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HOUSE BILL 776  
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Short Title: Remote Notarization/~~Gov't Transparency.~~ (Public)

Sponsors:

Referred to:

May 4, 2021

1 A BILL TO BE ENTITLED  
2 AN ACT TO ALLOW REMOTE ELECTRONIC NOTARIZATION AND TO STRENGTHEN  
3 CONFIDENCE IN GOVERNMENT BY INCREASING ACCESSIBILITY TO CERTAIN  
4 PUBLIC PERSONNEL PERFORMANCE AND DISMISSAL RECORDS.

5 The General Assembly of North Carolina enacts:

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

8 "Part 4A. Remote Electronic Notarization.

9 "§ 10B-134. Reserved for future codification purposes.

10 "§ 10B-134.1. Definitions.

11 In addition to the definitions provided in this Article, the following definitions shall apply in  
12 this Part:

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

- 1                   c.     A statement that a remotely located principal made the
- 2                             acknowledgment, oath or affirmation, or verification or proof.
- 3                   d.     A statement that the notarization is a remote electronic notarization
- 4                             performed using communication technology by a remote electronic
- 5                             notary.
- 6                   e.     An attestation by the remote electronic notary that, at the time of the
- 7                             remote electronic notarization, the remote electronic notary was
- 8                             ~~physically located in North Carolina and that the remote electronic~~
- 9                             ~~notary verified that the remotely located principal was physically~~
- 10                            ~~located in North Carolina.~~
- 11                   f.     ~~An acknowledgment or jurat certification identifying the North~~
- 12                            ~~Carolina county where the remotely located principal was physically~~
- 138                           ~~located at the time of the remote electronic notarization.~~
- 149                   (7)    Remote electronic notarization or remote electronic notarial act. – A notarial
- 1510                           act performed by means of communication technology.
- 1611                   (8)    Remote electronic notary public or remote electronic notary. – A notary public
- 1712                           who is registered with the Secretary to perform remote electronic
- 1813                           notarizations.
- 1914                   (9)    Remotely located principal. – A principal who is not in the physical presence
- 2015                           of the remote electronic notary.
- 2116                   (10)   Third-party vendor. – Any person providing communication technology,
- 2217                           credential analysis, identity proofing, or custodial services to remote
- 2318                           electronic notaries.
- 2419    "**§ 10B-134.2.** Reserved for future codification purposes.
- 2520    "**§ 10B-134.3. Types of remote electronic notarial acts; prohibitions.**
- 2621    (a)    Upon registration with the Secretary under this Article, a remote electronic notary
- 27                   may perform any of the notarial acts listed in G.S. 10B-115 by means of communication
- 28                   technology in accordance with this Part. A remote electronic notary may perform any authorized
- 29                   remote notarial act with respect to tangible records or electronic documents.
- 30                   (b)    A remote electronic notary shall not perform a remote electronic notarial act if any of
- 31                   the following apply:
- 32                   (1)    ~~The remotely located principal is not physically located in this State.~~
- 3332                   (2)    ~~The remotely located principal is not personally known to the remote~~
- 3433                            ~~electronic notary or the remotely located principal's identity cannot be verified~~
- 35                            ~~under G.S. 10B-134.11.~~
- 36                   (23)   Any reason set forth in G.S. 10B-20.
- 37                   (34)   Any reason set forth in G.S. 10B-134.9.
- 38                   (c)    Notwithstanding subsection (a) of this section, a remote electronic notary shall not
- 39                   perform any remote electronic notarial act with regard to any of the following documents:
- 40                   (1)    ~~A self-proved will executed pursuant to Article 4A of Chapter 31 of the~~
- 41                            ~~General Statutes.~~
- 42                   (2)    ~~An advance directive for a natural death executed pursuant to Article 23 of~~
- 43                            ~~Chapter 90 of the General Statutes.~~
- 44                   (3)    ~~A health care power of attorney executed pursuant to Article 3 of Chapter 32A~~
- 45                            ~~of the General Statutes.~~
- 46                   (4)    ~~A revocable or irrevocable trust or any document amending the same.~~
- 47                   (5)    ~~A death beneficiary form that requires an acknowledgment.~~
- 48                   (6)    ~~A durable power of attorney except a statutory limited power of attorney for~~
- 49                            ~~real estate.~~
- 50                   (7)    ~~A codicil to a will.~~
- 5140                   (18)   Any document related to the renunciation of parental rights in an adoption.

