

SUBCHAPTER 07F – ELECTRONIC NOTARY PUBLIC REQUIREMENTS

SECTION .0100 – GENERAL

18 NCAC 07F .0101 SCOPE

- (a) The rules in this Subchapter implement G.S. 10B, Article 2, the Electronic Notary Act, and G.S. 47-16.1.
- (b) The rules in this Subchapter are adopted pursuant to the provisions of Subchapter I of Chapter 96 of Title 15 of the United States Code, Electronic Records and Signatures in Commerce.

History Note: Authority G.S. 10B-125(b); 47-16.5; 47-16.7; 147-36; 15 USC 7002;
Eff. January 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
Transferred from 18 NCAC 07C .0101 Eff. June 1, 2023.

18 NCAC 07F .0102 DEFINITIONS

In addition to terms defined in Article 1 of Chapter 10B of the General Statutes and Subchapter 07B of this Chapter, and for purposes of Article 2 of Chapter 10B of the General Statutes and this Subchapter:

- (1) "Applicant" means a person applying for registration as a North Carolina electronic notary.
- (2) "Approved Electronic Notary Solution Provider" means a person or entity approved to provide an Electronic Notarization System by the Department pursuant to Article 2 of Chapter 10B of the General Statutes and Article 1A of Chapter 47 of the General Statutes.
- (3) "Biometric Authentication" means proving the identity of a user by requiring verification of the user's identity through technologies that require measurement and analysis of one or more human physiological or behavioral characteristics of the user in order to access and use an electronic notarization system. Biometric authentication technologies include fingerprint scanning devices, retinal scanning devices, and handwriting analysis devices.
- (4) "Department" means the North Carolina Department of the Secretary of State. Unless specifically noted in rule text, for the purposes of this Subchapter "Department" means the notary public section of the Department's certification and filing division.
- (5) "Electronic Notarization System" means a set of applications, programs, hardware, software, or technology designed to enable a notary to perform electronic notarizations.
- (6) "Independently Verifiable" means capable of government or third-party authentication of a notarial act, a notary's identity, and a notary's relevant authority.
- (7) "Password Authentication" means requiring the user to enter a secret word, phrase, or symbol set in order to access and use an electronic notarization system.
- (8) "Token Authentication" means requiring use of a physical device in addition to a password or personal identification number ("PIN" number) in order to access and use an electronic notarization system. Physical devices used in token authentication technologies include magnetic cards or "smart cards" and Universal Serial Bus (USB) memory sticks or "USB keys".
- (9) "Under the exclusive control of the notary", for the purposes of the Department's interpretation of the requirements of G.S. 10B-126(b), means "under the notary public's sole control" as defined in this subchapter.
- (10) "Under the notary public's sole control" means accessible by and attributable solely to the notary to the exclusion of all other persons and entities, either through being in the direct physical custody of the notary or through being secured with one or more biometric, password, token, or other authentication technologies in an electronic notarization system provided by an approved electronic notary solution provider approved pursuant to the Act and this Subchapter.

History Note: Authority G.S. 10B-125(b), 10B-126(d); 47-16.5; 47-16.7; 147-36; 15 USC 7002;
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SECTION .0200 – QUALIFICATIONS TO BE ELECTRONIC NOTARY

18 NCAC 07F .0201 VALID COMMISSION

Qualifications. An applicant shall provide:

- (1) All information required for registration pursuant to G.S. 10B-106(d);
- (2) Verification that the applicant holds a valid North Carolina notary commission and continues to meet the qualifications to hold the notary commission;
- (3) Verification that the applicant is in compliance with all provisions of the Notary Act;
- (4) Any other information requested by the Department to prove the qualifications of the applicant.

History Note: Authority G.S. 10B-125(b), 10B-126(d) ; 47-16.5; 47-16.7; 147-36; 15 USC 7002; Eff. January 1, 2007; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016; Transferred from 18 NCAC 07C .0201(a) Eff. June 1, 2023.

