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Department of the Secretary of State

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**Report to the North Carolina Secretary of State
On North Carolina Electronic Recordation and Notarization
By the Secretary of State's Advisory Council
On the Uniform Real Property Electronic Recordation Act**

February 10, 2005

I. Charge

The Secretary of State charged her Advisory Council on the Uniform Real Property Electronic Recordation Act (Advisory Council) with reviewing the evolving draft of the North Carolina Uniform Real Property Electronic Recordation Act (N.C. URPERA) and recommending to the Secretary of State any beneficial changes for North Carolina in the final draft. As a part of that charge, the Advisory Council has reviewed the drafts of the N.C. URPERA and, at the Secretary's request, drafts of the Electronic Notary Act. Additionally, the Advisory Council has identified statutes that need immediate modification and those statutes that warrant review after the passage of the N.C. URPERA.

II. Recommendations

a. URPERA

The Advisory Council recommended to the Secretary the version of the N.C. URPERA as modified by the General Statutes Commission; the version recommended is contained in Advisory Council Attachment 1. The product of the General Statutes Study Commission is the result of the collaborative efforts of the stakeholders, many of whom have contemporaneously participated in the Advisory Council's deliberations. This version of the N.C. URPERA creates a statutory framework that will enable electronic filing of real property documents within the current state government structure. The Act creates the Electronic Recording Council (ERC), an advisory board to the Secretary of State. The ERC shall consist of thirteen members: seven members appointed by the N.C. Association of Registers of Deeds, one member appointed by the N.C. Bar Association, one member appointed by the N.C. Society of Land Surveyors, one member appointed by the N.C. Bankers

Association, one member appointed by the N.C. Land Title Association, one member appointed by the N.C. Association of Assessing Officers, and the Secretary of Cultural Resources or the Secretary's designee. The Secretary of State shall adopt standards to implement the N.C. URPERA upon recommendation of the Electronic Recording Council.

b. Electronic Notary Act

The Advisory Council recommended language to the Secretary of State for the proposed N. C. Electronic Notary Act. The proposed Act provides a structure and an organized process for commissioned N. C. Notaries Public to qualify and register with the Secretary of State their capabilities to notarize electronically. Before performing electronic notarial acts, the electronic notary would be required to complete a course of instruction containing basic notary laws, procedures, technology and ethics. The electronic notary would also have to comply with all laws contained in Chapter 10A related to regularly commissioned notaries public and including the personal appearance requirement. The Act proposes an electronic notary fee of \$10.00 per signature for the performance of an electronic notarial act and imposes specific criminal sanctions for violating portions of the Act. The N.C. Electronic Notary Act proposed by this Advisory Council is contained in Advisory Council Attachment 2.

c. General Statutes Study Committee

The Advisory Council reviewed a number of statutes to determine whether those statutes will need to be amended as a result of the passage of N.C. URPERA. Because of the number of the statutes and the complexity of the issues involving those statutes, the Advisory Council has divided the statutes into two categories: 1) Priority Issues - those statutes that need to be amended immediately after the passage of N.C. URPERA; and 2) Secondary Issues - those statutes that need to be reviewed by a study committee to determine whether they need amendment. Advisory Council Attachment 3 contains a list prioritizing the statutes into the Priority Issues and Secondary Issues categories. The Advisory Council also recommended that the study committee include representatives of all interested groups affected by electronic recording and electronic notarization.

d. Pilot Counties

The Advisory Council recommended that grant funds be allocated to the Department of the Secretary of State for the financing of pilot projects for electronic recording in small- and medium-sized counties.

e. Review of Probate Requirements

The Advisory Council also recommended a review of the requirements for Registers of Deeds to include a specific list of items checked in probating a document, with consideration to 1) the name of the notary, 2) the State and County, 3) the notary's commission expiration date, 4) a verification that the notary's commission date, as shown on the document, occurs after the execution date of the document, 5) the notary's signature or electronic signature, and 6) the notary's seal or the seal components required for electronic notarization. The Council reviewed the revised draft of G.S. 47-14, as proposed by the Registers of Deeds, and suggests it be given immediate attention with the passage of the N.C. URPERA.

