

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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SENATE BILL 552
PROPOSED COMMITTEE SUBSTITUTE S552-PCS15348-STf-26

Short Title: Modifications to Notary Public Act.

(Public)

Sponsors:

Referred to:

April 5, 2023

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE VARIOUS CHANGES TO THE NOTARY ACT.
3 The General Assembly of North Carolina enacts:

4
5 **PART I. EXTENSION OF EMERGENCY VIDEO NOTARIZATION AND**
6 **EMERGENCY VIDEO WITNESSING AND DELAY OF REMOTE ELECTRONIC**
7 **NOTARIZATION**

8 **SECTION 1.(a)** G.S. 10B-25(n) reads as rewritten:

9 "(n) This section shall expire at 12:01 A.M. on ~~June 30, 2023;~~ June 30, 2024; provided,
10 however, all notarial acts made in accordance with this section and while this section is in effect
11 shall remain effective and shall not need to be reaffirmed."

12 **SECTION 1.(b)** G.S. 10B-200(b) reads as rewritten:

13 "(b) This Article expires ~~June 30, 2023;~~ June 30, 2024."

14 **SECTION 1.(c)** The caption of G.S. 10B-10 reads as rewritten:

15 "~~§ 10B-10. Commission; oath of office; emergency extension office.~~"

16 **SECTION 2.** Section 9 of S.L. 2022-54 reads as rewritten:

17 "**SECTION 9.** Except as otherwise provided, this act becomes effective ~~July 1, 2023;~~ July
18 1, 2024. In order to implement remote notarization on the effective date of this act, the Secretary
19 of State shall begin rulemaking to implement Part 4A of Article 2 of Chapter 10B of the General
20 Statutes, as enacted by this act, prior to ~~July 1, 2023;~~ July 1, 2024, but no temporary or permanent
21 rule shall become effective prior to ~~July 1, 2023;~~ July 1, 2024."

22 **SECTION 3.** This Part is effective when it becomes law.

23
24 **PART II. GENERAL NOTARY CLARIFICATIONS AND CHANGES**

25 **SECTION 4.(a)** Part 1 of Article 1 of Chapter 10B of the General Statutes is
26 amended by adding a new section to read:

27 "**§ 10B-4. Rules.**

28 The Secretary may adopt rules necessary to administer and enforce this Chapter in order to
29 achieve the purposes of the Act."

30 **SECTION 4.(b)** G.S. 10B-20 is amended by adding a new subsection to read:

31 "(p) A notary shall maintain the confidentiality of a principal's documents and information
32 at all times. Any journal entries or communication technology recordings, as defined in Article
33 2 of this Chapter, created by a notary in the course of performing a notarial act are not public
34 records under G.S. 132-1."

35 **SECTION 4.(d)** G.S. 10B-36(d) is repealed.

36 **SECTION 4.(e)** G.S. 10B-36 is amended by adding a new subsection to read:



* S 5 5 2 - P C S 1 5 3 4 8 - S T F - 2 6 *

1 "(e) A vendor or manufacturer shall not provide a notary seal to a purchaser claiming to
2 be a notary, unless the purchaser presents a notary commission issued by the Secretary and one
3 of the following applies:

4 (1) In the case of a purchaser appearing in person, the vendor or manufacturer
5 identifies this individual as the person named in the commission, through
6 either personal knowledge or satisfactory evidence of identity.

7 (2) In the case of a purchaser ordering a seal by mail or delivery service, the
8 vendor or manufacturer confirms the notary's standing as a commissioned
9 notary as established by rules issued by the Secretary. Such rules may include
10 the establishment of an internet site or other means maintained by the
11 Secretary for this purpose."

12 **SECTION 4.(f)** Part 5 of Article 1 of Chapter 10B of the General Statutes is amended
13 by adding a new section to read:

14 **"§ 10B-38. Journal.**

15 Each notary shall maintain a journal of all notarial acts performed in the manner required for
16 that type of notarial act and in accordance with rules adopted by the Secretary."

17 **SECTION 5.(a)** G.S. 10B-50 reads as rewritten:

18 **"§ 10B-50. Change of address.**

19 (a) Within 45 days after the change of a notary's residence, business, or any mailing
20 address or telephone number, the notary shall send to the Secretary by an online notification to
21 the extent it is made available by the Secretary, fax, e-mail, or certified mail, return receipt
22 requested, a signed notice of the change, giving both old and new mailing and email addresses
23 or telephone numbers.

