10B-220. Types of remote online notarial acts.
- 9 (a) Except as provided in subsection (b) of this section, the following types of notarial
10 acts may be performed by means of communication technology:
- 11 (1) Acknowledgments.
12 (2) Jurats.
13 (3) Verifications or proofs.
14 (4) Oaths or affirmations.
- 15 (b) A remote online notary shall not perform any of the notarial acts listed in subsection
16 (a) of this section with regard to any of the following documents:
- 17 (1) A self-proved will executed pursuant to Article 4A of Chapter 31 of the
18 General Statutes.
19 (2) An advance directive for a natural death executed pursuant to Article 23 of
20 Chapter 90 of the General Statutes.
21 (3) A health care power of attorney executed pursuant to Article 3 of Chapter 32A
22 of the General Statutes.
23 (4) A revocable or irrevocable trust or any document amending the same.
24 (5) A death beneficiary form that requires an acknowledgment.
25 (6) A durable power of attorney except a statutory limited power of attorney for
26 real estate.
27 (7) A codicil to a will.
28 (8) Any document related to the renunciation of parental rights in an adoption.
- 29 (c) A remote online notary may perform any of the notarial acts listed in subsection (a)
30 of this section with respect to tangible records and electronic documents.
- 31 (d) Upon registration with the Secretary under this Article, a remote online notary may
32 perform any of the notarial acts listed in subsection (a) of this section as an electronic notarization
33 under Article 2 of this Chapter.
- 34 "§ 10B-221. Prohibitions.
- 35 A remote online notarization shall not be performed if the principal:
- 36 (1) Is not personally known to the remote online notary or identified by
37 satisfactory evidence. A remote online notary who has personal knowledge of
38 a principal may rely on the communication technology to verify the principal's
39 identity unless the remote online notary, in the remote online notary's sole
40 discretion, requires satisfactory evidence. A remote online notary who does
41 not have personal knowledge of a principal shall require satisfactory evidence
42 of the principal's identity.
- 43 (2) For any reason set forth in G.S. 10B-20.
- 44 "§ 10B-222. Use of communication technology.
- 45 (a) All of the following requirements apply to the use of communication technology for
46 remote online notarial acts:
- 47 (1) Occurs in real time.
48 (2) Allows direct interaction between the principal seeking the remote online
49 notary's services and the remote online notary so that each can communicate
50 simultaneously by sight and sound through an electronic device, process, or
51 system.

- 1 (3) Includes audio with sound clear enough that each participant in the remote
2 online notarial act can hear and understand all other participants.
- 3 (4) Has sufficient quality to allow a clear and unobstructed visual observation of
4 the face of each participant and any identification provided by the principal
5 for a sufficient time to allow the remote online notary to determine if it is
6 satisfactory evidence. The remote online notary shall determine if the time is
7 sufficient.
- 8 (5) Is not prerecorded video or audio or both.
- 9 (6) Is capable of recording by means of one of the following:
- 10 a. The communication technology's recording and storage services.
- 11 b. An independent video recording device.
- 12 c. Electronically saved screenshots clearly showing each participant's
13 face, identification presented by the principal, and the notarized
14 document.
- 15 (b) The remote online notary shall take reasonable steps to provide that the
16 communication technology used in a remote online notarization is secure from unauthorized
17 interception. A notary may select one or more tamper-evident technologies to perform notarial
18 acts with respect to electronic documents or to perform remote online notarizations. In addition
19 to any requirements of this Article or established by the Secretary, the communication technology
20 shall (i) facilitate the process of collecting any required notarial records, (ii) provide a method by
21 which a remote online notary can access and export the notarial records, and (iii) provide
22 automated backup of the notarial records and communication technology recording to ensure
23 redundancy.
- 24 (c) No person may require a remote online notary to perform any remote online notarial
25 act using a communication technology the remote online notary has not selected.
- 26 **§ 10B-223. Requirements and procedures for remote online notarial acts.**
- 27 (a) All of the following shall occur prior to the performance of a remote online notarial
28 act:
- 29 (1) The principal shall verbally verify that he or she is physically present in North
30 Carolina at the time of the notarial act and also identify the county where he
31 or she is located at the time of the notarial act.
- 32 (2) The remote online notary shall inform the participants whether North Carolina
33 law requires that a communication technology recording be made of the
34 remote online notarization.
- 35 (3) The remote online notary shall require the principal to demonstrate, to the
36 satisfaction of the remote online notary, that the principal is not under duress
37 and is not otherwise being coerced to complete the transaction.
- 38 (4) The remote online notary shall verify the identity of the principal as provided
39 in G.S. 10B-224.
- 40 (5) The principal shall verbally state what documents are being signed for the
41 notarial record or the general nature of the transaction.
- 42 (b) In addition to the prohibitions contained in G.S. 10B-221, a remote online notary shall
43 refuse to perform a remote online notarial act if any of the following apply:
- 44 (1) The remote online notary has reasonable grounds to believe the principal is
45 acting under duress or is being coerced into completing the transaction.
- 46 (2) The remote online notary has reasonable grounds to believe the principal is
47 not physically located in North Carolina at the time of the remote online
48 notarization.
- 49 (3) The remote online notary becomes aware that the communication technology
50 is not secure.

