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Short Title: Remote Electronic Notarization.

(Public)

Sponsors:

Referred to:

May 4, 2021

1 A BILL TO BE ENTITLED
2 AN ACT TO ALLOW REMOTE ELECTRONIC NOTARIZATION.
3 The General Assembly of North Carolina enacts:

4 **SECTION 1.** Article 2 of Chapter 10B of the General Statutes is amended by adding
5 a new Part to read:

6 "Part 4A. Remote Electronic Notarization.

7 "§ 10B-134. Reserved for future codification purposes.

8 "§ 10B-134.1. Definitions.

9 In addition to the definitions provided in this Article, the following definitions shall apply in
10 this Part:

- 11 (1) Communication technology. – An electronic device, process, or system that
12 allows a remote electronic notary and a remotely located principal to
13 communicate with each other simultaneously by sight and sound using
14 audiovisual technology and that makes reasonable accommodations for
15 remotely located principals with vision, hearing, or speech impairments.
16 (2) Communication technology recording. – The simultaneous, synchronous
17 audio and visual recording of the notarial act.
18 (3) Credential analysis. – A process or service through which a third-party vendor
19 performs a remote analysis of the characteristics and security features of each
20 identification of the remotely located principal pursuant to G.S. 10B-3(22)a.
21 (4) Electronic journal. – A secure record of remote electronic notarial acts that
22 contains the information required under G.S. 10B-134.15.
23 (5) Identity proofing. – A process or service through which a third-party vendor
24 affirms the identity of a remotely located principal through review of personal
25 information from public or proprietary data sources.
26 (6) Platform. – The online platform utilizing the communication technology to
27 perform the remote electronic notarial act.
28 (7) Remote electronic notarial certificate. – The portion of a notarized electronic
29 document that is completed by the remote electronic notary and contains all
30 of the following:
31 a. The remote electronic notary's electronic signature and the remote
32 electronic notary's electronic seal.



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- 1 b. The facts attested to by the remote electronic notary in a particular
2 notarization.
- 3 c. A statement in the acknowledgement, jurat, or verification certificate
4 identifying where the remotely located principal was physically
5 located at the time of the remote electronic notarization.
- 6 d. A statement that the notarization is a remote electronic notarization
7 performed using communication technology by a remote electronic
8 notary.
- 9 (8) Remote electronic notarization or remote electronic notarial act. – A notarial
10 act performed by means of communication technology.
- 11 (9) Remote electronic notary public or remote electronic notary. – A notary public
12 who is registered with the Secretary to perform remote electronic
13 notarizations.
- 14 (10) Remotely located principal. – A principal who is not in the physical presence
15 of the remote electronic notary and who is located at the time of the remote
16 electronic notarial act in any of the following places:
- 17 a. Inside the United States.
- 18 b. Outside the United States and physically on the military installation or
19 vessel named in the military orders assigning the member to active
20 duty for more than 120 days, provided the remotely located principal
21 is a member, spouse of a member, or dependent of a member of the
22 Armed Forces of the United States.
- 23 c. Outside the United States at any of the following locations:
- 24 1. United States Embassy.
- 25 2. United States Consulate.
- 26 3. United States Diplomatic Mission.
- 27 (11) Tamper-evident. – Any change, interference, or alteration to a record that is
28 patently plain and obvious.
- 29 (12) Third-party vendor. – Any person providing credential analysis, identity
30 proofing, or custodial services to remote electronic notaries.
- 31 **"§ 10B-134.2. Reserved for future codification purposes.**
- 32 **"§ 10B-134.3. Types of remote electronic notarial acts; prohibitions.**
- 33 (a) Upon registration with the Secretary under this Article, a remote electronic notary
34 may perform any of the notarial acts listed in G.S. 10B-115 by means of communication
35 technology in accordance with this Part. A remote electronic notary may perform any authorized
36 remote notarial act with respect to electronic documents.
- 37 (b) A remote electronic notary shall not perform a remote electronic notarial act if any of
38 the following applies:
- 39 (1) The remotely located principal's identity cannot be verified under
40 G.S. 10B-134.11.
- 41 (2) Any reason set forth in G.S. 10B-20.
- 42 (3) Any reason set forth in G.S. 10B-134.9.
- 43 (c) Notwithstanding subsection (a) of this section, a remote electronic notary shall not
44 perform any remote electronic notarial act with regard to any of the following documents:
- 45 (1) A self-proved will executed pursuant to Article 4A of Chapter 31 of the
46 General Statutes.
- 47 (2) A revocable or irrevocable trust or any other document amending the same
48 except for a certification of trust or similar document.
- 49 (3) A death beneficiary form that requires an acknowledgment.
- 50 (4) A codicil to a will.

1 (5) Any document related to the relinquishment of parental rights under Article 3
2 of Chapter 48 of the General Statutes.