- 1           (29) Mail-in absentee ballots issued under Article 20 of Chapter 163 of the General  
2           Statutes.
- 3           (d) The prohibitions in subdivision (b)(1) of this section and subsection (c) of this section  
4 shall not apply when, at the time the remote electronic notarial act is performed, all of the  
5 following conditions are met:
- 6           (1) The remotely located principal is a member of the Armed Forces of the United  
7 States or is the spouse of a member of the Armed Forces of the United States.
- 8           (2) The remotely located principal is located out of this State pursuant to military  
9 orders assigning the member of the Armed Forces of the United States to  
10 active duty outside this State for more than 120 days.
- 11          (3) The remotely located principal is physically located on the military  
12 installation or vessel named in the military orders.
- ~~13          (e) No remotely notarized power of attorney may be used by the attorney in fact with~~  
~~14 any other remotely notarized document to convey title to, or transfer any interest in, a remotely~~  
~~15 located principal's real property. This subsection does not apply to powers of attorney executed~~  
~~16 by a remotely located principal under subsection (d) of this section.~~
- 1713 "§ 10B-134.4. Reserved for future codification purposes.
- 1814 "§ 10B-134.5. Use of communication technology.
- 1915          (a) The communication technology used by a remote electronic notary to perform remote  
2016 electronic notarial acts for remotely located principals shall, making reasonable accommodations  
2117 for remotely located principals with vision, hearing, or speech impairments, comply with all of  
2218 the following requirements:
- 2319          (1) Host the meeting between the remote electronic notary and the remotely  
2420 located principal in real time.
- 2521          (2) Allow direct interaction between the remotely located principal seeking the  
2622 remote electronic notary's services and the remote electronic notary so that  
2723 each can communicate simultaneously by sight and sound through an  
2824 electronic device, process, or system.
- 2925          (3) Include audio with sound clear enough that each participant in the remote  
3026 electronic notarial act can hear and understand all other participants.
- 3127          (4) Have sufficient quality to allow a clear and unobstructed visual observation  
3228 of the face of each participant and any identification provided by the remotely  
3329 located principal for a sufficient time to allow the remote electronic notary to  
3430 verify the remotely located principal's identity under G.S. 10B-134.11. The  
3531 remote electronic notary shall determine if the time is sufficient.
- 3632          (5) Not include prerecorded video or audio or both.
- 3733          (6) Be capable of recording by the communication technology's recording and  
38 storage services.
- ~~39          (7) Be capable of utilizing the IP address of the remotely located principal to~~  
~~40 corroborate that the remotely located principal is physically located in North~~  
4134 Carolina.
- 4235          (b) The remote electronic notary shall take reasonable steps to provide that the  
4336 communication technology used in a remote electronic notarization is secure from unauthorized  
4437 interception. A remote electronic notary may select one or more tamper-evident technologies to  
4538 perform remote electronic notarial acts with respect to electronic documents or to perform remote  
4639 electronic notarizations. In addition to any requirements of this Article or established by the  
4740 Secretary, the communication technology shall provide automated backup of the communication  
4841 technology recording.
- 4942          (c) No person may require a remote electronic notary to perform any remote electronic  
5043 notarial act using a communication technology the remote electronic notary has not selected.
- 5144 "§ 10B-134.6. Reserved for future codification purposes.

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

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

(b) Except as provided in G.S. 10B-134.3(d), a remote electronic notary physically located in this State may perform a remote electronic notarial act using communication technology only for a remotely located principal who is physically located in ~~the following places: this State. The~~

~~(1) In this State.~~

~~(2) Outside of this State but within the United States.~~

~~(3) Outside of the United States, if both of the following apply:~~

~~a. The remote electronic notary has no actual knowledge of the remote electronic notarial act being prohibited in the jurisdiction in which the remotely located principal is physically located.~~

~~b. The remotely located principal placing an electronic signature on the electronic document confirms to the remote online notary that the requested remote electronic notarial act and the electronic document are one or more of the following:~~

~~1. Part of or pertaining to a matter that is to be filed with or is currently before a court, governmental entity, or other entity in the United States.~~

~~2. Related to real property located in North Carolina.~~

~~3. Related to property, other than real property, located in the United States.~~

~~4. Related to a transaction connected to the United States that does not involve the transfer of real property.~~

~~5. Related to a property right, title, or interest granted by an entity of the United States government or a court in the United States. location of the remotely located principal shall be verified through one of the following methods:~~

~~(1) The remotely located principal's verification, by oath or affirmation to the remote electronic notary, of the North Carolina county in which the remotely located principal is physically located.~~

~~(2) The communication technology used for the remote electronic notarization reflects that the IP address being used by the remotely located principal is physically located in North Carolina.~~

(c) A remote electronic notarization performed by a remote electronic notary of this State according to this Chapter is governed by the laws of this State.

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

**"§ 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.

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

(4) The remotely located principal shall verbally state what documents are being

3022 signed for the notarial record or the general nature of the transaction.

31 ~~(5) The location of the remotely located principal shall be verified in accordance~~<sup>32</sup>  
~~with G.S. 10B-134.7(b).~~

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

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

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

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

42 (4) The remote electronic notary's electronic notarial certificate and seal cannot  
43 be attached to the electronic document using an electronic technology that  
44 renders any subsequent change or modification to the document evident.