III. Conclusions

The Secretary of State respectfully submits this report for consideration by the General Assembly. The Advisory Council met an average of twice a month for six months to review the proposed legislation and submit recommendations to the Secretary. The work completed by the Advisory Council and the Secretary of State will result in the accommodation of electronic recording for real property documents and also explains the role of the electronic notary in electronic commerce.

Attachment 1

A BILL TO BE ENTITLED

AN ACT TO ENACT THE UNIFORM REAL PROPERTY ELECTRONIC RECORDING
ACT, AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 47 of the General Statutes is amended by adding a new article to read:

“ARTICLE 1A.

“Uniform Real Property Electronic Recording Act.

“§ 47-16.1. Short title.

This Article may be cited as the Uniform Real Property Electronic Recording Act.

“§ 47-16.2. Definitions.

In this Article:

- (1) “Document” means information that is:
 - a. Inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form; and
 - b. Eligible to be recorded in the land records maintained by the register of deeds.
- (2) “Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.
- (3) “Electronic document” means a document that is received by the register of deeds in an electronic form.

(4) “Electronic signature” means an electronic sound, symbol, or process attached to or logically associated with a document and executed or adopted by a person with the intent to sign the document.

(5) “Person” means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government, or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

“§ 47-16.3. Validity of electronic documents.

(a) If a law requires, as a condition for recording, that a document be an original, be on paper or another tangible medium, or be in writing, the requirement is satisfied by an electronic document satisfying this Article.

(b) If a law requires, as a condition for recording, that a document be signed, the requirement is satisfied by an electronic signature.

(c) A requirement that a document or a signature associated with a document be notarized, acknowledged, verified, witnessed, or made under oath is satisfied if the electronic signature of the person authorized to notarize, acknowledge, verify, witness, or administer the oath, and all other information required to be included, is attached to or logically associated with the document or signature. A physical or electronic image of a stamp, impression, or seal need not accompany an electronic signature.

“§ 47-16.4. Recording of documents.

(a) In this section, “paper document” means a document that is received by the register of deeds in a form that is not electronic.

(b) A register of deeds:

- (1) Who implements any of the functions listed in this section shall do so in compliance with standards adopted by the Secretary of State.
- (2) May receive, index, store, archive, and transmit electronic documents.
- (3) May provide for access to, and for search and retrieval of, documents and information by electronic means.
- (4) Who accepts electronic documents for recording shall continue to accept paper documents as authorized by law and shall place entries for both types of documents in the same index.
- (5) May convert paper documents accepted for recording into electronic form.
- (6) May convert into electronic form information recorded before the register of deeds began to record electronic documents.
- (7) May accept electronically any fee or tax that the register of deeds is authorized to collect.
- (8) May agree with other officials of this State or a political subdivision thereof on procedures or processes to facilitate the electronic satisfaction of conditions to recording and the electronic payment of fees and taxes.

“§ 47-16.5. Administration and standards.

(a) Standard-setting agency - The Secretary of State shall adopt standards to implement this Article upon recommendation of the Electronic Recording Council. The Secretary of State may direct the Council to revise any portion of the recommended standards the Secretary deems inadequate or inappropriate. Technological standards and specifications

adopted by the Secretary of State to implement this Article are engineering standards for the purposes of G.S. 150B-2(8a)h.

(b) Electronic Recording Council created - The Electronic Recording Council is created in the Department of Secretary of State to advise and assist the Secretary of State in the adoption of standards to implement this Article. The Council shall review the functions listed in G.S. 47-16.4 and shall formulate and recommend to the Secretary standards for recording electronic documents and implementing the other functions listed in G.S. 47-16.4. The Council shall report its findings and recommendations to the Secretary of State at least once each calendar year. The Council shall advise the Secretary of State on a continuing basis of the need to adopt, amend, revise, or repeal standards. The Council may advise the Secretary of State on any other matter the Secretary refers to the Council.