3 (6) Mail-in absentee ballots issued under Article 20 of Chapter 163 of the General
4 Statutes.

5 (d) The prohibitions in subsection (c) of this section shall not apply when, at the time the
6 remote electronic notarial act is performed, the remotely located principal meets the description
7 in G.S. 10B-134.1(10)b.

8 (e) No remotely notarized power of attorney may be used by the attorney-in-fact with
9 any other remotely notarized document to convey title to, or transfer any interest in, a remotely
10 located principal's real property. A power of attorney executed by a remotely located principal
11 under this Part shall be recorded in at least one county register of deeds office in this State. This
12 subsection does not apply to powers of attorney executed by a remotely located principal
13 described in G.S. 10B-134.1(10)b.

14 "**§ 10B-134.4.** Reserved for future codification purposes.

15 "**§ 10B-134.5. Use of communication technology.**

16 (a) The communication technology used by a remote electronic notary to perform remote
17 electronic notarial acts for remotely located principals shall comply with all of the following
18 requirements:

19 (1) Host the meeting between the remote electronic notary and the remotely
20 located principal in real time.

21 (2) Allow direct interaction between the remotely located principal seeking the
22 remote electronic notary's services and the remote electronic notary so that
23 each can communicate simultaneously by sight and sound through
24 communication technology.

25 (3) Include audio with sound clear enough that each participant in the remote
26 electronic notarial act can hear and understand all other participants.

27 (4) Have sufficient video quality to allow a clear and unobstructed visual
28 observation of the face of each participant and any identification provided by
29 the remotely located principal for a sufficient time to allow the remote
30 electronic notary to verify the remotely located principal's identity under
31 G.S. 10B-134.11. The remote electronic notary shall determine if the time is
32 sufficient.

33 (5) Not include prerecorded video or audio or both.

34 (6) Be capable of recording using the communication technology's recording and
35 storage services.

36 (7) Be capable of geolocating the remotely located principal to corroborate the
37 location of the remotely located principal.

38 (b) The remote electronic notary shall take reasonable steps to provide that the
39 communication technology used in a remote electronic notarization is secure from unauthorized
40 interception. A remote electronic notary shall select one or more tamper-evident technologies to
41 perform remote electronic notarial acts with respect to electronic documents. In addition to any
42 requirements of this Article or established by the Secretary, the communication technology shall
43 provide automated backup of the communication technology recording.

44 (c) No person may require a remote electronic notary to perform any remote electronic
45 notarial act using communication technology that the remote electronic notary has not selected.

46 "**§ 10B-134.6.** Reserved for future codification purposes.

47 "**§ 10B-134.7. Authority to perform remote electronic notarial acts.**

48 (a) A remote electronic notary may perform a remote electronic notarial act authorized
49 under this Part only while the remote electronic notary is physically located in this State.

50 (b) A remote electronic notarization performed by a remote electronic notary of this State
51 under this Part is governed by the laws of this State.

1 "§ 10B-134.8. Reserved for future codification purposes.

2 "§ 10B-134.9. Requirements and procedures for remote electronic notarial acts.

3 (a) All of the following shall occur prior to the performance of a remote electronic
4 notarial act:

5 (1) The remote electronic notary shall inform the participants that North Carolina
6 law requires that a communication technology recording be made of the
7 remote electronic notarization.

8 (2) The remote electronic notary shall require the remotely located principal to
9 demonstrate, to the satisfaction of the remote electronic notary, that the
10 remotely located principal is not under duress and is not otherwise being
11 coerced to complete the transaction.

12 (3) The remote electronic notary shall verify the identity of the remotely located
13 principal as provided in G.S. 10B-134.11.

14 (4) The remote electronic notary shall ask the remotely located principal if the
15 remotely located principal would like an attorney to participate in the remote
16 notarization, and allow for such if so requested.

17 (5) The remotely located principal shall verbally state what documents are being
18 signed for the notarial record or describe the general nature of the transaction.

19 (6) The location of the remotely located principal shall be verified by geolocation
20 via communication technology.

21 (b) In addition to the prohibitions contained in G.S. 10B-134.3 and G.S. 10B-20, a remote
22 electronic notary shall refuse to perform a remote electronic notarial act if any of the following
23 applies:

24 (1) The remote electronic notary has reasonable grounds to believe the remotely
25 located principal is acting under duress or is being coerced into completing
26 the transaction.

27 (2) The remote electronic notary becomes aware that the communication
28 technology is not secure.

29 (3) The electronic signature of the remotely located principal cannot be attached
30 to the electronic document for signature.

31 (4) Unless an oath is being administered, the remote electronic notary's electronic
32 notarial certificate and seal cannot be attached to the electronic document
33 using an electronic technology that renders any subsequent change or
34 modification to the document evident.

35 (c) Except as provided in subsection (d) of this section, if the remote electronic notarial
36 act is an oath or affirmation, the remote electronic notary shall administer the oath or affirmation
37 to the remotely located principal utilizing a licensed platform.