45 (c) If the notarial act is an oath or affirmation, the remote electronic notary shall  
46 administer the oath or affirmation to the remotely located principal using communication  
47 technology.

48 (d) In judicial actions or proceedings when an oral oath or affirmation is administered to  
49 a witness that does not require notarization of a record or a notarial certificate and seal when  
50 done in person, any notary public registered with the Secretary, whether or not registered as a  
51 remote electronic notary, may administer that oath or affirmation while physically located in this

1 State to the remotely located witness using communication technology, provided that the notary  
2 satisfies all requirements of this Article relating to the identity proofing of the witness. The notary  
3 shall not be required to select the medium of communication technology or to retain a  
4 communication technology recording of the performance of each remote oral oath or affirmation.

5 (e) Any failure of the remote electronic notary to comply with the requirements of the  
6 remote electronic notarization does not invalidate the notarial act or the electronic record that  
7 was notarized, but it does not prevent an aggrieved person from seeking to invalidate the record  
8 on other substantive grounds.

9 (f) A remote electronic notary shall maintain the confidentiality of a remotely located  
10 principal's documents at all times.

11 "**§ 10B-134.10.** Reserved for future codification purposes.

12 "**§ 10B-134.11. Verification of identity; identity proofing; credential analysis.**

13 (a) Prior to the remote electronic notarial act, the remote electronic notary shall cause to  
14 have each remotely located principal's identity verified through one of the following methods:

15 (1) The remote electronic notary's personal knowledge of the remotely located  
16 principal creating the electronic signature.

17 (2) All of the following:

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

22 b. Identity proofing approved by the Secretary.

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

30 (b) Notwithstanding subsection (a) of this section, a remote electronic notary may require

31 the remotely located principal to provide additional information or identification credentials  
32 necessary to assure the remote electronic notary of the identity of the remotely located principal.

33 "§ 10B-134.12. Reserved for future codification purposes.

34 "§ 10B-134.13. **Electronic notarization and remote electronic notarization.**

35 When using an electronic notarization as well as conducting a remote electronic notarization,  
36 the remote electronic notary shall comply with the requirements of Article 1 of this Chapter. Each  
37 remote electronic notarization shall include a communication technology recording. There shall  
38 be no requirement that the communication technology recording further include any transactions  
39 other than the remote electronic notarial act unless the Secretary specifies a requirement to also  
40 record interactions of those particular transactions.

41 "§ 10B-134.14. Reserved for future codification purposes.

42 "§ 10B-134.15. **Electronic journal of remote electronic notarial acts.**

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

47 (b) At a minimum and for each remote electronic notarization, the remote electronic  
48 notary shall include the following information in the electronic journal:

49 (1) The date and time when the remote electronic notary observed the signing of  
50 the document by each remotely located principal and verified the remotely  
51 located principal's identity under G.S. 10B-134.11.

1 (2) The date and time of the completion of the remote electronic notarial  
2 certificate.

3 (3) The last and first name of each remotely located principal.

4 (4) The type of notarial act performed.

5 (5) The type of document notarized or proceeding performed.

6 (6) The type of identification presented, including, if applicable, the issuing  
7 agency and identification number on the identification presented.

8 (7) The type of communication technology used during the remote electronic  
9 notarization.

10 (8) Whether any other person was present with the remotely located principal at  
11 the time of signature and, if so, the name of that person.

12 (9) The fee, if any, charged by the remote electronic notary.

13 (c) A third party involved in a transaction that utilizes remote electronic notarization may  
14 require additional information regarding that transaction be included in the electronic journal  
15 kept by the remote electronic notary.

16 (d) A remote electronic notary; guardian, conservator, or agent of a remote electronic  
17 notary; or a personal representative of a deceased remote electronic notary shall retain a  
18 communication technology recording of the performance of each remote electronic notarial act  
19 for 10 years after the performance of the notarial act. A remote electronic notary; guardian,  
20 conservator, or agent of a remote electronic notary; or a personal representative of a deceased  
21 remote electronic notary may, by written contract, engage a third party, including the  
22 communication technology provider, to act as a depository to provide the storage required by this  
23 section. The contract shall:

24 (1) Enable the remote electronic notary; guardian, conservator, or agent of a  
25 remote electronic notary; or a personal representative of a deceased remote  
26 electronic notary to comply with the retention requirements of this section  
27 even if the contract is terminated; or

28 (2) Provide that the information will be transferred to the remote electronic  
29 notary; guardian, conservator, or agent of a remote electronic notary; or a  
30 personal representative of a deceased remote electronic notary if the contract  
31 is terminated.