24 (b) Information provided by a notary in accordance with this section shall be treated as if
25 submitted in an application under G.S. 10B-7 or G.S. 10B-106."

26 **SECTION 5.(b)** G.S. 10B-51(a) reads as rewritten:

27 (a) Within 45 days after the legal change of a notary's name, the notary shall send to the
28 Secretary by an online notification to the extent it is made available by the Secretary, fax, e-mail,
29 or certified mail, return receipt requested, a signed notice of the change. The notice shall include
30 both the notary's former name and the notary's new name."

31 **SECTION 5.(c)** G.S. 10B-54 reads as rewritten:

32 **"§ 10B-54. Resignation.**

33 (a) A notary who resigns the notary's commission shall send to the Secretary by an online
34 notification to the extent it is made available by the Secretary, fax, e-mail, or certified mail, return
35 receipt requested, a signed notice indicating the effective date of resignation.

36 (b) Notaries who cease to reside in or to maintain a regular place of work or business in
37 this State, or who become permanently unable to perform their notarial duties, shall resign their
38 commissions and shall deliver their seals to the Secretary by hand delivery, certified mail, return
39 receipt ~~requested~~, or other means offered by the United States Postal Service allowing
40 confirmation of delivery by signature."

41 **SECTION 5.(d)** G.S. 10B-55 reads as rewritten:

42 **"§ 10B-55. Disposition of seal; death of notary.**

43 (a) When a notary commission is ~~resigned or revoked~~, has expired, has been revoked, or
44 the notary has resigned, the notary shall deliver the notary's seal to the Secretary within 45 days
45 of the ~~resignation~~ expiration, resignation, or revocation. Delivery shall be accomplished by hand
46 delivery, courier service, certified mail, return receipt ~~requested~~, or other means
47 offered by the United States Postal Service allowing confirmation of delivery by signature. The
48 Secretary shall destroy any seal received under this subsection.

49 "

50 **SECTION 5.(e)** G.S. 10B-60 reads as rewritten:

51 **"§ 10B-60. Enforcement and penalties.**

1 (a) The Secretary may issue a ~~warning to a notary or restrict, suspend, or revoke a notarial~~
2 ~~commission-warning, restriction, suspension, or revocation~~ for a violation of this Chapter
3 ~~Chapter, rules adopted pursuant to this Chapter, and on any ground for which an application for~~
4 ~~a commission-application, registration, certification, approval, or license may be denied under~~
5 ~~this Chapter-denied.~~ Any period of restriction, suspension, or revocation shall not extend the
6 expiration date of a ~~commission-commission, registration, certification, approval, or license~~
7 ~~issued pursuant to this Chapter.~~

8 ...

9 (g) For purposes of enforcing this Chapter and Article 34 of Chapter 66 of the General
10 Statutes, the following provisions are applicable:

11 (1) Law enforcement agents of the Department of the Secretary of State have
12 statewide jurisdiction and have all of the powers and authority of law
13 enforcement ~~officers-officers and may conduct any investigation within or~~
14 ~~outside of this State as the Secretary deems necessary to determine whether~~
15 ~~any person has violated or is about to violate any provision of this Chapter or~~
16 ~~the rules adopted pursuant to this Chapter.~~ The agents have the authority to
17 assist ~~local~~ law enforcement agencies in their investigations and to initiate and
18 carry out, on their own or in coordination with ~~local-other~~ law enforcement
19 agencies, investigations of violations.

20 (2) Any party to a transaction requiring a notarial certificate for verification and
21 any attorney licensed in this State who is involved in such a transaction in any
22 capacity, whether or not the attorney is representing one of the parties to the
23 transaction, may execute an affidavit and file it with the Secretary of State,
24 setting forth the actions which the affiant alleges constitute violations. Upon
25 receipt of the affidavit, law enforcement agents of the Department shall
26 initiate and carry out, on their own or in coordination with ~~local-other~~ law
27 enforcement agencies, investigations of violations.

28 ...

29 (4) The files and records of the Secretary related to criminal investigations and
30 enforcement proceedings undertaken pursuant to this Chapter are subject to
31 the provisions of G.S. 132-1.4. The files and records of the Secretary relating
32 to noncriminal investigations and enforcement proceedings undertaken
33 pursuant to this Chapter shall not be subject to inspection and examination
34 pursuant to G.S. 132-6 while the investigations or proceedings are pending,
35 except as provided by G.S. 1A-1.