38 (d) In judicial actions or proceedings, any notary public registered with the Secretary,
39 whether or not registered as a remote electronic notary, may administer an oath or affirmation to
40 a witness that does not require remote electronic notarization of a record or a notarial certificate
41 and seal when done in person, provided all of the following apply:

42 (1) The notary is physically located in this State at the time the oath or affirmation
43 is administered to the remotely located witness.

44 (2) Communication technology is utilized. The notary shall not be required to
45 select the medium of communication technology or to retain a communication
46 technology recording of the performance of each remote oral oath or
47 affirmation.

48 (3) All requirements of this Article relating to the identity proofing of the witness
49 are satisfied.

50 (e) Any non-material failure of the remote electronic notary to comply with the
51 requirements of the remote electronic notarization does not invalidate the notarial act or the

1 electronic record that was remotely notarized. An aggrieved person is not prevented from using
2 failures in the remote electronic notarization process, along with other grounds, to challenge the
3 validity or enforceability of the remote electronic notarization based on fraud, forgery,
4 impersonation, duress, incapacity, undue influence, minority, illegality, unconscionability, or
5 another basis not related to the remote electronic notarial act or constructive notice provided by
6 recording of the electronic record.

7 (f) Information gained from a remotely located principal in the course of performing a
8 remote electronic notarization shall be treated as confidential by the remote electronic notary.

9 "§ 10B-134.10. Reserved for future codification purposes.

10 "§ 10B-134.11. Verification of identity; identity proofing; credential analysis.

11 (a) Prior to the remote electronic notarial act, the remote electronic notary shall verify
12 each remotely located principal's identity through one of the following methods:

13 (1) The remotely located principal creating the electronic signature is personally
14 known to the remote electronic notary.

15 (2) All of the following:

16 a. Credential analysis, by a third-party vendor approved by the Secretary,
17 of a current document issued by a federal, state, or federal or
18 state-recognized tribal government agency bearing the photographic
19 image of the individual's face and either the signature or a physical
20 description of the individual.

21 b. Identity proofing by a third-party vendor approved by the Secretary.

22 c. Comparison, by the remote electronic notary, of the current document
23 issued by a federal, state, or federal or state-recognized tribal
24 government agency bearing the photographic image of the individual's
25 face and either the signature or a physical description of the individual
26 presented by the remotely located principal during credential analysis
27 and the image of the remotely located principal via the communication
28 technology.

29 (b) Notwithstanding subsection (a) of this section, a remote electronic notary may require
30 the remotely located principal to provide additional information or identification credentials
31 necessary to confirm the identity of the remotely located principal.

32 "§ 10B-134.12. Reserved for future codification purposes.

33 "§ 10B-134.13. Electronic notarization and remote electronic notarization.

34 When conducting a remote electronic notarization, the remote electronic notary shall comply
35 with the requirements of this Chapter. Each remote electronic notarization shall include a
36 communication technology recording. There shall be no requirement that the communication
37 technology recording further include any transactions other than the remote electronic notarial
38 act unless the Secretary specifies a requirement to also record interactions of those particular
39 transactions.

40 "§ 10B-134.14. Reserved for future codification purposes.

41 "§ 10B-134.15. Electronic journal of remote electronic notarial acts.

42 (a) A remote electronic notary who performs a remote electronic notarization shall enter
43 information about the remote electronic notarization in an electronic journal. The electronic
44 journal shall be the exclusive property of the remote electronic notary. The remote electronic
45 notary shall not allow another person to make entries in the electronic journal.

46 (b) The Secretary shall adopt rules specifying the content and secure storage of the
47 electronic journal. The rules adopted by the Secretary shall comply with all of the following:

48 (1) Allow for electronic and paper mediums of the electronic journal.

49 (2) Require retention for 10 years after the remote electronic notarization.

- 1 (3) Allow a party involved in a transaction that utilizes remote electronic
2 notarization to require additional information regarding that transaction be
3 included in the electronic journal.
- 4 (4) Authorize a third-party vendor, including a licensed platform, to act as a
5 depository electronic journal.
- 6 (5) Specify to whom the electronic journal shall be delivered upon resignation,
7 revocation, or expiration of a notary commission or death or adjudication of
8 incompetency of a remote electronic notary.

9 (c) A remote electronic notary may surrender the electronic journal to the remote
10 electronic notary's employer upon termination of employment, but the remote electronic notary
11 shall also keep and maintain an accurate backup copy of the journal for 10 years after the last
12 remote electronic notarization entered into the electronic journal.

13 (d) Except as provided in subsection (c) of this section, the notary shall not surrender or
14 destroy the electronic journal or the communication technology recordings of remote electronic
15 notarial acts except as required by a court order or as allowed under rules adopted by the
16 Secretary.