(c) Council membership, terms, and vacancies - The Council shall consist of 13 members as follows:

- (1) Seven members appointed by the North Carolina Association of Registers of Deeds. It is the intent of the General Assembly that the North Carolina Association of Registers of Deeds shall appoint as members a representative selection of registers of deeds from large, medium, and small counties, urban and rural counties, and the different geographic areas of this State.
- (2) One member appointed by the North Carolina Bar Association.
- (3) One member appointed by the North Carolina Society of Land Surveyors.

- (4) One member appointed by the North Carolina Bankers Association.
- (5) One member appointed by the North Carolina Land Title Association.
- (6) One member appointed by the North Carolina Association of Assessing Officers.
- (7) The Secretary of Cultural Resources or the Secretary's designee.

In making appointments to the Council, each appointing authority shall select appointees with the ability and commitment to fulfill the purposes of the Council.

Appointed members shall serve four year terms, except that the initial appointments by the North Carolina Bar Association, the North Carolina Bankers Association, the North Carolina Association of Assessing Officers, and three of the initial appointments by the North Carolina Association of Registers of Deeds shall be for two years. All initial terms shall commence on the effective date of this Article. Members shall serve until their successors are appointed. An appointing authority may reappoint a member for successive terms. A vacancy on the Council shall be filled in the same manner in which the original appointment was made, and the term shall be for the balance of the unexpired term.

(d) Council meetings and officers - The Secretary of State shall call the first meeting of the Council. At the first meeting and biennially thereafter, the Council shall elect from its membership a chair and a vice-chair to serve two year terms. Meetings may be called by the chair, the vice-chair, or the Secretary of State. Meetings shall be held as often as necessary, but at least once a year.

(e) Council compensation - None of the members of the Council shall receive compensation for serving on the Council, but Council members shall receive per diem,

subsistence, and travel expenses in accordance with G.S. 138-5 and G.S. 138-6, as applicable.

(f) Staff and other assistance - As soon as practicable and as needed thereafter, the Council shall identify the information technology expertise it needs and report its needs to the Secretary of State. The Council shall also report any other expertise needed to fulfill its responsibilities. The Secretary of State shall provide professional and clerical staff and other services and supplies, including meeting space, as needed for the Council to carry out its duties in an effective manner. The Secretary of State may appoint additional committees to advise and assist the Council in its work.

The Council shall consult with the North Carolina Local Government Information Systems Association, and may consult with any other person the Council deems appropriate, to advise and assist the Council in its work.

(g) Uniformity of standards - To keep the standards and practices of registers of deeds in this State in harmony with the standards and practices of recording offices in other jurisdictions that enact substantially this Article and to keep the technology used by registers of deeds in this State compatible with technology used by recording offices in other jurisdictions that enact substantially this Article, the Secretary of State and the Council shall consider all of the following in carrying out their responsibilities under this Article, so far as is consistent with its purposes, policies, and provisions:

- (1) Standards and practices of other jurisdictions.
- (2) The most recent standards promulgated by national standard-setting bodies, such as the Property Records Industry Association.
- (3) The views of interested persons and other governmental officials and

entities.

(4) The needs of counties of varying size, population, and resources.

“§ 47-16.6. Uniformity of application and construction.

In applying and construing this Article, consideration must be given to promoting uniformity of interpretation of the Uniform Real Property Electronic Recording Act among states that enact it.

“§ 47-16.7. Relation to Electronic Signatures in Global and National Commerce Act.

This Article modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act (15 U.S.C. Section 7001, et seq.) but does not modify, limit, or supersede Section 101(c) of that act (15 U.S.C. Section 7001(c)) or authorize electronic delivery of any of the notices described in Section 103(b) of that act (15 U.S.C. Section 7003(b)).”