32 (e) On resignation from, or the revocation or suspension of, a remote electronic notary's  
33 commission, the remote electronic notary shall retain the electronic journal in accordance with  
34 the requirements of this section and G.S. 10B-134.17.

35 (f) A remote electronic notary may designate a steward, who must be a third-party vendor  
36 approved by the Secretary in accordance with G.S. 10B-134.20, to do any of the following:

37 (1) Maintain the electronic journal and any backup copies thereof.

38 (2) Retain a communication technology recording of the notarial act performed  
39 and any backup copies thereof.

40 (3) Provide a method by which a remote electronic notary can do any of the  
41 following:

42 a. Access the electronic journal.

43 b. Access the communication technology recording.

44 c. Export the electronic journal.

45 d. Export the communication technology recording.

46 (g) A remote electronic notary shall designate a steward, who must be a third-party  
47 vendor approved by the Secretary, to receive and maintain the remote electronic notary's  
48 electronic journal and all other notarial records under this Article for the time period and in a  
49 manner as required by law or by rule adopted by the Secretary as follows:

1 (1) Upon resignation, revocation, or expiration of a notary commission, the  
2 remote electronic notary shall deliver to the steward all notarial records  
3 required by statute or rule to the steward.

4 (2) Upon the death or adjudication of incompetency of a current or former remote  
5 electronic notary, the remote electronic notary's personal representative or  
6 guardian or any other person knowingly in possession of the electronic journal  
7 and other notarial records shall transmit the same to the steward.

8 "**§ 10B-134.16.** Reserved for future codification purposes.

9 "**§ 10B-134.17. Security measures by notary; surrender of journal; etc.**

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

12 (1) All records of journal entries and communication technology recordings shall  
13 be securely stored in a repository under the control of the remote electronic  
14 notary or with a steward duly appointed under the terms of this Article. The  
15 steward may be a third-party vendor approved by the Secretary for handling,  
16 securely storing, or handling and securely storing the records of remote  
17 electronic notarizations with data protection safeguards consistent with  
18 generally accepted information security standards.

19 (2) Take reasonable steps to ensure that the communication technology  
20 recordings are secure from interception from an unauthorized third party  
21 during transmission between participants involved in a remote electronic  
22 notarial act. The communication technology used by the remote electronic  
23 notary shall employ data protection safeguards consistent with generally  
24 accepted information security standards.

25 (3) Retain the electronic journal and a backup copy of the electronic journal in a  
26 secure location for 10 years after the last notarization chronicled in the  
27 electronic journal. The same requirement applies if the remote electronic  
28 notary also maintained a tangible journal of remote electronic notarial acts.  
29 The notary may maintain an electronic journal in an electronic form in a  
30 permanent, tamper-evident electronic format.

31 (b) A remote electronic notary may surrender the electronic journal to the remote  
32 electronic notary's employer upon termination of employment, but the remote electronic notary  
33 shall also keep and maintain an accurate backup copy of the journal for 10 years.

34 (c) Except as provided in subsection (b) of this section, the notary shall not surrender or

35 destroy the electronic journal or the communication technology recordings of remote electronic  
36 notarial acts except as required by a court order or as allowed under rules adopted by the  
37 Secretary.

38 (d) Within 10 days of discovering any permanent loss of data, unauthorized use, loss of  
39 use, or compromise of security of the electronic journal or the communication technology  
40 recordings of remote electronic notarial acts, the remote electronic notary shall do all of the  
41 following:

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

44 (2) Notify the appropriate register of deeds and the Secretary in writing and signed  
45 in the official name in which the remote electronic notary was commissioned.  
46 The notice shall indicate whether there was any permanent loss of data,  
47 unauthorized use, loss of use, or compromise of security of the electronic  
48 journal or the communication technology recordings of remote electronic  
49 notarial acts.

50 (e) The failure of a remote electronic notary to produce within 30 days of the  
51 Department's request any record required by a rule adopted under this Article shall result in the  
1 suspension of the remote electronic notary's power to act as a notary under the provisions of this  
2 Chapter until the Secretary reinstates the notary's commission.

3 **"§ 10B-134.18.** Reserved for future codification purposes.

4 **"§ 10B-134.19. Security measures by Secretary.**

5 (a) The Secretary may establish guidelines for the secure storage of the electronic journal  
6 and communication technology recording associated with the remote electronic notarial acts that  
7 utilize standard encryption technologies such as Advanced Encryption Standard (AES) or  
8 Rivest-Shamir-Adleman (RSA) encryption.

9 (b) The Secretary may establish, supplement, or amend third-party service guidelines for  
10 standards and processes for identity proofing and credential analysis services so that third-party  
11 vendors interacting with remote electronic notaries satisfy the security qualifications of  
12 establishing the identity of the remotely located principal.