17 **"§ 10B-134.16.** Reserved for future codification purposes.

18 **"§ 10B-134.17. Security measures by notary; surrender of journal; etc.**

19 (a) A remote electronic notary shall comply with all of the following security
20 requirements:

- 21 (1) All records of journal entries and communication technology recordings shall
22 be securely stored in a repository under the control of the remote electronic
23 notary or with a steward duly appointed under the terms of this Part. If a
24 steward is appointed, the steward shall be a third-party vendor approved by
25 the Secretary.
- 26 (2) Take reasonable steps to ensure that the communication technology
27 recordings are secure from unauthorized interception during transmission
28 between participants involved in a remote electronic notarial act. The
29 communication technology used by the remote electronic notary shall employ
30 data protection safeguards consistent with generally accepted information
31 security standards.

32 (b) Within 10 calendar days of discovering any permanent loss of data, unauthorized use,
33 loss of use, or compromise of security of the electronic journal or the communication technology
34 recordings of remote electronic notarial acts, the remote electronic notary shall do both of the
35 following:

- 36 (1) Inform the appropriate law enforcement agency in the case of theft, tampering,
37 or vandalism.
- 38 (2) Notify the register of deeds in the county of the remote electronic notary's
39 commissioning under G.S. 10B-10 and the Secretary in writing and signed in
40 the official name in which the remote electronic notary was commissioned.
41 The notice shall indicate whether there was any permanent loss of data,
42 unauthorized use, loss of use, or compromise of security of the electronic
43 journal or the communication technology recordings of remote electronic
44 notarial acts.

45 (c) The failure of a remote electronic notary to produce within 30 calendar days of the
46 Secretary's request any record required by a rule adopted under this Part shall result in the
47 suspension of the remote electronic notary's power to act as a notary under the provisions of this
48 Chapter until the Secretary reinstates the notary's commission.

49 **"§ 10B-134.18.** Reserved for future codification purposes.

50 **"§ 10B-134.19. Platform licensure by Secretary.**

1 (a) A remote electronic notary shall use only a communication technology through a
2 platform licensed by the Secretary.

3 (b) The Secretary shall review and issue platform licenses to qualified applicants. The
4 applicant shall complete and submit an application on a form prescribed by the Secretary and pay
5 a licensing fee of five thousand dollars (\$5,000).

6 (c) The application shall set forth at least all of the following:

7 (1) The name and address of the applicant and its registered agent.

8 (2) The names of all officers or directors directly involved in the operation,
9 management, or control of the platform and all employees who exercise
10 substantial influence or control over the platform.

11 (3) The proposed technology to address identity verification and geolocation
12 requirements and explanations regarding security governance and the
13 designation of a chief security officer or its equivalent.

14 (4) Any other information the Secretary may deem necessary.

15 (d) The Secretary shall conduct a background investigation on the applicant and persons
16 described in subdivision (2) of subsection (c) of this section as deemed necessary by the
17 Secretary. The background investigation shall include a criminal history record check, to which
18 the applicant and person described in subdivision (2) of subsection (c) of this section must
19 consent.

20 (e) The Secretary shall award a license only to applicants who are of good moral character
21 and who provide a communication technology capable of all of the following:

22 (1) A manner of ensuring that the electronic record presented for remote
23 electronic notarization is the same record electronically signed by the
24 remotely located principal.

25 (2) Securely creating and storing, or transmitting securely to be securely stored,
26 the communication technology recording, keeping confidential the questions
27 asked as part of any identity proofing and the means and methods used to
28 generate the credential analysis.

29 (3) A manner of ensuring that real-time communications are secure from
30 unauthorized interception, access, or viewing.

31 (4) Reasonable security measures to prevent unauthorized access to all of the
32 following:

33 a. The live transmission of the remote electronic notarial act.

34 b. Any communication technology recording of the remote electronic
35 notarial act.

36 c. The verification methods and credentials used to verify the identity of
37 the remotely located principal.

38 d. The electronic documents presented for remote electronic notarization.

39 (5) Geolocation of the remotely located principal.

40 (f) No platform license is assignable or transferable without the approval of the Secretary
41 and shall be renewed annually in a manner set by the Secretary and upon payment of a fee of five
42 thousand dollars (\$5,000).

43 (g) Each platform licensee shall collect a five dollar (\$5.00) per remote notarial act fee
44 and remit fees collected at least monthly to the Secretary in a manner determined by the
45 Secretary. All fees so remitted to the Secretary shall be placed in a nonreverting agency reserve
46 account to be used by the Secretary in the implementation and enforcement of this Part.

47 **"§ 10B-134.20.** Reserved for future codification purposes.