36 (5) Any information obtained by the Secretary from any law enforcement agency,
37 administrative agency, or regulatory organization on a confidential or
38 otherwise restricted basis in the course of an investigation or enforcement
39 proceeding undertaken pursuant to this Chapter shall be confidential and
40 exempt from G.S. 132-6 to the same extent that it is confidential in the
41 possession of the providing agency or organization.

42 ...

43 (m) A vendor or manufacturer who fails to comply with G.S. 10B-36(e) shall be subject
44 to a fine of one thousand dollars (\$1,000) for each violation. Such violation shall not preclude
45 the civil liability of the vendor or manufacturer to parties injured by failure to comply with
46 G.S. 10B-36(e).

47 (n) Any person who knowingly creates, manufactures, or distributes a notary seal for the
48 purpose of allowing a person to act as a notary without being commissioned and registered in
49 accordance with this Chapter shall be guilty of a Class G felony."

50 **SECTION 5.(f)** G.S. 10B-5 is amended by adding a new subsection to read:

1 "(e) Notwithstanding subdivision (8) of subsection (b) of this section, the Secretary may
 2 allow applications for commissions to be submitted electronically, in the format prescribed by
 3 the Secretary. The Secretary shall establish a process for submission of the signature of the
 4 applicant prior to commissioning, which may include electronic submission."

5 **SECTION 5.5.(a)** G.S. 10B-31 reads as rewritten:

6 "**§ 10B-31. Fees for notarial acts.**

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

- 8 (1) For acknowledgments, jurats, verifications or proofs, ten dollars (\$10.00) per
 9 notarized principal signature.
- 10 (2) For oaths or affirmations without a signature, ten dollars (\$10.00) per person,
 11 except for an oath or affirmation administered to a credible witness to vouch
 12 for the identity of a principal or subscribing witness.
- 13 (3) For an electronic ~~notarization under G.S. 10B-118, acknowledgement or~~
 14 jurats, fifteen dollars (\$15.00) per electronically notarized principal
 15 signature.
- 16 (3a) For an electronic oath or affirmation without a signature, fifteen dollars
 17 (\$15.00) per person, except for an oath or affirmation administered to a
 18 credible witness to vouch for the identity of a principal or subscribing witness.
- 19 (4) For remote notarization under Part 4A of Article 2 of this Chapter, twenty-five
 20 dollars (\$25.00) per notarized principal signature.
- 21 (5) For any notarial act under this Chapter, actual mileage at the federal business
 22 mileage rate if the travel reimbursement is agreed to by the principal in writing
 23 prior to the travel."

24 **SECTION 5.5.(b)** This section is effective when it becomes law.

25 **SECTION 6.** Except as otherwise provided, this Part becomes effective July 1, 2023,
 26 and applies to acts on or after that date.

27 **PART III. REMOTE NOTARY AUTHORIZATION CHANGES**

28 **SECTION 7.(a)** G.S. 10B-101 reads as rewritten:

29 "**§ 10B-101. Definitions.**

30 The following definitions apply in this Article:

- 31 ...
- 32 (3) Electronic notarial act and electronic notarization. – An official act by an
 33 electronic notary public that involves ~~electronic documents~~ documents and
 34 the personal appearance of the principal.
- 35 (4) Electronic notary public and electronic notary. – A notary public who has
 36 registered with the Secretary the capability of performing electronic notarial
 37 acts and remote electronic notarial acts in conformance with this Article.
- 38 ...
- 39 (8) ~~Remote electronic notary public or remote electronic notary. – As defined in~~
 40 G.S. 10B-134.1.
- 41 (9) Remote electronic notarial act. – As defined in G.S. 10B-134.1."

42 **SECTION 7.(b)** G.S. 10B-102(b) reads as rewritten:

43 "(b) When conducting a remote electronic notarization, the ~~remote~~-electronic notary shall
 44 comply with the requirements of Article 1 of this Chapter."

45 **SECTION 7.(c)** G.S. 10B-105 reads as rewritten:

46 "**§ 10B-105. (Effective July 1, 2023) Qualifications.**

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

49 ...

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

3 **SECTION 7.(d)** G.S. 10B-106 reads as rewritten:

4 "**§ 10B-106. (Effective July 1, 2023) Registration with the Secretary of State.**

5 (a) ~~Before performing notarial acts electronically or remotely, a~~ A notary shall register
6 the capability to notarize electronically or remotely with the ~~Secretary.~~ Secretary in accordance
7 with rules adopted by the Secretary before performing notarial acts pursuant to this Article.

