

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023**

**SESSION LAW 2023-57
SENATE BILL 552**

AN ACT TO MAKE VARIOUS CHANGES TO THE NOTARY ACT.

The General Assembly of North Carolina enacts:

PART I. EXTENSION OF EMERGENCY VIDEO NOTARIZATION AND EMERGENCY VIDEO WITNESSING AND DELAY OF REMOTE ELECTRONIC NOTARIZATION

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

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

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

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

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

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

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

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

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

PART II. GENERAL NOTARY CLARIFICATIONS AND CHANGES

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

"§ 10B-4. Rules.

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

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

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

SECTION 4.(d) G.S. 10B-36(d) is repealed.

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

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

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



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

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

"§ 10B-38. Journal.

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

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

"§ 10B-50. Change of address.

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

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

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

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

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

"§ 10B-54. Resignation.

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

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

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

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

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

...."

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

"§ 10B-60. Enforcement and penalties.

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

expiration date of a ~~commission~~-commission, registration, certification, approval, or license issued pursuant to this Chapter.

...

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

- (1) Law enforcement agents of the Department of the Secretary of State have statewide jurisdiction and have all of the powers and authority of law enforcement ~~officers~~-officers and may conduct any investigation within or outside of this State as the Secretary deems necessary to determine whether any person has violated or is about to violate any provision of this Chapter or the rules adopted pursuant to this Chapter. The agents have the authority to assist ~~local~~-law enforcement agencies in their investigations and to initiate and carry out, on their own or in coordination with ~~local~~-other law enforcement agencies, investigations of violations.
- (2) Any party to a transaction requiring a notarial certificate for verification and any attorney licensed in this State who is involved in such a transaction in any capacity, whether or not the attorney is representing one of the parties to the transaction, may execute an affidavit and file it with the Secretary of State, setting forth the actions which the affiant alleges constitute violations. Upon receipt of the affidavit, law enforcement agents of the Department shall initiate and carry out, on their own or in coordination with ~~local~~-other law enforcement agencies, investigations of violations.

...

- (4) The files and records of the Secretary related to criminal investigations and enforcement proceedings undertaken pursuant to this Chapter are subject to the provisions of G.S. 132-1.4. The files and records of the Secretary relating to noncriminal investigations and enforcement proceedings undertaken pursuant to this Chapter shall not be subject to inspection and examination pursuant to G.S. 132-6 while the investigations or proceedings are pending, except as provided by G.S. 1A-1.
- (5) Any information obtained by the Secretary from any law enforcement agency, administrative agency, or regulatory organization on a confidential or otherwise restricted basis in the course of an investigation or enforcement proceeding undertaken pursuant to this Chapter shall be confidential and exempt from G.S. 132-6 to the same extent that it is confidential in the possession of the providing agency or organization.

...

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

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

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

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

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

"§ 10B-31. Fees for notarial acts.

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

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

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

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

PART III. REMOTE NOTARY AUTHORIZATION CHANGES

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

"§ 10B-101. Definitions.

The following definitions apply in this Article:

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

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

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

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

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

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

...

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

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

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

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

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

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

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

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

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

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

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

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

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

"§ 10B-107. Course of instruction.

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

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

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

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

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

- (1) The notary's name, state, and county of commissioning exactly as stated on the commission issued by the Secretary.
- (2) The words "Electronic Notary Public" or ~~"Remote Electronic"~~ "Electronic Notary Public Utilizing Communication Technology."

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

"§ 10B-126. Security measures.

...

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

- (1) Inform the appropriate law enforcement agency in the case of theft or vandalism.
- (2) Notify the appropriate register of deeds and the Secretary in writing and signed in the official name in which he or she was commissioned.

...

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

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

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

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

...

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

- (1) A new contract is executed or a new device is duly issued or registered to the notary; and
- (2) An electronically signed notice is sent to the Secretary that shall include the starting and expiration dates of any new registration or contract term and any other new information at variance with information in the most recently executed electronic registration form."

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

"§ 10B-128. Disposition of records.

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

(b) A former electronic notary whose previous commission or application was not revoked or denied by the Secretary need not erase, delete, or destroy the coding, disk, certificate, card, software, file, or program enabling electronic affixation of the official electronic signature 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 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, 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:

...

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

...

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

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

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

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

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

...

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

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

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

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

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

(4) A codicil to a will.

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

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

...."

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

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

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

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

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

...

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

...

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

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

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

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

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

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

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

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

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

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

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

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

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

...

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

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

(1) The ~~remote~~electronic notary has reasonable grounds to believe the remotely located principal ~~is acting under duress or is being coerced into completing the transaction.~~appears in the judgment of the electronic notary to be incompetent, lacking in understanding of the nature and consequences of the transaction requiring the notarial act, or acting involuntarily, under duress, or undue influence.

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

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

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

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

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

...

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

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

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

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

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

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

(2) All of the following:

...

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

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

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

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

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

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

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

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

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

- ...
- (4) Authorize a third-party vendor, including a licensed platform, to act as a depository or custodian of electronic journal-journals.
 - (5) Specify to whom the electronic journal shall be delivered upon resignation, revocation, or expiration of a notary commission or death or adjudication of incompetency of a ~~remote-an~~ electronic notary.

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

...."

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

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

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

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

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

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

(c) The failure of a ~~remote-an~~ An electronic notary to produce within ~~30 calendar days of the time period set out in the~~ Secretary's request any record required by a rule adopted under this Part shall result in the suspension of the ~~remote~~ electronic notary's power to act as a notary under the provisions of this Chapter until the Secretary reinstates the notary's commission."

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

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

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

...."

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

"§ 10B-134.21. Rules.

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

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

...."

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

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

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

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

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

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

...

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

...

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

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

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

...

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

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

PART IV. EFFECTIVE DATE

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

In the General Assembly read three times and ratified this the 22nd day of June, 2023.

s/ Phil Berger
President Pro Tempore of the Senate

s/ Tim Moore
Speaker of the House of Representatives

s/ Roy Cooper
Governor

Approved 3:44 p.m. this 23rd day of June, 2023