SECTION 2. The Revisor of Statutes shall cause to be printed along with this act all relevant portions of the official comments to the Uniform Real Property Electronic Recording Act and all explanatory comments of the drafters of this act as the Revisor deems appropriate.

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

Attachment 2

NCGA General Statutes – Chapter 10B. – Notaries.
Article 2: Electronic Notary Act

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Part 1 – General Provisions

§10B-40 Short Title.

This act is the Electronic Notary Public Act and may be cited by that name.

§10B-41 Definitions.

The following definitions apply in this Article:

(a) Electronic: “Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(b) Electronic Notary Public and Electronic Notary: “Electronic notary public” and “electronic notary” mean a notary public who has registered with the Secretary of State the capability of performing electronic notarial acts in conformance with this Article.

(c) Electronic Document: “Electronic document” means information that is created, generated, sent, communicated, received, or stored by electronic means.

(d) Electronic Notarial Act and Electronic Notarization: “Electronic notarial act” and “electronic notarization” mean an official act by an electronic notary public that involves electronic documents.

(e) Electronic Notary Seal: “Electronic notary seal” and “electronic seal” mean information within a notarized electronic document that includes the notary’s name, jurisdiction, and commission expiration date, and generally corresponds to data in notary seals used on paper documents.

(f) Electronic Signature: “Electronic signature” means an electronic symbol or process attached to or logically associated with an electronic document and executed or adopted by a person with the intent to sign the document.

(g) Notary's Electronic Signature: "Notary's electronic signature" means those forms of electronic signature which have been approved by the Secretary of State, as authorized in G.S. 10B-53, as acceptable means for an electronic notary to affix his or her official signature to an electronic record that is being notarized.

(h) Official Electronic Journal of Notarial Acts and Official Electronic Journal: “Official electronic journal of notarial acts” and “official electronic journal” mean the electronic mechanism for creating and preserving a chronological record of notarizations performed by a notary. It must be either (1) housed and maintained in the custody of the Secretary, or (2) at another location, but only if it is maintained pursuant to standards set by the Secretary of State. If maintained by the notary at a location other than the custody of the Secretary, the notary must provide to the Secretary the location, password or access instructions that will allow the journal to be viewed, printed out, and copied, but not altered and shall notify the Secretary when the password or access instructions are changed. The journal must:

- (1) allow entry by the notary only;
- (2) be maintained and accessible only by the notary;
- (3) not allow a journal entry to be altered in content or sequence by the notary or any other person after a record of the notarization is entered and stored;
- (4) allow entries to be viewed, printed out, and copied electronically by any person using a password or another access method approved by the Secretary;

- (5) have a back-up system in place to provide a duplicate record in the event of loss of the original record;
- (6) have the capability of printing out on paper and of providing electronic copies of any entry, any combination of entries, or all entries, including the images of related handwritten signatures or other identifiers which may be included in an electronic copy; and
- (7) contain the information for each notarial act as required in G.S. 10B-51.

§10B-42 Scope of this Article.

Article I of this Chapter applies to all acts authorized under this Article.

Part 2 – Registration

§10B-43 Qualifications.

- (a) A person qualified for electronic notary registration shall meet all of the following requirements:
 - (1) Hold a valid commission as a Notary Public in the State of North Carolina.
 - (2) Except as otherwise provided, abide by all the provisions of Article 1.
 - (3) Satisfy the requirements of G.S. §10B-45.
 - (4) Submit an electronic registration form containing no significant misstatement or omission of fact.
 - (5) Pay a non-refundable registration fee of \$50.00.
- (b) The Secretary may deny a registration or re-registration as an electronic notary as authorized in G.S. §10B-4(d).

§10B-44 Registration with the Secretary of State.

