

## SUBCHAPTER 07K – MISCELLANEOUS RULES

### SECTION .0100 – GENERAL

#### 18 NCAC 07K .0101 DEFINITIONS

For purposes of Chapter 10B of the General Statutes and the Rules in this Chapter:

- (1) "Approved" means that an applicant has been authorized by the Department to provide services as a technology provider in compliance with Chapter 10B of the General Statutes and the rules in this Chapter. Technology providers licensed by the Department are deemed approved.
- (2) "Armed Forces of the United States" means the persons described in 10 U.S.C. 101(a)(4) and G.S. 143B-1224(2), including their reserve components.
- (3) "Bank or financial institution" means a "depository institution" as defined in G.S. 53-208.42(7).
- (4) "Certificate of appointment" means a document issued by the Department notifying a Register of Deeds that:
  - (a) the named appointee is authorized to take the oath of office; and
  - (b) the Register of Deeds or designee shall provide the commission certificate to the notary public after:
    - (i) administering the oath of office to the appointee; and
    - (ii) signing of the certificate by both the Register of Deeds or designee, and the notary.
- (5) "Commission certificate" means the document confirming that an individual:
  - (a) has complied with all requirements of Chapter 10B of the General Statutes and the rules in this Chapter; and
  - (b) is authorized to act as a notary public.
- (6) "Commit" means the final step in the notarial act after which:
  - (a) the notarial act is complete;
  - (b) all entries are permanent; and
  - (c) no changes can be made to the entries made permanent pursuant to Sub-Item (b) of this Item.
- (7) "Dishonored payment" or "payment that has been dishonored" means money tendered to the Department by any means that is refused, rejected, or failed to be paid to the Department.
- (8) "Enter information" means to:
  - (a) handwrite, type, or input data;
  - (b) confirm that pre-populated words or numbers are correct. Note: An example would be clicking a checkbox to select the correct date;
  - (c) select applicable options from among offered options. Note: An example would be selecting "oath or affirmation" from a drop-down list of the types of notarial acts; or
  - (d) include in the electronic journal acknowledged signatures of:
    - (i) principals;
    - (ii) a designee of a principal; or
    - (iii) a credible witness.
- (9) "Federal business mileage rate" means the business mileage rate set by the U.S. Internal Revenue Service (IRS).
- (10) "Federally recognized Indian tribe" means a tribe on the list published in the Federal Register by the U.S. Secretary of the Interior pursuant to 25 U.S.C. 5131.
- (11) "File" means the date upon which a filing submitted to the Department is deemed complete by the Department. Note: "File" shall not mean that the Department has determined that the filer is qualified and will be appointed, registered, approved, or licensed.
- (12) "Filer" means a person that submits a filing to the Department.
- (13) "Filing" means a form or other document required or permitted to be filed with the Department pursuant to Chapter 10B of the General Statutes or the rules in this Chapter.
- (14) "Form" means a departmental data collection instrument that requires or requests information, without regard to the format.
- (15) "Form preparer" means an individual who enters information on a form:
  - (a) at the direction of another; and
  - (b) without exercising independent judgment or discretion as to the content entered.

- (16) "Information technology" or "IT" means that term as defined in G.S. 143B-1320(a)(11).
- (17) "Information technology security" or "IT security" means the tools, techniques, and strategies used to protect the confidentiality, integrity, and availability of data, information systems, and digital assets from:
- (a) internal and external threats; and
  - (b) unauthorized access, use, disclosure, disruption, modification, or destruction.
- (18) "Initial appointment" means the first issuance by the Department of a commission certificate to a notary public.
- (19) "Instructor," "certified notary public instructor," "certified instructor," "notary instructor," and "certified notary instructor" mean a notary public who has complied with:
- (a) the requirements of G.S. 10B-14; and
  - (b) the rules in Subchapter 07E of this Chapter.
- (20) "Location" means a description establishing that a principal is present in a jurisdiction where the notarial act may take place. Note: A statement that the principal is then located inside the U.S. embassy in Paris, France, would suffice to establish that the principal is present in a jurisdiction where the notarial act may take place.
- (21) "Long-term" means a period of at least one year.
- (22) "Notarial transaction process" includes:
- (a) steps before the notarial act takes place. Note: The interactions establishing the date and location of a notarial act, obtaining advance consent to travel fees, and the steps required by G.S. 10B-134.9(a) are examples of steps before the notarial act;
  - (b) the notarial act; and
  - (c) steps following the notarial act. Note: Affixing the notary's seal and signature are examples of steps following the notarial act.
- (23) "Person" means the term as defined in G.S. 12-3(6).
- (24) "State recognized tribe" means a group listed in G.S. 143B-407(a).
- (25) "Successfully complete" and "successful completion" mean that a notarial applicant has complied with Chapter 10B and the rules in this Chapter and has:
- (a) presented satisfactory evidence of identity as defined in G.S. 10B-3(22) or be personally known as defined in G.S. 10B-3(17);
  - (b) attended a notarial course taught by a certified notary instructor; and
  - (c) achieved a passing grade on the course examination as described in G.S. 10B-8(a).
- (26) "Technological failure" means a deficiency in:
- (a) any component of the electronic notarization system;
  - (b) any component of the computer systems of the notary or principals; or
  - (c) the connections linking the components described in Sub-Items (a) and (b) of this Item.
- For purposes of this Rule, "component of the electronic notarization system" means any combination of hardware, software, a notary public's electronic journal, and communications technology recordings.
- (27) "Technology provider" means:
- (a) a platform;
  - (b) a depository;
  - (c) a custodial service; or
  - (d) an AVEN as defined in 18 NCAC 07F .0102(1).
- (28) "Termination of employment" means the cessation of permanent or temporary work for another, whether compensated or not, for any reason, including voluntary and involuntary cessation of work.
- (29) "Traditional notarization" means a notarial act in which:
- (a) there is personal appearance as defined in G.S. 10B-3(16); and
  - (b) one of the following occurs:
    - (i) a document is executed and notarized with ink signatures signed by hand or facsimile stamp and affixed with the physical notary seal as defined in G.S. 10B-3(23);
    - (ii) an oath or affirmation is administered without the execution of a document; or
    - (iii) creating an inventory as described in G.S. 53C-6-13(a).