8 (b) ~~The term of registration~~ Registration as an electronic notary or remote electronic
9 ~~notary shall coincide with the term of the notary's commission under Article 1 of this~~
10 ~~Chapter.~~ shall include authorization to perform remote electronic notarial acts if the electronic
11 notary complies with all requirements of this Article and the rules related to remote electronic
12 notarial acts.

13 (c) ~~An electronic notary or remote electronic notary shall reregister the capability to~~
14 ~~notarize electronically or remotely at the same time the notary applies for recommissioning under~~
15 ~~the requirements of Article 1 of this Chapter.~~ Before performing electronic notarial acts, an
16 electronic notary shall register the capability to notarize electronically by notifying the Secretary
17 of all technology the electronic notary will use to create an electronic signature and also all
18 licensed platforms, if any, that the electronic notary will use to perform remote electronic
19 notarizations.

20 (c1) The term of registration as an electronic notary shall coincide with the term of the
21 notary's commission under Article 1 of this Chapter.

22 (c2) A notary may renew an electronic notary registration at the same time that the notary
23 applies for recommissioning under the requirements of Article 1 of this Chapter.

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

26 ...

27 (5) ~~A description of the technology the registrant will use to create an electronic~~
28 ~~signature in performing official acts.~~

29 ...

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

33 (f) Within 10 business days after the change of any registration information required of
34 an ~~electronic notary or remote electronic notary~~, including any changes involving a licensed
35 platform, the notary shall electronically transmit to the Secretary a notice of the change of
36 information signed ~~with the notary's official electronic signature.~~ in the official name in which
37 the electronic notary was commissioned."

38 **SECTION 7.(e)** G.S. 10B-107 reads as rewritten:

39 "**§ 10B-107. Course of instruction.**

40 (a) Before performing electronic or remote electronic notarial acts, a notary shall take a
41 course of instruction of least ~~three~~ four hours approved by the Secretary and pass an examination
42 of this course, which shall be in addition to the educational requirements provided in Article 1 of
43 this Chapter.

44 (b) The content of the course and the basis for the examination shall be notarial laws,
45 procedures, technology, and ethics as ~~they pertain~~ pertaining to electronic notarization and
46 remote electronic notarization."

47 **SECTION 7.(f)** G.S. 10B-117 reads as rewritten:

48 "**§ 10B-117. Notarial components of electronic document.**

49 In performing an electronic or remote electronic notarial act, all of the following components
50 shall be attached to, or logically associated with, the electronic document by the electronic ~~notary~~

1 ~~or remote electronic~~ notary, all of which shall be immediately perceptible and reproducible in the
2 electronic record to which the notary's electronic signature is attached:

3 (1) The notary's name, state, and county of commissioning exactly as stated on
4 the commission issued by the Secretary.

5 (2) The words "Electronic Notary Public" or "~~Remote Electronic~~ Electronic
6 Notary Public Utilizing Communication Technology."

7 **SECTION 8.(a)** G.S. 10B-126 reads as rewritten:

8 "**§ 10B-126. Security measures.**

9 ...

10 (c) A notary shall do the following within 10 days of discovering that the notary's
11 electronic seal or electronic signature has been stolen, lost, damaged, compromised, or otherwise
12 rendered incapable of affixing a legible image:

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

15 (2) Notify the appropriate register of deeds and the Secretary in writing and
16 signed in the official name in which he or she was commissioned.

17 ...

18 (f) The failure of an electronic notary to produce within ~~10 days of the time period set~~
19 out in the Department's request any record required by a rule adopted under this section shall
20 result in the suspension of the electronic notary's power to act as a notary under the provision of
21 this Chapter until the Secretary reinstates the notary's commission.

22 (g) Upon resignation, revocation, or expiration of an electronic notary commission, or
23 death of the notary, all notarial records required by statute or rule shall be delivered to ~~the~~
24 Secretary-an approved custodian selected by the notary."

25 **SECTION 8.(b)** G.S. 10B-127 reads as rewritten:

26 "**§ 10B-127. Maintenance of electronic device.**

27 ...

28 (b) ~~If the registration of the~~ an electronic notary contracts with an approved provider of
29 an electronic seal and electronic signature or licensed platform for a device used to create
30 electronic signatures or for electronic notarization or remote electronic notarization services, and
31 the contract either expires or is changed during the electronic notary's term of office, the notary
32 shall cease performing electronic and remote electronic notarizations until:

33 (1) A new contract is executed or a new device is duly issued or registered to the
34 notary; and

35 (2) An electronically signed notice is sent to the Secretary that shall include the
36 starting and expiration dates of any new registration or contract term and any
37 other new information at variance with information in the most recently
38 executed electronic registration form."