1 (4) The electronic signature of the principal cannot be attached to the electronic
2 document for signature.

3 (5) The remote online notary's electronic notarial certificate and seal cannot be
4 attached to the electronic document using an electronic technology that
5 renders any subsequent change or modification to the document evident.

6 (c) The remote online notary shall use communication technology to observe each
7 principal sign each document that is to be notarized. If the notarial act is an oath or affirmation,
8 the remote online notary shall administer the oath or affirmation to the remotely located
9 individual using communication technology.

10 (d) The requirement of personal appearance, appear in person before a notary, physical
11 presence, and presence, as those terms are used in this Chapter, are satisfied for the purpose of a
12 remote online notarization if the remote online notary and the remotely located individual are
13 both physically present in North Carolina at the time of the notarial act and both use
14 communication technology that complies with the requirements of this Article.

15 (e) Any failure of the remote online notary to comply with the requirements of the remote
16 online notarization does not invalidate the notarial act or the electronic record that was notarized,
17 but it does not prevent an aggrieved person from seeking to invalidate the record.

18 (f) As a public official, a remote online notary shall maintain the confidentiality of a
19 principal's documents at all times.

20 **§ 10B-224. Verification of identity; identity proofing; credential analysis.**

21 (a) The remote online notary shall verify the principal's identity using one of the
22 following:

23 (1) The remote online notary's personal knowledge of the person creating the
24 electronic signature.

25 (2) Satisfactory evidence as provided in subsection (c) of this section.

26 (b) Satisfactory evidence may be established using the methods in subdivision (1) of this
27 subsection, subdivision (2) of this subsection, or both.

28 (1) In-person examination of the following which may be remotely presented as
29 further described in this Article:

30 a. Either of the following that contains the signature or a photograph of
31 the individual [current law requires both], and is satisfactory to the
32 notary:

33 1. A passport, drivers license, or government-issued nondriver
34 identification card, which is current before performance of the
35 notarial act.

36 2. Another form of government identification issued to an
37 individual, which is current before performance of the notarial
38 act.

39 b. By a verification on oath or affirmation of a credible witness
40 personally appearing before the officer and known to the notary or
41 whom the officer can identify on the basis of a passport, drivers
42 license, or government-issued nondriver identification card, which is
43 current before performance of the notarial act.

44 (2) Identity proofing and credential analysis pursuant to subsection (c) of this
45 section.

46 (c) Notwithstanding subsection (b) of this section, a remote online notary may require
47 the principal to provide additional information or identification credentials necessary to assure
48 the remote online notary of the identity of the principal.