48 **"§ 10B-134.21. Rules.**

49 (a) The Secretary shall adopt rules necessary to establish standards, procedures, practices,
50 forms, and records relating to remote electronic notarial acts to implement this Part, including at
51 least all of the following:

- 1 (1) Any additional educational requirements for remote electronic notaries.
2 (2) The contents and security of the electronic journal.
3 (3) The security standards, features, qualifications, measures, storage, and any
4 other matter related to communication technology, credential analysis, and
5 identity proofing.
6 (4) The requirements of secure storage of all communication technology
7 recordings, the electronic journal, and any other documentation under the
8 control of the remote electronic notary regarding the remote electronic notarial
9 act.
10 (5) Any necessary actions upon notification of permanent loss of data,
11 unauthorized use, loss of use, or compromise of security of the electronic
12 journal or the communication technology recordings of remote electronic
13 notarial acts.

14 (b) The Secretary may utilize emergency and temporary rulemaking as needed to
15 implement this Part.

16 "§ 10B-134.22. Reserved for future codification purposes.

17 "§ 10B-134.23. Standards for services provided to remote notaries; enforcement.

18 (a) All licensees and third-party vendors shall meet all standards established by the
19 Secretary under this Part for the provision of services to remote electronic notaries in this State.
20 If the Secretary has not adopted rules establishing standards for a service, a licensee or third-party
21 vendor may not furnish that service to a remote electronic notary public until the Secretary has
22 determined that the provided service meets security standards generally accepted within the
23 industry for that service.

24 (b) The Secretary may adopt rules establishing, supplementing, or amending third-party
25 vendor guidelines for standards and processes for identity proofing and credential analysis
26 services so that third-party vendors interacting with remote electronic notaries satisfy the security
27 qualifications of establishing the identity of the remotely located principal.

28 (c) The Secretary, in the Secretary's discretion, may do any one or more of the following
29 if a licensee or third-party vendor violates this Part or the rules adopted by the Secretary under
30 this Part:

- 31 (1) Require a licensee or third-party vendor to provide a remote electronic notary
32 with proof that an issue was caused in whole or in part by the licensee or
33 third-party vendor's technology.
34 (2) Issue a letter of warning, suspension, or revocation to the licensee or
35 third-party vendor. The Secretary may require the licensee or third-party
36 vendor to provide proof that it has come into compliance to reinstate any
37 license or use of a third-party vendor's services.
38 (3) Restrict use of a licensee or third-party vendor's technology by remote
39 electronic notaries until it has come into compliance.
40 (4) Assess a civil penalty of not more than one thousand dollars (\$1,000) per
41 violation against any licensee or third-party vendor that violates a provision
42 of this Part. In determining the amount of a penalty, the Secretary shall give
43 due consideration to aggravating and mitigating factors presented to the
44 Secretary by the licensee or third-party vendor and remote electronic notaries.
45 (5) Any other appropriate remedy.

46 (d) A licensee or third-party vendor whose technology is restricted, suspended, or
47 revoked shall work with remote electronic notaries using the services of that licensee or
48 third-party vendor to ensure access and, if necessary, ease transition to a different licensee or
49 third-party vendor and may not deny its remote electronic notary customers access.

50 (e) A licensee or third-party vendor is liable to any person who suffers damages from a
51 remote electronic notarial act if both of the following apply:

- 1 (1) The damage is proximately caused by a service provided by the licensee or
 2 third-party vendor that failed to meet any standard under this Part.
 3 (2) The person damaged was a party to, or in privity with a party to, the remote
 4 electronic notarial act proximately causing the damage.

5 (f) A remote electronic notary who exercised reasonable care in selecting and using a
 6 licensee or third-party vendor in connection with a remote electronic notarial act shall not be
 7 liable for any damages resulting from the licensee's or third-party vendor's failure to comply with
 8 the requirements of this Part. Any provision in a contract between the remote electronic notary
 9 and a licensee or third-party vendor that attempts to waive the immunity conferred by this
 10 subsection shall be null, void, and of no effect.

11 "§ 10B-134.24. Reserved for future codification purposes.

12 "§ 10B-134.25. Real estate transactions.

13 (a) Nothing in this Part shall be construed to alter or supersede the law as set forth in
 14 Chapter 84 of the General Statutes, G.S. 10B-20(i) through (k), G.S. 75-1.1, or any opinion or
 15 ruling by a North Carolina court of competent jurisdiction or the North Carolina State Bar ruling
 16 pertaining to the unauthorized practice of law in this State, including the requirements that a
 17 licensed North Carolina attorney shall supervise a residential real estate closing under Authorized
 18 Practice Advisory Opinion 2002-1 issued by the North Carolina State Bar and perform all
 19 services defined as the practice of law for real property located in this State.

20 (b) A remote electronic notary who is not a licensed North Carolina attorney is prohibited
 21 from rendering services or advice that constitutes the practice of law in this State.

22 "§ 10B-134.26. Reserved for future codification purposes."