- (a) Before performing electronic notarial acts, a notary shall register the capability to notarize electronically with the Secretary of State.
- (b) The term of registration as an electronic notary shall coincide with the term of the notary's commission under Article I of this Chapter.
- (c) An electronic notary shall re-register the capability to notarize electronically at the same time the notary reapplies for his or her regular commissioning pursuant to the requirements of this Chapter.
- (d) An electronic form shall be used by an electronic notary in registering with the Secretary of State and it shall include, at least:
 - (1) the official name of the registrant;
 - (2) the state and county of commissioning of the registrant;
 - (3) the expiration date of the registrant's notary commission;
 - (4) proof of successful completion of the course of instruction on electronic notarization as required by this Article;
 - (5) a description of the technology the registrant will use to create an electronic signature in performing official acts;

- (6) if the device used to create the registrant's electronic signature was issued or registered through a licensed certification authority, the name of that authority, the source of the license, the starting and expiration dates of the device's term of registration, and any revocations, annulments, or other premature terminations of any registered device of the registrant that was due to misuse or compromise of the device, with the date, cause, and nature of each termination explained in detail;
- (7) the e-mail address of the registrant; and
- (8) the location of the notary's electronic journal, including password or access instructions that will allow the journal to be viewed, printed out, and copied, but not altered, if the same is not to be maintained in the custody of the Secretary.
- (e) The electronic registration form for an electronic notary shall be transmitted electronically to the Secretary of State and shall include any decrypting instructions, codes, keys, or software that allow the registration to be read.
- (f) Within ten (10) business days after the change of any registration information required of an electronic notary, the notary shall electronically transmit to the Secretary of State a notice of the change of information signed with the notary's official electronic signature.

§10B-45 Course of Instruction.

- (a) Before performing electronic notarial acts, a notary shall take a course of instruction of at least three (3) hours approved by the Secretary of State, 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 to electronic notarization.

§10B-46 Fees for Registration.

The fee payable to the Secretary of State for registering or re-registering as an electronic notary is \$50.00, to be retained by the Secretary of State for the administration of the electronic notary program.

Part 3 – Electronic Notarial Acts, Powers, and Limitations

§10B-47 Types of Electronic Notarial Acts.

The following types of notarial act may be performed electronically:

- (1) acknowledgments;
- (2) jurats;
- (3) verifications or proofs; and
- (4) oaths or affirmations.

§10B-48 Prohibitions.

An electronic notarization shall not be performed if the signer of the electronic document:

- (1) is not in the presence of the electronic notary at the time of notarization; and

- (2) is not personally known to the notary or identified by the notary through satisfactory evidence in accordance with other provisions of this Chapter.

§10B-49 Notarial Components of Electronic Document.

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

- (a) the notary's name, state and county of commissioning exactly as stated on the commission issued by the Secretary;
- (b) the words "Electronic Notary Public";
- (c) the words "State of North Carolina";
- (d) the expiration date of the commission;
- (e) the notary's electronic signature;
- (f) the notary's e-mail address; and
- (g) the completed wording of one of the following notarial certificates:
 - (1) general acknowledgment;
 - (2) jurat;
 - (3) verification or proof; or
 - (4) oath or affirmation.

§10B-50 Maximum Fees.

For performing electronic notarial acts, the maximum fees that may be charged by an electronic notary are:

- (1) for acknowledgments, \$10.00 per signature;
- (2) for jurats, \$10.00 per signature; and
- (3) for verifications or proofs, \$10.00 per signature;
- (4) for oaths or affirmations, \$10.00 per signature.

Part 4 – Electronic Notary Records, Maintenance and Disposition

§10B-51 Requirements for Official Electronic Journal of Notarial Acts.

An electronic notary shall maintain a chronological official electronic journal of notarial acts in accordance with G.S. §10B-41(h). The electronic notary shall record each electronic notarial act in the official electronic journal in a form and manner required and prescribed by the Secretary of State. It is the duty and responsibility of the electronic notary to record the information required for the official electronic journal within twenty-four (24) hours of performing the electronic notarial act.