SECTION .0300 – EDUCATION OF ELECTRONIC NOTARIES

18 NCAC 07F .0301 APPROVED COURSE OF STUDY FOR ELECTRONIC NOTARIES PUBLIC

- (a) The Department shall administer the training course and testing for applicants for electronic notary registration.
- (b) Upon the Secretary's determination of a need for additional instructors, the Department may train certified notary public instructors who are also registered as electronic notaries public to administer the training course and testing for applicants for electronic notary registration.

History Note: Authority G.S. 10B-107; 10B-125, 10B-126; 47-16.5; 47-16.7; 147-36; 15 USC 7002; Eff. January 1, 2007; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016; Transferred from 18 NCAC 07C .0301 Eff. June 1, 2023.

SECTION .0400 – APPLICATION FOR REGISTRATION AS ELECTRONIC NOTARY

18 NCAC 07F .0401 SUBMISSION

Submission. The applicant shall:

- (1) Complete the registration form on line;
- (2) Print the form;
- (3) Have the form notarized; and
- (4) Submit the form by:
 - (A) U.S. mail;
 - (B) In person delivery; or
 - (D) Courier service.

History Note: Authority G.S. 10B-125(b), 10B-126(d) ; 47-16.5; 47-16.7; 147-36; 15 USC 7002; Eff. January 1, 2007; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016; Transferred from 18 NCAC 07C .0201(b) Eff. June 1, 2023.

SECTION .0500 – REGISTRATIONS

18 NCAC 07F .0501 RESERVED FOR FUTURE CODIFICATION

18 NCAC 07F .0502 RESERVED FOR FUTURE CODIFICATION

18 NCAC 07F .0503 RESERVED FOR FUTURE CODIFICATION

18 NCAC 07F .0504 RESERVED FOR FUTURE CODIFICATION

18 NCAC 07F .0505 OATHS TIMING

The applicant shall take the oath in the Register of Deeds office within 45 days of the issue date on the electronic notary oath notification letter.

History Note: Authority G.S. 10B-125(b), 10B-126(d); 47-16.5; 47-16.7; 147-36; 15 USC 7002; Eff. January 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
Transferred from 18 NCAC 07C .0202(a) Eff. June 1, 2023.

18 NCAC 07F .0506 EVIDENCE OF IDENTITY

Before taking the oath of office, an applicant shall present to the Register of Deeds evidence of the applicant's identity as defined in G.S. 10B-3(22).

History Note: Authority G.S. 10B-125(b), 10B-126(d); 47-16.5; 47-16.7; 147-36; 15 USC 7002; Eff. January 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
Transferred from 18 NCAC 07C .0202(b) Eff. June 1, 2023.

18 NCAC 07F .0507 CERTIFICATE DELIVERY

After administering the oath of office, the Register of Deeds shall deliver the electronic notary registration certificate to the electronic notary.

History Note: Authority G.S. 10B-125(b), 10B-126(d); 47-16.5; 47-16.7; 147-36; 15 USC 7002; Eff. January 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
Transferred from 18 NCAC 07C .0202(c) Eff. June 1, 2023.

18 NCAC 07F .0508 REGISTRATION EFFECTIVE DATE

The applicant's electronic notary registration shall not be effective until the applicant takes the oath.

History Note: Authority G.S. 10B-125(b), 10B-126(d); 47-16.5; 47-16.7; 147-36; 15 USC 7002; Eff. January 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
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SECTION .0600 – RESERVED FOR FUTURE CODIFICATION

SECTION .0700 – ELECTRONIC NOTARY SIGNATURE

18 NCAC 07F .0701 UNIQUE SIGNATURE

The electronic notary signature shall be independently verifiable and unique to the electronic notary.

History Note: Authority G.S. 10B-125(b), 10B-126(d); 47-16.5; 47-16.7; 147-36; 15 USC 7002; Eff. January 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
Transferred from 18 NCAC 07C .0401(a) Eff. June 1, 2023.

18 NCAC 07F .0702 SOLE CONTROL

The electronic notary signature shall be retained under the electronic notary's sole control.