49 (d) A remote online notarial act performed under this Article using identity proofing and
50 credential analysis shall comply with this section unless modified by the Secretary. A notary may
51 obtain satisfactory evidence of the identity of the remotely located individual by using identity

1 proofing and credential analysis which are generally accepted in the industry in which the
2 document is to be utilized.

- 3 (1) Identity proofing may include a knowledge-based authentication with these or
4 greater security characteristics:
 - 5 a. The signer must be presented with five or more questions with a
6 minimum of five possible answer choices per question.
 - 7 b. Each question must be drawn from a third-party provider of public and
8 proprietary data sources and be identifiable to the signer's social
9 security number or other identification information, or the signer's
10 identity and historical events records.
 - 11 c. Responses to all questions must be made within a two-minute time
12 constraint.
 - 13 d. The signer must answer a minimum of eighty percent (80%) of the
14 questions correctly.
 - 15 e. The signer may be offered an additional attempt in the event of a failed
16 first attempt.
 - 17 f. During the second attempt, the signer may not be presented with more
18 than three questions from the prior attempt.
- 19 (2) Credential analysis must confirm that the credential is valid and matches the
20 signer's claimed identity using one or more automated software or hardware
21 processes that scan the credential, including its format features, data, bar
22 codes, or other security elements.

23 **"§ 10B-225. Notarial components of electronic document.**

24 In performing a remote online notarial act utilizing communication technology under this
25 Article, all of the following components shall be attached to, or logically associated with, the
26 electronic document by the remote online notary, all of which shall be immediately perceptible
27 and reproducible in the electronic record to which the remote online notary's electronic signature
28 is attached:

- 29 (1) The notary's name, State, and county of commissioning exactly as stated on
30 the commission issued by the Secretary.
- 31 (2) The words "Remote Online Notary Public Utilizing Communication
32 Technology."
- 33 (3) The words "State of North Carolina."
- 34 (4) The expiration date of the commission.
- 35 (5) The notary's electronic signature.
- 36 (6) The completed wording of one of the following notarial certificates:
 - 37 a. Acknowledgment.
 - 38 b. Jurat.
 - 39 c. Verification or proof.
 - 40 d. Oath or affirmation.

41 **"§ 10B-226. Electronic notarization and remote online notarization.**

42 When using an electronic notarization as well as conducting a remote online notarization, the
43 remote online notary shall comply with the requirements of Articles 1 and 2 of this Chapter. Each
44 electronic notarization may include a communication technology recording. There shall be no
45 requirement that the recording further include any transactions other than the notarial act unless
46 the Secretary specifies a requirement to also record interactions of those particular transactions.

47 **"§ 10B-227. Maximum fees.**

48 (a) For performing notarial acts, the maximum fees that may be charged by a notary are as
49 follows:

- 50 (1) For acknowledgments, up to fifty dollars (\$50.00) per signature.
- 51 (2) For jurats, up to fifty dollars (\$50.00) per signature.

1 (3) For verifications or proofs, up to fifty dollars (\$50.00) per signature.

2 (4) For oaths or affirmations, up to fifty dollars (\$50.00) per signature.

3 (b) The maximum fees for remote online notarization are in addition to the maximum
4 fees for electronic notarization.

5 **"§ 10B-228.** Reserved for future codification purposes.

6 **"§ 10B-229.** Reserved for future codification purposes.

7 "Part 4. Remote Online Electronic Journal; Recordings; Security.

8 **"§ 10B-230. Electronic journal of remote online notarial acts.**

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

13 (b) At a minimum and for each remote online notarization, the remote online notary shall
14 include the following information in the electronic journal:

15 (1) The time of day when the remote online notary observed the signing of the
16 document by each principal and was presented with the principal's satisfactory
17 evidence of identification.

18 (2) The date of the completion of the remote online notarial certificate.

19 (3) The last and first name of each principal.

20 (4) The type of notarial act performed.

21 (5) The type of document notarized or proceeding performed.

22 (6) The type of satisfactory evidence of identification presented, including, if
23 applicable, the issuing agency and identification number on the identification
24 presented or the identity proofing and credential analysis service provided by
25 third-party vendors.