39 **SECTION 8.(c)** G.S. 10B-128 reads as rewritten:

40 "**§ 10B-128. Disposition of records.**

41 (a) Upon compliance with G.S. 10B-127 and except as provided in subsection (b) of this
42 section, when an electronic notary's commission expires or is resigned or revoked, or when an
43 electronic notary dies, the notary or the notary's duly authorized representative shall (i) erase,
44 delete, or destroy the coding, disk, certificate, card, software, file, or program that enables
45 electronic affixation of the notary's official electronic ~~signature~~ signature and (ii) notify the
46 Secretary within 45 days.

47 (b) A former electronic notary whose previous commission or application was not
48 revoked or denied by the Secretary need not erase, delete, or destroy the coding, disk, certificate,
49 card, software, file, or program enabling electronic affixation of the official electronic signature
50 if he or she is recommissioned and reregistered as an electronic notary using the same electronic

signature and the same licensed platform, if any, within three months after commission expiration."

SECTION 9.(a) G.S. 10B-134.1 reads as rewritten:

"§ **10B-134.1. Definitions.**

~~In addition to the definitions provided in this Article, the~~ The following definitions shall apply in this ~~Part~~ Article:

(1) Communication technology. – An electronic device, process, or system that allows ~~a remote-an~~ an electronic notary and a remotely located principal to communicate with each other simultaneously by sight and sound using audiovisual technology and that makes reasonable accommodations for remotely located principals with vision, hearing, or speech impairments.

...
(3a) Custodial services. – Services approved by the Secretary and selected by the notary to provide long-term storage of the electronic journal and communications technology recordings.

(3b) Custodian. – The person providing the custodial services. The custodian may but need not be the same as the depository.

(3c) Depository. – The person or platform providing the depository services.

(3d) Depository services. – Storage services provided by the platform of the electronic journal entries and communications technology recordings as they are entered.

...
(4a) Geolocation. – Identification of the geographical location of a remotely located principal or device used by a remotely located principal through digital information processed via the internet.

(6) Platform. – The online platform utilizing the communication ~~technology~~ technology, credential analysis, and identity proofing and including communication technology recordings, geolocation, electronic journals, and depository services in order to perform the remote electronic notarial act.

(7) Remote electronic notarial certificate. – The portion of a notarized electronic document that is completed by the ~~remote~~ electronic notary and contains all of the following:

- a. The ~~remote~~ electronic notary's electronic signature and the ~~remote~~ electronic notary's electronic seal.
- b. The facts attested to by the ~~remote~~ electronic notary in a particular notarization.
- c. A statement in the acknowledgement, jurat, or verification certificate identifying where the remotely located principal was physically located at the time of the remote electronic notarization.
- d. A statement that the notarization is a remote electronic notarization performed using communication technology by a ~~remote-an~~ electronic notary.

...
(9) ~~Remote electronic notary public or remote electronic notary. – A notary public who is registered with the Secretary to perform remote electronic notarizations.~~

(10) Remotely located principal. – A principal who is not in the physical presence of the ~~remote~~ electronic notary and who is located at the time of the remote electronic notarial act in any of the following places:

...

1 (10a) Self-attestation. – A remotely located principal's written, verbal, or electronic
 2 declaration and confirmation of that remotely located principal's geographical
 3 location at the time of the remote electronic notarial act given under penalty
 4 of perjury.

5 ...

6 (12) Third-party vendor. – Any person providing credential analysis, identity
 7 proofing, or custodial services to ~~remote~~-electronic notaries."

8 **SECTION 9.(b)** G.S. 10B-134.3 reads as rewritten:

9 **"§ 10B-134.3. Types of remote electronic notarial acts; prohibitions.**

10 (a) Upon registration with the Secretary under this Article, ~~a remote~~-an electronic notary
 11 may perform any of the notarial acts listed in G.S. 10B-115 by means of communication
 12 technology in accordance with this Part. ~~A remote~~-An electronic notary may perform any
 13 authorized remote notarial act with respect to electronic documents.

14 (b) ~~A remote~~-An electronic notary shall not perform a remote electronic notarial act if
 15 any of the following applies:

16 ...

17 (4) The notarial act would be a verification or proof.