- (a) For every electronic notarial act, the electronic notary shall record in the official electronic journal the following:
 - (1) the date and time of day of the electronic notarial act;
 - (2) the name of each principal;

- (3) the evidence of identity of each principal, in the form of one of the following:
 - a. a statement that the person is personally known to the notary;
 - b. a notation of the type of identification document presented and its serial or identification number;
 - c. the name and address of each credible witness swearing or affirming to the principal's identity;
- (4) the fee, if any, charged for the electronic notarial act;
- (5) the county where the electronic notarization was performed; and
- (6) the type of electronic signature used by the principal to sign the notarized document.
- (b) An electronic notary shall not record a Social Security or credit card number in the journal.
- (c) This electronic journal requirement shall become effective one year after adoption of standards by the Secretary of State regarding the Uniform Real Property Electronic Recording Act.

§10B-52 Inspection of Official Journal of Electronic Notarial Acts.

- (a) The official journal of electronic notarial acts shall be kept as a confidential record.
- (b) In the notary's presence, any person who was a principal may inspect an entry in the official journal of electronic notarial acts during regular business hours, but only if:
 - (1) the person's identity is personally known to the notary or proven through satisfactory evidence;
 - (2) the person specifies the month, year, and name of the principal for the notarial act or acts sought; and
 - (3) the person is shown only the entry or entries specified.
- (c) The official electronic journal may be examined as permitted by applicable law, subpoenaed by court order or surrendered at the direction of the Secretary of State.
- (d) Upon complying with a request under subsection (b), the notary shall provide a copy of a specified entry or entries in the official electronic journal at a cost of not more than \$1 per page; other entries on the same page shall be redacted.

§10B-53 Electronic Signature, Electronic Seal and Official Electronic Journal.

- (a) The notary's electronic signature in combination with the electronic notary seal shall be used only for the purpose of performing electronic notarial acts.
- (b) The notary's official electronic journal of notarial acts shall be maintained and shall be used only for the purpose of itemizing notarial acts, whether electronic or otherwise.
- (c) The Secretary of State shall promulgate rules necessary to establish standards, procedures, practices, forms and records relating to a notary's electronic signature, seal and journal. The notary's electronic seal, signature and journal shall conform to any standards promulgated by the Secretary.

§10B-54 Security Measures.

- (a) A notary shall safeguard the notary's electronic signature, the official electronic journal, and all other notarial records and surrender or destroy them only pursuant to applicable

law, by court order, at the direction of the Secretary of State or according to a retention schedule established by rule by the Secretary of State.

- (b) When not in use, the official electronic journal shall be kept in a secure area under the exclusive control of the notary and shall not be used by any other notary.
- (c) Within ten (10) days after the official electronic journal is stolen, lost, destroyed, damaged, or otherwise rendered unusable or unreadable as a record of notarial acts, the notary, after informing the appropriate law enforcement agency in the case of theft or vandalism, shall notify the Secretary of State by any tangible means providing a tangible receipt or acknowledgement, including certified mail and electronic transmission, and also provide a copy or number of any pertinent police report.
- (d) Upon resignation, revocation, or expiration of an electronic notary commission, or death of the notary, the official electronic journal and notarial records shall be delivered to the Secretary of State.

§10B-55 Maintenance of Electronic Device.

- (a) An electronic notary shall take reasonable steps to insure that any registered device used to create the notary's electronic signature is current and has not been revoked or terminated by its issuing or registering authority.
- (b) If the registration of the device used to create electronic signatures either expires or is changed during the electronic notary's term of office, the notary shall cease performing electronic notarizations until:
 - (1) 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 term and any other new information at variance with information in the most recently executed electronic registration form.

§10B-56 Disposition of Records.