History Note: Authority G.S. 10B-125(b), 10B-126(d); 47-16.5; 47-16.7; 147-36; 15 USC 7002;
Eff. January 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December
6, 2016;
Transferred from 18 NCAC 07C .0401(b) Eff. June 1, 2023.

18 NCAC 07F .0703 EXCLUSIVE

When the electronic notary performs an electronic notarization, the electronic signature used by the electronic notary must be accessible by and attributable solely to the electronic notary to the exclusion of all other persons and entities for the entire time necessary to perform the electronic notarization.

History Note: Authority G.S. 10B-125(b), 10B-126(d); 47-16.5; 47-16.7; 147-36; 15 USC 7002;
Eff. January 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December
6, 2016;
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18 NCAC 07F .0704 LOGICALLY ATTACHED

The electronic notary signature shall be attached or logically associated with the document, linking the data in such a manner that any subsequent alterations to the underlying document or electronic notary certificate are observable through visual examination.

History Note: Authority G.S. 10B-125(b), 10B-126(d); 47-16.5; 47-16.7; 147-36; 15 USC 7002;
Eff. January 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December
6, 2016;
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18 NCAC 07F .0705 IMAGE

An image of the electronic notary's handwritten signature shall appear on any visual or printed representation of an electronic notary certificate regardless of the technology being used to affix the electronic notary's electronic signature.

History Note: Authority G.S. 10B-125(b), 10B-126(d); 47-16.5; 47-16.7; 147-36; 15 USC 7002;
Eff. January 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December
6, 2016;
Transferred from 18 NCAC 07C .0401(e) Eff. June 1, 2023.

SECTION .0800 – ELECTRONIC NOTARY SEAL

18 NCAC 07F .0801 UNIQUE SEAL

The electronic notary seal shall be independently verifiable and unique to the electronic notary.

History Note: Authority G.S. 10B-125(b); 10B-126(d); 47-16.5; 47-16.7; 147-36; 15 USC 7002;
Eff. January 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December
6, 2016;
Transferred from 18 NCAC 07C .0402(a) Eff. June 1, 2023.

18 NCAC 07F .0802 SOLE CONTROL

The electronic notary seal shall be retained under the electronic notary's sole control.

History Note: Authority G.S. 10B-125(b); 10B-126(d); 47-16.5; 47-16.7; 147-36; 15 USC 7002;
Eff. January 1, 2007;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
Transferred from 18 NCAC 07C .0402(b) Eff. June 1, 2023.

18 NCAC 07F .0803 EXCLUSIVE

When the electronic notary performs an electronic notarization, the electronic seal used by the electronic notary shall be accessible by and attributable solely to the electronic notary to the exclusion of all other persons and entities for the entire time necessary to perform the electronic notarization.

History Note: Authority G.S. 10B-125(b); 10B-126(d); 47-16.5; 47-16.7; 147-36; 15 USC 7002;
Eff. January 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
Transferred from 18 NCAC 07C .0402(c) Eff. June 1, 2023.

18 NCAC 07F .0804 LOGICALLY ATTACHED

The electronic notary seal shall be attached or logically associated with the document, linking the data in such a manner that any subsequent alterations to the underlying document or electronic notary certificate are observable through visual examination.

History Note: Authority G.S. 10B-125(b); 10B-126(d); 47-16.5; 47-16.7; 147-36; 15 USC 7002;
Eff. January 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
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18 NCAC 07F .0805 IMAGE

An image of the electronic notary's electronic seal shall appear on any visual or printed representation of the electronic notary certificate regardless of the technology being used to affix the electronic notary's electronic seal.

History Note: Authority G.S. 10B-125(b); 10B-126(d); 47-16.5; 47-16.7; 147-36; 15 USC 7002;
Eff. January 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
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18 NCAC 07F .0806 PERIMETER

The perimeter of the electronic notary seal shall contain a border such that the physical appearance of the seal replicates the appearance of an inked seal on paper.