13 (c) The Secretary may establish standards and processes for the communication  
14 technology to allow real-time communications such that the participants can see and hear remote  
15 electronic notarial acts. The standards and processes shall ensure that the real-time  
16 communications are secure from unauthorized interception, access, or viewing. The Secretary  
17 may require that the communication technology used to perform remote electronic notarial acts  
18 is capable of all of the following:

19 (1) Provides for continuous, synchronous audiovisual feeds.

20 (2) Provides sufficient video resolution and audio clarity to enable the notary and  
21 the remotely located principal to see and speak with each other simultaneously  
22 through live, real-time transmission.

23 (3) Provides sufficient captured image resolution for credential analysis to be  
24 performed.

25 (4) Includes a means of authentication that reasonably ensures only authorized  
26 parties have access to the communication technology and communication  
27 technology recordings.

28 (5) Provides some manner of ensuring that the electronic record presented for  
29 electronic notarization is the same record electronically signed by the  
30 remotely located principal.

31 (6) Securely creating and storing or transmitting securely to be stored a  
32 communication technology recording of the communication technology  
33 recording, keeping confidential the questions asked as part of any identity  
34 proofing and the means and methods used to generate the credential analysis.

35 (d) The Secretary may establish standards for tamper-evident technologies such that any



36 subsequent change or modification to the record is self-evident.

37 (e) A remote electronic notary shall use a communication technology provided by a  
38 third-party vendor that has presented evidence to the Secretary that the communication  
39 technology complies with the applicable industry standards for the industry in which it is to be  
40 utilized. At a minimum, the communication technology should provide reasonable security  
41 measures to prevent unauthorized access to:

42 (1) The live transmission of the remote electronic notarial act.

43 (2) Any communication technology recording of the remote electronic notarial  
44 act.

45 (3) The verification methods and credentials used to verify the identity of the  
46 remotely located principal.

47 (4) The electronic documents presented for remote electronic notarization.

48 (f) The Secretary may adopt other rules necessary to ensure the integrity, security, and  
49 authenticity of remote electronic notarizations. In adopting other rules, the Secretary may impose  
50 other education requirements on remote electronic notaries, prescribe the manner of performing  
51 remote electronic notarial acts, and include provisions relating to the integrity and security of the

1 information. In adopting, amending, or repealing a rule governing the performance of a remote  
2 electronic notarial act with respect to a remotely located principal, the Secretary may consider:

3 (1) The most recent standards promulgated by national standard-setting  
4 organizations and the National Association of Secretaries of State.

5 (2) Standards, practices, and customs of other jurisdictions that have laws  
6 substantially similar to this Article.

7 (3) The view of government officials and entities and other interested persons.

8 (4) The feedback of the advisory committee which may be created under this  
9 Article.

10 (5) What is in the best interest of the State as consistent with G.S. 10B-2. This  
11 may be accomplished when and if the Secretary chooses to create an advisory  
12 committee consisting of stakeholders from different sectors that may be  
13 technology providers, insurance agents, lenders, and other industries that are  
14 considered consumers of notarial services. All members of the advisory  
15 committee must be residents of this State. Members shall be appointed by the  
16 Secretary for a duration of time to be determined by the Secretary and may be  
17 removed from the advisory committee at the discretion of the Secretary. The  
18 advisory committee shall serve as advisors for the Secretary for purposes of  
19 ensuring that the requirements of G.S. 10B-2 are being satisfied. The advisory  
20 committee shall have no executive or rulemaking authority.

21 (g) If the Secretary has established standards regarding technology to perform remote  
22 electronic notarial acts with respect to electronic documents or to perform remote electronic  
23 notarizations, the technology chosen by the remote electronic notary shall conform to those  
24 standards. If the Secretary has established standards under this Article for approval of  
25 communication technology, credential analysis, identity proofing, or custodial services to remote  
26 electronic notaries, the communication technology, credential analysis, identity proofing, or  
27 custodial services selected by the notary must conform to the standards.

28 (h) In addition to adopting rules under this Part, the Secretary may adopt rules regarding  
29 performance of a remote electronic notarial act. The rules may:

30 (1) Prescribe the means of performing a remote electronic notarial act involving  
31 a remotely located principal using communication technology.

32 (2) Establish standards, processes, and procedures for communication  
33 technology, credential analysis, identity proofing, or custodial services.

34 (3) Establish requirements or procedures to approve third-party vendors.

35 (4) Establish standards and a period for the retention of a communication  
36 technology recording created under this Part for notarial acts for a period of

37 no more than 10 years.

38 **"§ 10B-134.20. Standards for third-party vendors: liability.**

39 (a) Third-party vendors shall meet all standards established by the Secretary under  
40 G.S. 10B-134.19 for the provision of services to remote electronic notaries in this State. If the  
41 Secretary has not established standards for a service, a third-party vendor may not furnish that  
42 service to a remote electronic notary public until the Secretary has determined that the provided  
43 service meets security standards generally accepted within the industry for that service. ~~Such~~  
standards shall be set by the Secretary no later than March 1, 2022.