23 **SECTION 2.(a)** G.S. 10B-2(6) reads as rewritten:

- 24 "(6) To integrate procedures for ~~traditional paper and electronic notarial acts.~~ all of
 25 the following notarial acts:
 26 a. Traditional paper.
 27 b. Electronic notarization.
 28 c. Remote electronic notarization."

29 **SECTION 2.(b)** G.S. 10B-20(c)(1) reads as rewritten:

- 30 "(1) ~~The~~ Except as authorized in Part 4A of Article 2 of this Chapter, the principal
 31 or subscribing witness is not in the notary's presence at the time the notarial
 32 act is performed. However, nothing in this Chapter shall require a notary to
 33 complete the notarial certificate attesting to the notarial act in the presence of
 34 the principal or subscribing witness."

35 **SECTION 2.(c)** G.S. 10B-101 reads as rewritten:

36 **"§ 10B-101. Definitions.**

37 The following definitions apply in this Article:

- 38 (1) ~~"Electronic" means relating~~ Electronic. – Relating to technology having
 39 electrical, digital, magnetic, wireless, optical, electromagnetic, or similar
 40 capabilities.
 41 (2) ~~"Electronic Document" means information~~ Electronic document. –
 42 Information that is created, generated, sent, communicated, received, or stored
 43 by electronic means.
 44 (3) ~~"Electronic Notarial Act" and "Electronic Notarization" mean an~~ Electronic
 45 notarial act and electronic notarization. – An official act by an electronic
 46 notary public that involves electronic documents.
 47 (4) ~~"Electronic Notary Public" and "Electronic Notary" mean a~~ Electronic notary
 48 public and electronic notary. – A notary public who has registered with the
 49 Secretary the capability of performing electronic notarial acts in conformance
 50 with this Article.

- 1 (5) ~~"Electronic Notary Seal" and "Electronic Seal" mean information~~ Electronic
2 notary seal and electronic seal. – Information within a notarized electronic
3 document that includes the notary's name, jurisdiction, and commission
4 expiration date, and generally corresponds to data in notary seals used on
5 paper documents.
- 6 (6) ~~"Electronic Signatures" means an Electronic signatures.~~ – An electronic
7 symbol or process attached to or logically associated with an electronic
8 document and executed or adopted by a person with the intent to sign the
9 document.
- 10 (7) ~~"Notary's Electronic Signature" means those Notary's electronic signature.~~ –
11 Those forms of electronic signature which have been approved by the
12 Secretary as authorized in G.S. 10B-125, as an acceptable means for an
13 electronic notary to affix the notary's official signature to an electronic record
14 that is being notarized.
- 15 (8) Remote electronic notary public or remote electronic notary. – As defined in
16 G.S. 10B-134.1."

17 **SECTION 2.(d)** G.S. 10B-102 reads as rewritten:

18 **"§ 10B-102. Scope of this Article.**

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

22 (b) When conducting a remote electronic notarization, the remote electronic notary shall
23 comply with the requirements of Article 1 of this Chapter."

24 **SECTION 2.(e)** G.S. 10B-105 reads as rewritten:

25 **"§ 10B-105. Qualifications.**

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

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

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

36 **SECTION 2.(f)** G.S. 10B-106 reads as rewritten:

37 **"§ 10B-106. Registration with the Secretary of State.**

38 (a) Before performing notarial acts ~~electronically,~~ electronically or remotely, a notary
39 shall register the capability to notarize electronically or remotely with the Secretary.

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

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

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

- 47 (1) The applicant's full legal name and the name to be used for commissioning,
48 excluding nicknames.
49 (2) The state and county of commissioning of the registrant.
50 (3) The expiration date of the registrant's notary commission.

- 1 (4) Proof of successful completion of the course of instruction on electronic
2 notarization as required by this Article.
- 3 (5) A description of the technology the registrant will use to create an electronic
4 signature in performing official acts.
- 5 (6) If the device used to create the registrant's electronic signature was issued or
6 registered through a licensed certification authority, the name of that
7 authority, the source of the license, the starting and expiration dates of the
8 device's term of registration, and any revocations, annulments, or other
9 premature terminations of any registered device of the registrant that was due
10 to misuse or compromise of the device, with the date, cause, and nature of
11 each termination explained in detail.
- 12 (7) The e-mail address of the registrant.

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

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

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

23 **SECTION 2.(g)** G.S. 10B-117 reads as rewritten:

24 "**§ 10B-117. Notarial components of electronic document.**

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

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

41 **SECTION 2.(h)** G.S. 10B-118 is repealed.

42 **SECTION 3.(a)** G.S. 10B-10(b1) reads as rewritten:

43 "(b1) ~~Notwithstanding subsection (b) of this section, if the Secretary grants a commission~~
44 ~~after March 9, 2020, and before March 1, 2021, the appointee shall have 90 days to appear before~~
45 ~~the register of deeds to take the general oath of office.~~ A register of deeds may administer the
46 required oath to such appointee using video conference technology provided the appointee is
47 personally known to the register of deeds or the appointee provides satisfactory evidence of the
48 appointee's identity to the register of deeds. As used in this subsection, video conference
49 technology and satisfactory evidence are as defined in G.S. 10B-25."