26 (7) The type of communication technology used during the remote online
27 notarization.

28 (8) A statement that the remote online notary and each principal could see and
29 hear each other.

30 (9) Whether any other person was present with the principal at the time of
31 signature and, if so, the name of that person.

32 (10) The fee, if any, charged by the remote online notary.

33 (c) A third party involved in a transaction that utilizes remote online notarization may
34 require additional information regarding that transaction be included in the electronic journal
35 kept by the remote online notary.

36 (d) The remote online notary shall retain a communication technology recording of the
37 performance of each remote online notarial act.

38 (e) On resignation from, or the revocation or suspension of, a remote online notary's
39 commission, the remote online notary shall retain the electronic journal in accordance with the
40 requirements of G.S. 10B-231.

41 (f) A remote online notary may designate a custodian to do any of the following:

42 (1) Maintain the electronic journal and any backup copies thereof.

43 (2) Retain a communication technology recording of the notarial act performed
44 and any backup copies thereof.

45 (3) Provide a method by which a remote online notary can do any of the
46 following:

47 a. Access the electronic journal.

48 b. Access the communication technology recording.

49 c. Export the electronic journal.

50 d. Export the communication technology recording.

1 (g) Upon the death or adjudication of incompetency of a current or former remote online
2 notary, the notary's personal representative or guardian, or any other person or custodian
3 knowingly in possession of the electronic journal shall transmit it to the Secretary or otherwise
4 as directed by rules adopted by the Secretary.

5 **"§ 10B-231. Security measures by notary; surrender of journal; etc.**

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

7 (1) All records of journal entries and communication technology recordings shall
8 be securely stored in a repository under the control of the online remote notary
9 or with a custodian duly appointed under the terms of this Article. The
10 custodian may be a third-party vendor approved by the Secretary for handling,
11 securely storing, or handling and securely storing the records of remote online
12 notarizations with data protection safeguards consistent with generally
13 accepted information security standards.

14 (2) Take reasonable steps to ensure that the audio-video communications are
15 secure from interception from an unauthorized third party during transmission
16 between participants involved in a notarial act. The communication
17 technology used by the remote online notary shall employ data protection
18 safeguards consistent with generally accepted information security standards.

19 (3) Retain the electronic journal and a backup copy of the electronic journal in a
20 secure location for at least 10 years after the last notarization chronicled in the
21 electronic journal. The same requirement applies if the remote online notary
22 also maintained a tangible journal of remote online notarial acts. The notary
23 may maintain an electronic journal in an electronic form in a permanent,
24 tamper-evident electronic format.

25 (b) A remote online notary may surrender the electronic journal to the remote online
26 notary's employer upon termination of employment, but the remote online notary shall also keep
27 and maintain an accurate backup copy of the journal for at least 10 years.

28 (c) Except as provided in subsection (b) of this section, the notary shall not surrender or
29 destroy the electronic journal or the communication technology recordings of notarial acts except
30 as required by a court order or as allowed under rules adopted by the Secretary.

31 (d) Within 10 days of discovering any permanent loss of data, unauthorized use, loss of
32 use, or compromise of security of the electronic journal or the communication technology
33 recordings of notarial acts, the remote online notary shall do all of the following:

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

36 (2) Notify the appropriate register of deeds and the Secretary in writing and signed
37 in the official name in which the remote online notary was commissioned. The
38 notice shall indicate whether there was any permanent loss of data,
39 unauthorized use, loss of use, or compromise of security of the electronic
40 journal or the audio-video recordings of notarial acts.

41 (e) The failure of a remote online notary to produce within 30 days of the Department's
42 request any record required by a rule adopted under this Article shall result in the suspension of
43 the remote online notary's power to act as a notary under the provision of this Chapter until the
44 Secretary reinstates the notary's commission.

45 (f) Upon resignation, revocation, or expiration of a notary commission, or death of the
46 notary, all notarial records required by statute or rule shall be delivered to the Secretary.