- (30) "Traditional notary public" means an individual commissioned to perform traditional notarizations.
- (31) "Type of notarial act" means an acknowledgement, an oath or affirmation, verification or proof, inventory of an abandoned safe deposit box, or notarization of an absentee ballot.
- (32) "Under the exclusive control of the notary" means accessible by and attributable solely to the notary public to the exclusion of all other persons through being:
  - (a) in the case of a physical seal:
    - (i) in the direct physical custody of the notary; or
    - (ii) physically secured; or
  - (b) in the case of an electronic seal or electronic signature, secured with one or more methods of authentication in an approved electronic notarization system.
- (33) "United States" or "U.S." means the term as defined in G.S. 12-3(11).

*History Note:* Authority G.S. 10B-4; 10B-14; 10B-36; 10B-38; 10B-106; 10B-125; 10B-126; 10B-134.15; 10B-134.19; 10B-134.21;  
Eff. July 1, 2024.

## **SECTION .0200 – CHARGING FEES FOR NOTARIAL ACTS**

### **18 NCAC 07K .0201 TRAVEL FEE RATE**

A notary public who charges travel fees shall refer to the IRS website for the current federal business mileage rate prior to charging the travel fee.

*History Note:* Authority G.S. 10B-4;  
Eff. January 1, 2024.

### **18 NCAC 07K .0202 ESTIMATE OF CHARGES**

In addition to the publication or provision of a notary public's schedule of fees pursuant to G.S. 10B-32, if a principal requests a fee estimate from a notary, the notary shall provide an estimate that includes:

- (1) the estimated total fee; and
- (2) the basis for the estimated charges.

*History Note:* Authority G.S. 10B-4;  
Eff. January 1, 2024.

### **18 NCAC 07K .0203 INCLUSION OF FEES IN JOURNAL**

A notarial journal maintained pursuant to the rules in Subchapter I of this Chapter shall include, with regard to a specific notarial act for which fees were charged:

- (1) how much the notary public charged for each notarial act performed; and
- (2) if travel reimbursement was charged:
  - (a) the actual reimbursement charged; and
  - (b) the fee charged per mile.

*History Note:* Authority G.S. 10B-4; 10B-38; 10B-126; 10B-134.15;  
Eff. January 1, 2024.

### **18 NCAC 07K .0204 CONSENT TO TRAVEL FEES MAY BE ELECTRONIC**

A notary public who charges travel fees pursuant to G.S. 10B-31(5) may obtain the advance consent of the principal in writing and delivered in any manner agreed upon by the notary and the principal.

*History Note:* Authority G.S. 10B-4; 10B-31;  
Eff. January 1, 2024.

### **18 NCAC 07K .0205 CONTENTS OF ADVANCE CONSENT TO TRAVEL FEES**

A notary public who charges travel fees shall obtain advance written consent of the principal that includes the following information:

- (1) date of the consent;
- (2) name of the principal;
- (3) name of the notary;
- (4) estimated mileage that the notary will charge;
- (5) fee per mile that the notary will charge; and
- (6) planned date of the notary's travel.

*History Note:* Authority G.S. 10B-4;  
Eff. January 1, 2024.

**18 NCAC 07K .0206 NOTARIAL RECORD OF WRITTEN CONSENT TO TRAVEL FEES**

A notary public who charges travel fees shall preserve the advance written consent as a notarial record:

- (1) in the notary's journal; or
- (2) if written consent is not included in a journal, then a record of the written consent including the contents required by Rule .0205 of this Section shall be maintained by the notary.

*History Note:* Authority G.S. 10B-4; 10B-31; 10B-126; 10B-134.15;  
Eff. January 1, 2024.