50 **SECTION 3.(b)** G.S. 10B-25 reads as rewritten:

51 "**§ 10B-25. (Expires December 31, 2021 – see note) Emergency video notarization.**

1 ...
2 (d) A notary who has personal knowledge of a principal may rely on the video conference
3 technology to verify the principal's identity unless the notary, in the notary's sole discretion,
4 requires satisfactory evidence. A notary who does not have personal knowledge of a principal
5 shall require satisfactory evidence of the principal's identity. The requirement of satisfactory
6 evidence, as that term is used in this Chapter, is satisfied for the purpose of an emergency video
7 notarization if identification of the principal is based on at least one document that meets all of
8 the following:

- 9 (1) ~~Is current or, if expired, did not expire prior to March 10, 2020.~~ current.
- 10 (2) Is issued by a federal, state, or federal or state-recognized tribal government
11 agency.
- 12 (3) Bears a photographic image of the principal's face.
- 13 (4) Has both the principal's signature and a physical description of the principal.

14 ...
15 (n) This section shall expire at 12:01 A.M. on ~~December 31, 2021; June 30, 2023;~~
16 provided, however, all notarial acts made in accordance with this section and while this section
17 is in effect shall remain effective and shall not need to be reaffirmed."

18 **SECTION 3.(c)** G.S. 10B-200(b) reads as rewritten:

19 "(b) This Article expires ~~December 31, 2021.~~ June 30, 2023."

20 **SECTION 3.(d)** Any emergency video notarization completed after December 31,
21 2021, and before the effective date of this act shall be deemed valid and cured if such act was
22 performed in conformity with G.S. 10B-200 as it existed on December 31, 2021.

23 **SECTION 3.(e)** G.S. 10B-31 reads as rewritten:

24 "**§ 10B-31. Fees for notarial acts.**

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

- 26 (1) For acknowledgments, jurats, verifications or proofs, ~~five dollars (\$5.00)~~ ten
27 dollars (\$10.00) per principal signature.
- 28 (2) For oaths or affirmations without a signature, ~~five dollars (\$5.00)~~ ten dollars
29 (\$10.00) per person, except for an oath or affirmation administered to a
30 credible witness to vouch for the identity of a principal or subscribing witness.
- 31 (3) For an electronic notarization under G.S. 10B-118, fifteen dollars (\$15.00).
- 32 (4) For remote notarization under Part 4A of Article 2 of this Chapter, twenty-five
33 dollars (\$25.00) per principal signature.
- 34 (5) For any notarial act under this Chapter, actual mileage at the federal mileage
35 rate if the travel reimbursement is agreed to by the principal in writing prior
36 to the travel."

37 **SECTION 3.(f)** This section is effective when it becomes law.

38 **SECTION 4.(a)** G.S. 47-14 is amended by adding a new subsection to read:

39 "(a3) Recordation of Paper Copy of Electronic Document. – A register of deeds shall record
40 a paper copy of an electronic document as defined in G.S. 47-16.2(3) that is otherwise eligible
41 under State law to be recorded in the real property records if all of the following conditions have
42 been met:

- 43 (1) One of the following applies to the county register of deeds:
 - 44 a. The register has no electronic recording system.
 - 45 b. The register's recording system does not accept the type of document
46 being submitted.
 - 47 c. The register's electronic recording system is not operational in the
48 ordinary course of business at the time of submission.
- 49 (2) The execution of the instrument by one or more signers appears to have been
50 proved or acknowledged before an officer with the apparent authority to take
51 proofs or acknowledgements, and the proof or acknowledgment includes the

1 officer's signature, commission expiration date, and official seal, if required,
 2 based on the appearance of these elements on the document as it will appear
 3 on the public record.

4 (3) The paper copy of the instrument presented for recording has a certificate
 5 upon or attached to it, signed under oath or by affirmation, attesting to all of
 6 the following:

7 a. The title of the instrument, the date of the instrument, the number of
 8 pages in the instrument, and that the paper copy is a true and correct
 9 copy of an electronic record printed by, or under the supervision of,
 10 the attesor.

11 b. The electronic document was proved or acknowledged with an
 12 officer's signature that meets the requirements of subsection (a2) of
 13 this section.

14 c. No security features present on the electronic document indicated any
 15 changes or errors in an electronic signature or other information in the
 16 electronic document after the affixation of the electronic notarial
 17 certificate when the paper copy was printed by, or under the
 18 supervision of, the attesor.

19 d. The attesor has made no changes or modifications to the electronic
 20 document since the affixation of the electronic notarial certificate.

21 e. The office of the register of deeds shall be entitled to rely on this
 22 certification and the attesor's capacity and due authority to give it.