47 **"§ 10B-232. Security measures by Secretary.**

48 (a) The Secretary may establish guidelines for the secure storage of the electronic journal
49 and communication technology recording associated with the notarial acts that utilizes standard
50 encryption technologies such as Advanced Encryption Standard (AES) or
51 Rivest-Shamir-Adleman (RSA) encryption.

1 (b) The Secretary may establish, supplement, or amend third-party service guidelines for
2 standards and processes for identity proofing and credential analysis services so that third-party
3 vendors interacting with remote online notaries satisfy the security qualifications of establishing
4 the identity of the principal.

5 (c) The Secretary may establish standards and processes for the technology
6 communication to allow real-time communications such that the participants can see and hear
7 notarial acts. The standards and processes shall ensure that the real-time communications are
8 secure from unauthorized interception, access, or viewing. The Secretary may require that the
9 communication technology used to perform online notarial acts is capable of all of the following:

10 (1) Provides for continuous, synchronous audio-visual feeds.

11 (2) Provides sufficient video resolution and audio clarity to enable the notary and
12 the principal to see and speak with each other simultaneously through live,
13 real-time transmission.

14 (3) Provides sufficient captured image resolution for credential analysis to be
15 performed.

16 (4) Includes a means of authentication that reasonably ensures only authorized
17 parties have access to the audio-video communication.

18 (5) Provides some manner of ensuring that the electronic record presented for
19 online notarization is the same record electronically signed by the principal.

20 (6) Securely creating and storing or transmitting securely to be stored a
21 communication technology recording of the audio-video communication,
22 keeping confidential the questions asked as part of any identity proofing and
23 the means and methods used to generate the credential analysis.

24 (d) The Secretary may establish standards for tamper-evident technologies such that any
25 subsequent change or modification to the record is self-evident.

26 (e) The Secretary may require the remote online notary to use a communication
27 technology provided by a third-party vendor that has presented evidence to the Secretary that the
28 communication technology complies with the applicable industry standards for the industry in
29 which it is to be utilized. At a minimum, the communication technology should provide
30 reasonable security measures to prevent unauthorized access to:

31 (1) The live transmission of the audio-video communication.

32 (2) Any communication technology recording of the audio-video communication.

33 (3) The verification methods and credentials used to verify the identity of the
34 principal.

35 (4) The electronic documents presented for online notarization.

36 (f) The Secretary may adopt other rules necessary to ensure the integrity, security, and
37 authenticity of remote online notarizations. In adopting other rules, the Secretary may impose
38 other education requirements on remote online notaries, prescribe the manner of performing
39 remote online notarial acts, and include provisions relating to the integrity and security of the
40 information. In adopting other rules, the Secretary may consider the following:

41 (1) The most recent standards promulgated by national standard-setting
42 organizations and the National Association of Secretaries of State.

43 (2) Standards, practices, and customs of other jurisdictions.

44 (3) The view of government officials and entities and other interested persons.

45 (4) The feedback of the advisory committee which may be created under this
46 Article.

47 (g) If the Secretary has established standards regarding technology to perform notarial
48 acts with respect to electronic documents or to perform remote online notarizations, the
49 technology chosen by the remote online notary shall conform to those standards. If the Secretary
50 has established standards under this Article for approval of communication technology or identity

1 proofing, the communication technology and identity proofing selected by the notary must
2 conform to the standards.

3 (h) In addition to adopting rules under this Article, the Secretary may adopt rules
4 regarding performance of a notarial act. The rules may:

5 (1) Prescribe the means of performing a notarial act involving a remotely located
6 individual using communication technology.

7 (2) Establish standards for communication technology, identity proofing, and
8 credential analysis.

9 (3) Establish requirements or procedures to approve providers of communication
10 technology and the process of identity proofing and credential analysis.

11 (4) Establish standards and a period for the retention of a communication
12 technology recording created under this Article for notarial acts.