44 (b) Third-party vendors are liable to any person who suffers damages from a remote  
45 electronic notarial act if all of the following apply:

46 (1) The damage is proximately caused by a service provided by the third-party  
47 vendor that failed to meet any ~~material~~ standard under subsection (a) of this  
section. ~~Should a vendor be found liable of a material fault, the damages may~~  
not exceed three times the cost of the service provided.

48 (2) The person damaged was a party to, or in privity with a party to, the remote  
49 electronic notarial act proximately causing the damage.

~~49~~

50 (c) Venue in any civil action brought under this Part ~~shall not~~ may only be controlled or  
established

51 by a third-party vendor agreement or any other contractual arrangement with the remote  
1 electronic notary or the remotely located principal as a party to the contractual arrangement ~~if~~  
the provision is clear and conspicuous. Any

2 provision in a third-party vendor agreement that requires mandatory binding arbitration is void  
3 and unenforceable ~~unless that provision is clear and conspicuous. For purposes of this~~  
subsection, "third party vendor agreement" means an

4 agreement between a third party vendor and a remote electronic notary for the provision of  
53 communication technology, credential analysis, identity proofing, or custodial services.

64 **"§ 10B-134.21. Real estate transactions.**

75 (a) Nothing in this Part shall be construed to alter or supersede the law as set forth in  
86 Chapter 84 of the General Statutes, G.S. 10B-20(i) through (k), G.S. 75-1.1, or any opinion or  
97 ruling by a North Carolina court of competent jurisdiction or the North Carolina State Bar and  
108 pertaining to the unauthorized practice of law in this State, including the requirements that a  
119 licensed North Carolina attorney shall supervise a residential real estate closing under Authorized  
1210 Practice Advisory Opinion 2002-1 issued by the North Carolina State Bar and perform any and  
1311 all services defined as the practice of law for real property located in this State.

1412 (b) A remote electronic notary who is not a licensed North Carolina attorney is prohibited  
1513 from rendering services or advice that constitutes the practice of law in this State.

1614 **"§ 10B-134.22.** Reserved for future codification purposes.

1715 **"§ 10B-134.23.** Reserved for future codification purposes.

1816 **"§ 10B-134.24.** Reserved for future codification purposes.

1917 **"§ 10B-134.25.** Reserved for future codification purposes.

2018 **"§ 10B-134.26.** Reserved for future codification purposes."

2119 **SECTION 2.(a)** G.S. 10B-2(6) reads as rewritten:

2220 "(6) To integrate procedures for ~~traditional paper and electronic notarial acts~~ all of  
2321 the following notarial acts:

2422 a. Traditional paper.

2523 b. Electronic notarization.

2624 c. Remote electronic notarization."

2725 **SECTION 2.(b)** G.S. 10B-101 reads as rewritten:

2826 **"§ 10B-101. Definitions.**

2927 The following definitions apply in this Article:

3028 (1) ~~"Electronic" means relating~~ Electronic. – Relating to technology having

- 3129 electrical, digital, magnetic, wireless, optical, electromagnetic, or similar  
 3230 capabilities.
- 3331 (2) ~~"Electronic Document" means information~~ Electronic document. –  
 3432 Information that is created, generated, sent, communicated, received, or stored  
 3533 by electronic means.
- 3634 (3) ~~"Electronic Notarial Act" and "Electronic Notarization" mean an Electronic~~  
 3735 notarial act and electronic notarization. – An official act by an electronic  
 3836 notary public that involves electronic documents.
- 3937 (4) ~~"Electronic Notary Public" and "Electronic Notary" mean a Electronic notary~~  
 4038 public and electronic notary. – A notary public who has registered with the  
 4139 Secretary the capability of performing electronic notarial acts in conformance  
 4240 with this Article.
- 4341 (5) ~~"Electronic Notary Seal" and "Electronic Seal" mean information~~ Electronic  
 4442 notary seal and electronic seal. – Information within a notarized electronic  
 4543 document that includes the notary's name, jurisdiction, and commission  
 4644 expiration date, and generally corresponds to data in notary seals used on  
 4745 paper documents.
- 4846 (6) ~~"Electronic Signatures" means an Electronic signatures.~~ – An electronic  
 4947 symbol or process attached to or logically associated with an electronic  
 5048 document and executed or adopted by a person with the intent to sign the  
 5149 document.

1 (7) ~~"Notary's Electronic Signature" means those Notary's electronic signature.~~ –  
 2 Those forms of electronic signature which have been approved by the  
 3 Secretary as authorized in G.S. 10B-125, as an acceptable means for an  
 4 electronic notary to affix the notary's official signature to an electronic record  
 5 that is being notarized.