18 (c) Notwithstanding subsection (a) of this section, ~~a remote~~-an electronic notary shall not
 19 perform any remote electronic notarial act with regard to any of the following documents:

20 (1) A self-proved will executed pursuant to Article 4A of Chapter 31 of the
 21 General Statutes.

22 (2) A revocable or irrevocable trust or any other document amending the same
 23 except for a certification of trust or similar document.

24 ~~(3) A death beneficiary form that requires an acknowledgment.~~

25 (4) A codicil to a will.

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

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

30 "

31 **SECTION 9.(c)** G.S. 10B-134.5 reads as rewritten:

32 **"§ 10B-134.5. Use of communication technology.**

33 (a) The communication technology used by ~~a remote~~-an electronic notary to perform
 34 remote electronic notarial acts for remotely located principals shall comply with all of the
 35 following requirements:

36 (1) Host the meeting between the ~~remote~~-electronic notary and the remotely
 37 located principal in real time.

38 (2) Allow direct interaction between the remotely located principal seeking the
 39 ~~remote~~-electronic notary's services and the ~~remote~~-electronic notary so that
 40 each can communicate simultaneously by sight and sound through
 41 communication technology.

42 ...

43 (4) Have sufficient video quality to allow a clear and unobstructed visual
 44 observation of the face of each participant and ~~any identification provided the~~
 45 document presented by the remotely located principal during credential
 46 analysis for a sufficient time to allow the ~~remote~~-electronic notary to verify
 47 the remotely located principal's identity under G.S. 10B-134.11. The ~~remote~~
 48 electronic notary shall determine if the time is sufficient.

49 ...

50 (b) The ~~remote~~-electronic notary shall take reasonable steps to provide that the
 51 communication technology used in a remote electronic notarization is secure from unauthorized

1 interception. ~~A remote~~ An electronic notary shall select one or more tamper-evident technologies
2 to perform remote electronic notarial acts with respect to electronic documents. In addition to
3 any requirements of this Article or established by the Secretary, the communication technology
4 shall provide automated backup of the communication technology recording.

5 (c) No person may require ~~a remote~~ an electronic notary to perform any remote electronic
6 notarial act using communication technology that the ~~remote~~ electronic notary has not selected."

7 **SECTION 9.(d)** G.S. 10B-134.7 reads as rewritten:

8 "**§ 10B-134.7. Authority to perform remote electronic notarial acts.**

9 (a) ~~A remote~~ An electronic notary may perform a remote electronic notarial act
10 authorized under this Part only while the ~~remote~~ electronic notary is physically located in this
11 State.

12 (b) A remote electronic notarization performed by ~~a remote~~ an electronic notary of this
13 State under this Part is governed by the laws of this State."

14 **SECTION 9.(e)** G.S. 10B-134.9 reads as rewritten:

15 "**§ 10B-134.9. Requirements and procedures for remote electronic notarial acts.**

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

18 (1) The ~~remote~~ electronic notary shall inform the participants that North Carolina
19 law requires that a communication technology recording be made of the
20 remote electronic notarization.

21 (2) ~~The remote electronic notary shall require the remotely located principal to~~
22 ~~demonstrate, to the satisfaction of the remote electronic notary, that the~~
23 ~~remotely located principal is not under duress and is not otherwise being~~
24 ~~coerced to complete the transaction.~~ does not appear in the judgment of the
25 electronic notary to be incompetent, lacking in understanding of the nature
26 and consequences of the transaction requiring the notarial act, or acting
27 involuntarily, under duress, or undue influence.

28 (3) The ~~remote~~ electronic notary shall verify the identity of the remotely located
29 principal as provided in G.S. 10B-134.11. If the remotely located principal is
30 a member of the Armed Forces of the United States, or the spouse or
31 dependent of the member, as described in G.S. 10B-134.1(10)b., the
32 electronic notary may rely on that remotely located principal's written, verbal,
33 or electronic declaration and confirmation under penalty of perjury as to
34 remotely located principal's location and military or familial status.

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

38 ...

39 (6) The location of the remotely located principal shall be verified by geolocation
40 via communication ~~technology~~ technology or by self-attestation.

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

44 (1) The ~~remote~~ electronic notary has reasonable grounds to believe the remotely
45 located principal ~~is acting under duress or is being coerced into completing~~
46 ~~the transaction.~~ does not appear in the judgment of the electronic notary to be
47 incompetent, lacking in understanding of the nature and consequences of the
48 transaction requiring the notarial act, or acting involuntarily, under duress, or
49 undue influence.

50 (2) The ~~remote~~ electronic notary becomes aware that the communication
51 technology is not secure.