13 (i) Before adopting, amending, or repealing a rule governing the performance of a
14 notarial act with respect to a remotely located individual, the Secretary may consider:

15 (1) What is in the best interest of the State of North Carolina as consistent with
16 G.S. 10B-2. This may be accomplished when and if the Secretary chooses to
17 create an Advisory Committee, consisting of stakeholders from different
18 sectors who may be technology providers, insurance agents, lenders, and other
19 industries who are considered consumers of notarial services. At least seventy
20 percent (70%) of the makeup of the Advisory Committee must be residents of
21 the State of North Carolina. Members shall be appointed by the Secretary for
22 a duration of time to be determined by the Secretary and be removed from the
23 committee at the discretion of the Secretary. The Advisory Committee shall
24 serve as advisors for the Secretary for purposes of ensuring that the
25 requirements of G.S. 10B-2 are being satisfied. The Advisory Committee
26 shall have no executive or rulemaking authority.

27 (2) The most recent standards regarding the performance of a notarial act with
28 respect to a remotely located individual promulgated by national
29 standard-setting organizations and the recommendations of the National
30 Association of Secretaries of State.

31 (3) Standards, practices, and customs of other jurisdictions that have laws
32 substantially similar to this section.

33 (4) The views of governmental officials and entities and other interested persons.

34 (j) By allowing its communication technology or identity proofing and credential
35 analysis to facilitate a notarial act for a remotely located individual or by providing storage of
36 the communication technology recording created under this Article, the provider of the
37 communication technology, identity proofing, credential analysis, or storage appoints the
38 Secretary as the provider's agent for service of process in any civil action in this State related to
39 the notarial act. The Secretary, at the Secretary's discretion, shall retain the right to substitute
40 either another State agency or private party to act as the agent for service of process.

41 "§ 10B-233. Reserved for future codification purposes.

42 "§ 10B-234. Reserved for future codification purposes.

43 "§ 10B-235. Reserved for future codification purposes.

44 "§ 10B-236. Reserved for future codification purposes.

45 "§ 10B-237. Reserved for future codification purposes.

46 "§ 10B-238. Reserved for future codification purposes.

47 "§ 10B-239. Reserved for future codification purposes.

48 "Part 5. Papering Out.

49 "§ 10B-240. Recordation of electronic records in tangible form.

50 (a) A paper or tangible copy of an electronic document that a notary public has certified
51 to be a true and correct copy under subsection (b) of this section satisfies any requirement of law

1 that, as a condition for recording, the document must comply with all of the following
2 requirements:

- 3 (1) Is an original or in writing.
- 4 (2) Is signed or contains an original signature, if the document contains an
5 electronic signature of the person required to sign the document.
- 6 (3) Is notarized, acknowledged, verified, witnessed, or made under oath, if the
7 document contains an electronic signature of the person authorized to perform
8 that act, and all other information required to be included.

9 (b) A notary public commissioned under the laws of this State may certify that a paper or
10 tangible copy of an electronic document is a true and correct copy of the electronic document
11 provided the notary public has reasonably confirmed that the electronic document is in a
12 tamper-evident format and the notary:

- 13 (1) Detected no changes or errors in any electronic signature or other information
14 in the electronic document.
- 15 (2) Personally printed or supervised the printing of the electronic document onto
16 paper or other tangible medium.
- 17 (3) Has not made any changes or modifications to the electronic document or to
18 the paper or tangible copy thereof other than the certification described in this
19 subsection.

20 (c) A State or local official charged with recording documents shall record a paper or
21 tangible copy of a document that is otherwise entitled to be recorded under the laws of this State,
22 provided that the paper or tangible copy has been certified by a notary public to be a true and
23 correct copy of an electronic document under subsection (b) of this section as evidenced by a
24 notarial certificate. The certificate must comply with all of the following requirements:

- 25 (1) Is signed and dated by the notary public and is signed in the same manner as
26 on file with the North Carolina Secretary of State.
- 27 (2) Identifies the jurisdiction in which the certification is performed.
- 28 (3) Contains the title of the notary public.
- 29 (4) Indicates the date of expiration, if any, of the notary public's commission.
- 30 (5) Includes the official seal of the notary public affixed to or embossed on the
31 certificate.