23 (4) The copy of the document bears evidence of all other required governmental
 24 certification or annotation.

25 (5) Except as otherwise provided in this subsection, the document conforms to all
 26 other applicable laws and rules that prescribe recordation."

27 **SECTION 4.(b)** This section is effective when it becomes law.

28 **SECTION 5.** G.S. 20-30(6) reads as rewritten:

29 "(6) To make a color photocopy or otherwise make a color reproduction of a
 30 drivers license, learner's permit, or special identification card, unless such
 31 color photocopy or other color reproduction was authorized by the
 32 Commissioner or is made to comply with G.S. 163-230.2. It shall be lawful to
 33 make a black and white photocopy of a drivers license, learner's permit, or
 34 special identification card or otherwise make a black and white reproduction
 35 of a drivers license, learner's permit, or special identification card. This
 36 subdivision does not apply to: (i) a to any of the following:

37 a. A lender that is licensed or otherwise authorized to engage in the
 38 lending business in this State; (ii) a State.

39 b. A licensed motor vehicle dealer creating, storing, or receiving, in the
 40 ordinary course of business, a color image of a drivers license, learner's
 41 permit, or special identification card of a borrower or loan applicant;
 42 or (iii) a applicant.

43 c. A federally insured depository institution or its affiliates creating,
 44 storing, or receiving, in the ordinary course of business, a color image
 45 of a drivers license, learner's permit, or special identification card of a
 46 consumer.

47 d. Performance of a remote notarization act under Part 4A of Article 2 of
 48 Chapter 10B of the General Statutes."

49 **SECTION 6.** Subpart D of Part 4 of Article 13 of Chapter 143B of the General
 50 Statutes is amended by adding a new section to read:

51 **"§ 143B-976. Criminal record check for platform licensees.**

1 (a) The Department of Public Safety may provide to the Secretary of State a criminal
2 history from the State and National Repositories of Criminal Histories for any applicant seeking
3 a platform license. The Secretary shall provide to the Department of Public Safety, along with
4 the request, the fingerprints of the applicant and its key persons; a form signed by the individual
5 consenting to the criminal record check and use of fingerprints and other identifying information
6 required by the State and National Repositories; and any additional information required by the
7 Department of Public Safety. The fingerprints of the individual shall be forwarded to the State
8 Bureau of Investigation for a search of the State's criminal history record file, and the State
9 Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation
10 for a national criminal history record check.

11 (b) The criminal history report shall be provided to the Secretary of State, who shall keep
12 all information obtained pursuant to this section confidential to the Secretary of State. A criminal
13 history report obtained as provided in this section is not a public record under Chapter 132 of the
14 General Statutes."

15 **SECTION 7.** G.S. 10B-60(g) is amended by adding a new subdivision to read:

16 "(3) The Secretary may refer such evidence as is available pertaining to violations
17 of this Chapter or other criminal acts involving a notarization under this
18 Chapter to the proper district attorney, who may, with or without such a
19 referral, institute the appropriate criminal proceedings. Upon receipt of a
20 referral, the district attorney may request that a duly employed attorney of the
21 Secretary prosecute or assist in the prosecution of the criminal proceedings on
22 behalf of the State. Upon approval of the Secretary, the employee may be
23 appointed as a special prosecutor for the district attorney to prosecute or assist
24 in the prosecution of the criminal proceedings without receiving
25 compensation from the district attorney. Such a special prosecutor shall have
26 all the powers and duties prescribed by law for district attorneys and such
27 other powers and duties as are lawfully delegated to the special prosecutor by
28 the district attorney for the prosecution for which appointed."

29 **SECTION 8.(a)** The receipts established by Part 4A of Article 2 of Chapter 10B of
30 the General Statutes, as enacted by this act, shall be appropriated to the Secretary of State for the
31 purpose of establishing four new positions: one attorney, one information technology specialist,
32 and two law enforcement positions. Of the funds appropriated in the fiscal year 2022-2023 to the
33 Secretary of State, the Secretary may utilize up to five hundred thousand dollars (\$500,000) to
34 fill the four new positions. Of the funds appropriated in the fiscal year 2023-2024 to the Secretary
35 of State, the Secretary may utilize up to three hundred fifty thousand dollars (\$350,000) to
36 implement Part 4A of Article 2 of Chapter 10B of the General Statutes, as enacted by this act.

37 **SECTION 8.(b)** This section is effective when it becomes law.

38 **SECTION 9.** Except as otherwise provided, this act becomes effective July 1, 2023.
39 In order to implement remote notarization on the effective date of this act, the Secretary of State
40 shall begin rulemaking to implement Part 4A of Article 2 of Chapter 10B of the General Statutes,
41 as enacted by this act, prior to July 1, 2023, but no temporary or permanent rule shall become
42 effective prior to July 1, 2023.