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

3 (4) Unless an oath that is not associated with a document is being administered,
4 the ~~remote~~-electronic notary's electronic notarial certificate and seal cannot be
5 attached to the electronic document using an electronic technology that
6 renders any subsequent change or modification to the document evident.

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

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

14 ...

15 (e) Any non-material failure of the ~~remote~~-electronic notary to comply with the
16 requirements of the remote electronic notarization does not invalidate the notarial act or the
17 electronic record that was remotely notarized. An aggrieved person is not prevented from using
18 failures in the remote electronic notarization process, along with other grounds, to challenge the
19 validity or enforceability of the remote electronic notarization based on fraud, forgery,
20 impersonation, duress, ~~incapacity~~, incompetence, undue influence, minority, illegality,
21 unconscionability, or another basis not related to the remote electronic notarial act or constructive
22 notice provided by recording of the electronic record.

23 (f) Information gained from a remotely located principal in the course of performing a
24 remote electronic notarization shall be treated as confidential by the ~~remote~~-electronic notary."

25 **SECTION 9.(f)** G.S. 10B-134.11 reads as rewritten:

26 "**§ 10B-134.11. Verification of identity; identity proofing; credential analysis.**

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

29 (1) The remotely located principal creating the electronic signature is personally
30 known to the ~~remote~~-electronic notary.

31 (2) All of the following:

32 ...

33 c. Comparison, by the ~~remote~~-electronic notary, of the current document
34 issued by a federal, state, or federal or state-recognized tribal
35 government agency bearing the photographic image of the individual's
36 face and either the signature or a physical description of the individual
37 presented by the remotely located principal during credential analysis
38 and the image of the remotely located principal via the communication
39 technology.

40 (b) Notwithstanding subsection (a) of this section, a ~~remote~~-an electronic notary may
41 require the remotely located principal to provide additional information or identification
42 credentials necessary to confirm the identity of the remotely located principal."

43 **SECTION 9.(g)** G.S. 10B-134.13 reads as rewritten:

44 "**§ 10B-134.13. Electronic notarization and remote electronic notarization.**

45 When conducting a remote electronic notarization, the ~~remote~~-electronic notary shall comply
46 with the requirements of this Chapter. Each remote electronic notarization shall include a
47 communication technology recording. There shall be no requirement that the communication
48 technology recording further include any transactions other than the remote electronic notarial
49 act unless the Secretary specifies a requirement to also record interactions of those particular
50 transactions."

51 **SECTION 9.(h)** G.S. 10B-134.15 reads as rewritten:

1 **"§ 10B-134.15. Electronic journal of remote electronic notarial acts.**

2 (a) ~~A remote~~An electronic notary who performs a remote electronic notarization shall
3 enter information about the remote electronic notarization in an electronic journal. The electronic
4 journal shall be the exclusive property of the ~~remote~~-electronic notary. The ~~remote~~-electronic
5 notary shall not allow another person to make entries in the electronic journal.

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

8 ...

9 (4) Authorize a third-party vendor, including a licensed platform, to act as a
10 depository or custodian of electronic ~~journal~~journals.

11 (5) Specify to whom the electronic journal shall be delivered upon resignation,
12 revocation, or expiration of a notary commission or death or adjudication of
13 incompetency of a ~~remote-an~~ electronic notary.

14 (c) ~~A remote~~An electronic notary may surrender the electronic journal to the ~~remote~~
15 electronic notary's employer upon termination of ~~employment~~employment if the electronic
16 journal consists of remote electronic notarizations made in the conduct of the employer's
17 business, but the ~~remote~~-electronic notary shall also keep and maintain an accurate backup copy
18 of the journal for 10 years after the last remote electronic notarization entered into the electronic
19 journal.

20"

21 **SECTION 9.(i) G.S. 10B-134.17 reads as rewritten:**

22 **"§ 10B-134.17. Security measures by notary; surrender of journal; etc.**

23 (a) ~~A remote~~An electronic notary shall comply with all of the following security
24 requirements:

25 (1) All records of journal entries and communication technology recordings shall
26 be securely stored in a ~~repository~~depository under the control of the ~~remote~~
27 electronic notary or with a ~~steward~~custodian duly appointed under the terms
28 of this Part. If a ~~steward~~custodian is appointed, the ~~steward~~custodian shall be
29 a third-party vendor approved by the Secretary.