32 (d) The following form of certificate is sufficient for the purposes of this section, if
33 completed with the information required by subsection (c) of this section:

34 State of _____
35 County of _____

36 I certify that the foregoing and annexed document [entitled _____] [dated
37 _____] [and] containing [] pages is a true and correct copy of an electronic document
38 printed by me or under my supervision. I further certify that, at the time of printing, no security
39 features present on the electronic document indicated any changes or errors in an electronic
40 signature or other information in the electronic document since its creation or execution.

41 _____
42 Signature of Notary Public
43 [Stamp/seal]
44 Notary Public
45 [My commission expires: _____]
46 [My notary registration number is: _____]

47 (e) If a notarial certificate is completed in the manner required by subsection (d) of this
48 section and is attached to or made a part of a paper or tangible document, the certificate is prima
49 facie evidence that the requirements of subsection (b) of this section have been satisfied with
50 respect to the document.

1 (f) A document purporting to convey or encumber real property or any interest therein
 2 that has been recorded by the register of deeds for the jurisdiction in which the real property is
 3 located, although the document may not have been certified in accordance with the provisions of
 4 this section, shall impart the same notice to third persons and be effective, from the time of
 5 recording, as if the document had been certified in accordance with the provisions of this section.

6 (g) This section does not apply to a plat, map, or survey of real property if under another
 7 law of this State:

8 (1) There are requirements of format or medium for the execution, creation, or
 9 recording of such plat, map, or survey beyond the requirements applicable to
 10 a deed to real property; or

11 (2) The plat, map, or survey must be recorded in a different location than a deed
 12 to real property.

13 (h) As used in this section:

14 (1) Document. – Information that is all of the following:

15 a. Inscribed on a tangible medium or that is stored in an electronic or
 16 other medium and is retrievable in perceivable form.

17 b. Eligible to be recorded in the office of the register of deeds.

18 (2) Electronic. – Relating to technology having electrical, digital, magnetic,
 19 wireless, optical, electromagnetic, or similar capabilities.

20 (3) Electronic document. – A document created, generated, sent, communicated,
 21 received, or stored by electronic means.

22 (4) Electronic signature. – Electronic sound, symbol, or process attached to or
 23 logically associated with an electronic document and executed or adopted by
 24 a person with the intent to sign the electronic document.

25 "§ 10B-241. Reserved for future codification purposes.

26 "§ 10B-242. Reserved for future codification purposes.

27 "§ 10B-243. Reserved for future codification purposes.

28 "§ 10B-244. Reserved for future codification purposes.

29 "§ 10B-245. Reserved for future codification purposes."

30 **SECTION 2.** G.S. 10B-2 reads as rewritten:

31 "**§ 10B-2. Purposes.**

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

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

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

36 (3) To prevent fraud and forgery.

37 (4) To foster ethical conduct among notaries.

38 (5) To enhance interstate recognition of notarial acts.

39 (6) To integrate procedures for ~~traditional paper and electronic notarial acts~~ all of
 40 the following notarial acts:

41 a. Traditional paper.

42 b. Electronic.

43 c. Remote online."

44 **SECTION 3.** G.S. 10B-31 reads as rewritten:

45 "**§ 10B-31. Fees for notarial acts.**

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

47 (1) For acknowledgments, jurats, verifications or proofs, ~~five dollars (\$5.00)~~ up
 48 to ten dollars (\$10.00) per principal signature.

49 (2) For oaths or affirmations without a signature, ~~five dollars (\$5.00)~~ up to ten
 50 dollars (\$10.00) per person, except for an oath or affirmation administered to

1 a credible witness to vouch for the identity of a principal or subscribing
2 witness."

3 **SECTION 4.** This act becomes effective January 1, 2022.