6 (8) Remote electronic notary public or remote electronic notary. – As defined in  
 7 G.S. 10B-134.1."

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

9 **"§ 10B-105. Qualifications.**

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

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

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

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

21 **"§ 10B-106. Registration with the Secretary of State.**

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

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

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

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

- 31 (1) The applicant's full legal name and the name to be used for commissioning,

- 32 excluding nicknames.
- 33 (2) The state and county of commissioning of the registrant.
- 34 (3) The expiration date of the registrant's notary commission.
- 35 (4) Proof of successful completion of the course of instruction on electronic
- 36 notarization as required by this Article.
- 37 (5) A description of the technology the registrant will use to create an electronic
- 38 signature in performing official acts.
- 39 (6) If the device used to create the registrant's electronic signature was issued or
- 40 registered through a licensed certification authority, the name of that
- 41 authority, the source of the license, the starting and expiration dates of the
- 42 device's term of registration, and any revocations, annulments, or other
- 43 premature terminations of any registered device of the registrant that was due
- 44 to misuse or compromise of the device, with the date, cause, and nature of
- 45 each termination explained in detail.
- 46 (7) The e-mail address of the registrant.

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

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

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

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

9 **"§ 10B-117. Notarial components of electronic document.**

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

- 14 (1) The notary's name, state, and county of commissioning exactly as stated on
- 15 the commission issued by the ~~Secretary~~; Secretary.
- 16 (2) The words "Electronic Notary ~~Public~~"; Public" or "Remote Electronic Notary
- 17 Public Utilizing Communication Technology."
- 18 (3) The words "State of North ~~Carolina~~"; Carolina."
- 19 (4) The expiration date of the ~~commission~~; commission.
- 20 (5) The notary's electronic ~~signature~~; and signature.
- 21 (6) The completed wording of one of the following notarial certificates:
- 22 a. ~~Acknowledgment~~; Acknowledgment.
- 23 b. ~~Jurat~~; Jurat.
- 24 c. Verification or ~~proof~~; or proof.
- 25 d. Oath or affirmation."

**SECTION 2.(f) G.S. 10B-118 is amended by adding the following:**

(b) For performing remote electronic notarial acts, the maximum fees that may be charged by a remote electronic notary are:

- (1) For acknowledgments or verifications or proofs – twenty-five dollars (\$25.00) per signature.
- (2) For jurats – twenty-five dollars (\$25.00) per signature.
- (3) For oaths or affirmations – twenty-five dollars (\$25.00).

adding

28 a new ~~Part-section~~ to read:

2729

50 ~~“Part 7. Papering Out. § 47-14(a3) Recordation of paper copy of electronic document. - A register of deeds shall record a paper copy of an electronic document as defined in G.S. 47-16.2(3) that is otherwise eligible under state law to be recorded in the real property records if all the following conditions have been met:~~

51 (1) ~~The register of deeds (A) does not have an electronic recording system, (B) the register’s recording system does not accept the type of document being submitted, or (C) the register’s electronic recording system is not operational in the ordinary course of business at the time of submission.~~

52 (2) ~~The execution of the instrument by one or more signers appears to have been proved or acknowledged before an officer with the apparent authority to take proofs or acknowledgements, and the proof or acknowledgment includes the officer's signature, commission expiration date, and official seal, if required, based on the appearance of these elements on the document as it will appear on the public record.~~

53 (3) ~~The paper copy presented for recording contains a certificate upon or attached to it, signed under oath or by affirmation, attesting to all of the following:~~

54

**55 DECLARATION OF AUTHENTICITY**

56

57 I certify as follows:

58 1. The attached document, \_\_\_\_\_ (insert title), dated \_\_\_\_\_ and containing \_\_\_\_\_ pages, is a true and correct copy of an electronic record printed by me or under my supervision.

59 2. The electronic document of which the attached is a copy was proved or acknowledged with an officer’s signature that meets the requirements of N.C.G.S. 47-14(a2).

60 3. At the time of printing of the attached copy, no security features present on the electronic document indicated any changes or errors in an electronic signature or other information in the electronic document after the affixation of the electronic notarial certificate.

61 4. I have made no changes or modifications to the electronic document since the affixation of the electronic notarial certificate.

62 5. The office of the register of deeds shall be entitled to rely on this certification and my capacity and due authority to give it.