30 (2) Take reasonable steps to ensure that the communication technology
31 recordings are secure from unauthorized interception during transmission
32 between participants involved in a ~~remote~~-electronic notarial act. The
33 communication technology used by the ~~remote~~-electronic notary shall employ
34 data protection safeguards consistent with generally accepted information
35 security standards.

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

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

42 (2) Notify the register of deeds in the county of the ~~remote~~-electronic notary's
43 commissioning under G.S. 10B-10 and the Secretary in writing and signed in
44 the official name in which the ~~remote~~-electronic notary was commissioned.
45 The notice shall indicate whether there was any permanent loss of data,
46 unauthorized use, loss of use, or compromise of security of the electronic
47 journal or the communication technology recordings of remote electronic
48 notarial acts.

49 (c) The failure of a ~~remote-an~~ electronic notary to produce within ~~30 calendar days of the~~
50 time period set out in the Secretary's request any record required by a rule adopted under this Part

1 shall result in the suspension of the ~~remote~~ electronic notary's power to act as a notary under the
 2 provisions of this Chapter until the Secretary reinstates the notary's commission."

3 **SECTION 9.(j)** G.S. 10B-134.19 reads as rewritten:

4 "**§ 10B-134.19. Platform licensure by Secretary.**

5 (a) ~~A remote~~ An electronic notary shall use only a communication technology through a
 6 platform licensed by the Secretary.

7"

8 **SECTION 9.(k)** G.S. 10B-134.21 reads as rewritten:

9 "**§ 10B-134.21. Rules.**

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

- 13 (1) Any additional educational requirements for ~~remote~~—electronic
 14 notaries.~~notaries regarding remote electronic notarizations.~~
- 15 (2) The contents and security of the electronic journal.
- 16 (3) The security standards, features, qualifications, measures, storage, and any
 17 other matter related to communication technology, credential analysis, ~~and~~
 18 identity proofing,~~proofing, and depository and custodial services.~~
- 19 (4) The requirements of secure storage of all communication technology
 20 recordings, the electronic journal, and any other documentation under the
 21 control of the ~~remote~~ electronic notary regarding the ~~remote~~ electronic notarial
 22 act.

23"

24 **SECTION 9.(l)** G.S. 10B-134.23 reads as rewritten:

25 "**§ 10B-134.23. Standards for services provided to ~~remote~~ electronic notaries; enforcement.**

26 (a) All licensees and third-party vendors shall meet all standards established by the
 27 Secretary under this Part for the provision of services to ~~remote~~ electronic notaries in this ~~State~~.
 28 State for remote electronic notarization services. If the Secretary has not adopted rules
 29 establishing standards for a service, a licensee or third-party vendor may not furnish that service
 30 to ~~a remote~~ an electronic notary public until the Secretary has determined that the provided
 31 service meets security standards generally accepted within the industry for that service.

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

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

- 39 (1) Require a licensee or third-party vendor to provide ~~a remote~~ an electronic
 40 notary with proof that ~~an~~ a remote electronic notarization issue was caused in
 41 whole or in part by the licensee or third-party vendor's technology.
- 42 ...
- 43 (3) Restrict use of a licensee or third-party vendor's technology by ~~remote~~
 44 electronic notaries until it has come into compliance.
- 45 (4) Assess a civil penalty of not more than one thousand dollars (\$1,000) per
 46 violation against any licensee or third-party vendor that violates a provision
 47 of this Part. In determining the amount of a penalty, the Secretary shall give
 48 due consideration to aggravating and mitigating factors presented to the
 49 Secretary by the licensee or third-party vendor and ~~remote~~ electronic notaries.

50 ...

1 (d) A licensee or third-party vendor whose technology is restricted, suspended, or
2 ~~revoked-discontinued, revoked, or not renewed for any reason~~ shall work with ~~remote~~-electronic
3 notaries using the services of that licensee or third-party vendor to ensure access and, if
4 necessary, ease transition to a different licensee or third-party vendor and may not deny its ~~remote~~
5 electronic notary customers access.

6 ...

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

13 **SECTION 9.(m)** G.S. 10B-134.25 reads as rewritten:

14 "§ **10B-134.25. Real estate transactions.**

15 ...

16 (b) ~~A remote-~~An electronic notary who is not a licensed North Carolina attorney is
17 prohibited from rendering services or advice that constitutes the practice of law in this State."

18 **SECTION 9.(n)** This Part becomes effective July 1, 2024.

19
20 **PART IV. EFFECTIVE DATE**

21 **SECTION 10.** Except as otherwise provided, this act is effective when it becomes
22 law.