History Note: Authority G.S. 10B-125(b); 10B-126(d); 47-16.5; 47-16.7; 147-36; 15 USC 7002;
Eff. January 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
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18 NCAC 07F .0807 CONTENTS

The electronic notary seal must have, within its border, the electronic notary's name exactly as commissioned, the words "Electronic Notary Public", the words "North Carolina" or "N.C.", and the county of commission including the word "County" or "Co.".

History Note: Authority G.S. 10B-125(b); 10B-126(d); 47-16.5; 47-16.7; 147-36; 15 USC 7002;
Eff. January 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
Transferred from 18 NCAC 07C .0402(g) Eff. June 1, 2023.

18 NCAC 07F .0808 ELECTRONIC NOTARY SEALS

The electronic notary seal is the property of the electronic notary and shall be subject to laws governing private property.

History Note: Authority G.S. 10B-125(b); 10B-126(d); 47-16.5; 47-16.7; 147-36; 15 USC 7002; Eff. January 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
Transferred from 18 NCAC 07C .0602 Eff. June 1, 2023.

SECTION .0900 – RE-REGISTRATION AS ELECTRONIC NOTARY

18 NCAC 07F .0901 RE-REGISTRATION

A notary applying to re-register as an electronic notary shall comply with application procedures found in the Act and this Subchapter.

History Note: Authority G.S. 10B-125, 10B-126; 47-16.5; 47-16.7; 147-36; 15 USC 7002; Eff. January 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
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SECTION .1000 – CONFIDENTIALITY, SECURITY, AND RECORDS RETENTION

18 NCAC 07F .1001 EMPLOYERS OF ELECTRONIC NOTARIES

- (a) Neither the employer nor any of the employer's employees or agents shall use or permit the use of an electronic notary seal or signature by anyone other than the electronic notary to whom it is registered.
- (b) Upon the cessation of employment of an electronic notary, the employer of the notary shall:
- (1) Relinquish control of the electronic notary seal;
 - (2) Transfer possession of the electronic notary seal to the electronic notary; or
 - (3) Eliminate the ability of any other person to use the former employee's electronic notary seal if the electronic notarization system used by the employer does not permit transfer of possession of the electronic notary seal.

History Note: Authority G.S. 10B-125(b); 10B-126(d); 47-16.5; 47-16.7; 147-36; 15 USC 7002; Eff. January 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
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18 NCAC 07F .1002 PROTECTED ACCESS

Access to electronic notary signatures and electronic notary seals shall be protected by the use of a password, token, biometric, or other form of authentication approved by the Department according to Article 2 of Chapter 10B of the General Statutes, and Article 1A of Chapter 47 of the General Statutes.

History Note: Authority G.S. 10B-125(b); 10B-126(d); 47-16.5; 47-16.7; 147-36; 15 USC 7002; Eff. January 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
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SECTION .1100 – CONTINUING OBLIGATIONS OF ELECTRONIC NOTARIES

18 NCAC 07F .1101 PHYSICAL PRESENCE REQUIREMENT FOR ELECTRONIC NOTARIZATION

When an electronic notary performs an electronic notarization, the principal and the electronic notary shall be in each other's physical presence during the entire electronic notarization so that the principal and the electronic notary can see, hear, communicate with, and give identification documents as required under G.S. 10B-3(22) to each other without the use of electronic devices such as telephones, computers, video cameras, or facsimile machines.

History Note: Authority G.S. 10B-116(1); 10B-125(b); 10B-126(d); 47-16.5; 47-16.7; 147-36; 15 USC 7002; Eff. January 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;
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18 NCAC 07F .1102 SEPARATE ATTESTATIONS

Each electronic signature requiring notarization and attestation in the form of an acknowledgment shall be individually affixed to the electronic document by the principal signer and shall be acknowledged separately by the principal signer, except in the following situation:

- (1) The notarized document is executed on behalf of an entity as defined in G.S. 55-1-40(9)(a) or (c); and
- (2) The notarized document does not adversely affect the claim, right or obligation of another.

History Note: Authority G.S. 10B-125(b); 10B-126(d); 47-16.5; 47-16.7; 147-36; 15 USC 7002; Eff. January 1, 2007;
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