63

64 \_\_\_\_\_ (signature of authenticator)

65 \_\_\_\_\_ (printed name of authenticator)

66 \_\_\_\_\_ (street address of authenticator)

67 \_\_\_\_\_ (city, state, and zip code of authenticator)

68

69 State of: \_\_\_\_\_

70 County of: \_\_\_\_\_

71

72 Signed and sworn to (or affirmed) before me this day by (name of principal).

73

74 Date: \_\_\_\_\_ (notary’s official signature)

75 \_\_\_\_\_ (notary's printed or typed name), Notary Public

76

77 (official seal) My commission expires: \_\_\_\_\_

78

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

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

28

29 ~~"§ 10B-160. Reserved for future codification purposes.~~

30 ~~"§ 10B-161. Papering out of electronic records in tangible form.~~

31 ~~(a) A paper or tangible duplicate of an electronic document subject to electronic~~  
 32 ~~notarization shall be presumed to be a true and correct duplicate of the notarized electronic~~  
 33 ~~document if the electronic notarial certificate is affixed to the electronic document in compliance~~  
 34 ~~with G.S. 10B-117 and the electronic document has not been changed or modified since the~~  
 35 ~~affixation of the electronic notarial certificate.~~

36 ~~(b) If a custodian attests, in accordance with this section, that the electronic document~~  
 37 ~~with the electronic notarial certificate is a true and correct duplicate of the electronic document~~  
 38 ~~certification and such attestation is attached to or made a part of a paper or tangible duplicate of~~  
 39 ~~an electronic document, the attestation is prima facie evidence that the requirements of this~~  
 40 ~~section have been satisfied with respect to the paper or tangible duplicate of the electronic~~  
 41 ~~document. The custodian must attest that the electronic document is in a tamper-evident format~~  
 42 ~~and to at least all of the following:~~

43 ~~(1) The capacity in which custodian has custody of the electronic document with~~  
 44 ~~the affixed electronic notarial certificate.~~

45 ~~(2) The custodian detected no changes or errors in any electronic signature or~~  
 46 ~~other information in the electronic document since the affixation of the~~  
 47 ~~electronic notarial certificate.~~

48 ~~(3) The custodian personally printed, or supervised the printing of, the electronic~~  
 49 ~~document onto paper or other tangible medium.~~

50 ~~(4) The custodian has not made any changes or modifications to the electronic~~  
 51 ~~document since the affixation of the electronic notarial certificate to the paper~~

1 ~~or tangible duplicate of the electronic document with the affixed electronic~~  
 2 ~~notarial certificate.~~

3 ~~(5) The electronic document with the electronic notarial certificate is~~  
 4 ~~acknowledged or sworn or affirmed before a notary public.~~

5 ~~(c) Any document with an attestation in accordance with this section shall be accepted~~  
 6 ~~for recording by a register of deeds under G.S. 161-14, provided all other statutory and locally~~  
 7 ~~adopted prerequisites for recording have been met.~~

8 ~~(d) As used in this section, "custodian" shall mean a person with authorized custody of~~  
 9 ~~an electronic document with an affixed electronic notarial certification."~~

101 **SECTION 4.** G.S. 20-30(6), as amended by S.L. 2021-134, reads as rewritten:

112 ~~(6)~~ (6) To make a color photocopy or otherwise make a color reproduction of a  
 123 drivers license, learner's permit, or special identification card, unless such  
 134 color photocopy or other color reproduction was authorized by the  
 145 Commissioner or is made to comply with G.S. 163-230.2. It shall be lawful to  
 156 make a black and white photocopy of a drivers license, learner's permit, or  
 167 special identification card or otherwise make a black and white reproduction  
 178 of a drivers license, learner's permit, or special identification card. This  
 189 subdivision does not apply to: (i) a to any of the following:

1910 a. A lender that is licensed or otherwise authorized to engage in the  
 2011 lending business in this State; (ii) a State.

2112 b. A licensed motor vehicle dealer creating, storing, or receiving, in the  
 2213 ordinary course of business, a color image of a drivers license, learner's  
 2314 permit, or special identification card of a borrower or loan applicant;  
 2415 or (iii) a applicant.

2516 c. A federally insured depository institution or its affiliates creating,  
 2617 storing, or receiving, in the ordinary course of business, a color image

2718 of a drivers license, learner's permit, or special identification card of a  
2819 consumer.  
2920 d. Performance of a remote notarization act under Part 4A of Article 2 of  
3021 Chapter 10B of the General Statutes."

## [NON-RO-RELATED SECTIONS 5-14 REDACTED FOR RO- DISCUSSION DRAFT]

1           **SECTION 15.** Sections 1 through 4 of this act become effective January 1, 2022. In  
2 order to implement remote notarization on the effective date of this act, the Secretary of State  
3 may begin rulemaking to implement Part 4A of Article 2 of Chapter 10B of the General Statutes,  
4 as enacted by this act, prior to January 1, 2022, but no temporary or permanent rule shall become  
5 effective prior to January 1, 2022. ~~Sections 5 through 14 of this act become effective December~~  
6 ~~1, 2021, and apply to promotions, demotions, transfers, suspensions, separations, and dismissals~~  
75 ~~occurring on or after that date. The remainder of this act is effective when it becomes law.~~