- (a) Upon compliance with G.S. 10B-54 and except as provided in Subsection (b), 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 erase, delete, or destroy the coding, disk, certificate, card, software, file or program that enables electronic affixation of the notary's official electronic signature.
- (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 re-commissioned and reregistered as an electronic notary using the same electronic signature within three (3) months after commission expiration.

Part 5 – Certificate Forms

§10B-57 Validity of Notarial Certificates.

The provisions contained in Article I, Part 6 of this Chapter, with regard to notarial certificate forms, are applicable for the purposes of this Article.

§10B-58 Form of Evidence of Authority of Electronic Notarial Act.

On a notarized electronic document transmitted to another state or nation, electronic evidence of the authenticity of the official signature and seal of an electronic notary of this State, if required, shall be attached to, or logically associated with, the document and shall be in the form of an electronic certificate of authority signed by the Secretary of State in conformance with any current and pertinent international treaties, agreements, and conventions subscribed to by the government of the United States.

§10B-59 Certificate of Authority for Electronic Notarial Act.

- (a) An electronic certificate of authority evidencing the authenticity of the official signature and seal of an electronic notary of this State shall contain substantially the following words:

Certificate of Authority for an Electronic Notarial Act

I, _____ (name, title, jurisdiction of commissioning official),
certify that _____ (name of electronic notary), the person named as an
Electronic Notary Public in the attached or associated electronic
document, was indeed registered as an Electronic Notary Public for
the State of North Carolina and authorized to act
as such at the time of the document’s electronic notarization.

To verify this Certificate of Authority for an Electronic Notarial Act, I
have included herewith my electronic signature this _____ day of
_____, 20_____.

(Electronic signature (and seal) of commissioning official)

- (b) The Secretary of State may charge \$10.00 for issuing an electronic certificate of authority.

Part 6 – Enforcement

§10B-60 Restriction or Revocation of Registration.

The Secretary or her designee shall have the authority to warn, restrict, suspend or revoke an electronic notary registration for a violation of this Chapter, and on any ground for which electronic notary registration may be denied under this Chapter.

§10B-61 Wrongful Manufacture, Distribution or Possession of Software or Hardware.

- (a) Any person who knowingly creates, manufactures, or distributes software for the purpose of allowing a person to act as an electronic notary without being commissioned and registered in accordance with this Act shall be guilty of a Class G felony.
- (b) Any person who wrongfully obtains, conceals, damages, or destroys the certificate, disk, coding, card, program, software, file or hardware enabling an electronic notary to affix an official electronic signature is guilty of a Class I felony.

Attachment 3

Prioritization of Statutes Affected by E-Recording and E-Notarization Study Commission – Priority

- 8-45.1: Certified Copies from Public Offices and others relating to public records
- 10A: E-Notarization
- 31B-1: Renunciations
- 32A-1: Power of Attorney
- 32A-34: Health Care Authorization for Minor
- 33B-18: Custodial Trust
- 40A-43 & 40A-51: Condemnation – Memorandum of Action
- Chapter 45: Deeds of Trust and Mortgages
- 45-21.17A: Request for Copy of Notice of Sale
- 45-37 & 45-37.2: DOT Cancellations
- 45-42: Corporate Satisfaction
- 45-72: Future Advance DOT Termination
- 45-82.1: Extension of Equity Line of Credit DOT
- 47-12 & 47-12.1: Subscribing Witness
- 47-14: Notary Acknowledgment Certification by ROD
- 47-31, -33, -34: Certified Copies
- 47-37: Certificate of Register of Deeds
- 47-38: Acknowledgment by Grantor
- 47-40: Husband & Wife Acknowledgment
- 47-41.01 & 47-41.02: Corporate Acknowledgment
- 47-41.1: Corporate Seal
- 47-43: Attorney in Fact Acknowledgment
- 47-43.1: Attorney in Fact Execution
- 47-43.2, .3, .4: Subscribing Witness
- 47-118: Memorandum of Option to Purchase
- 47-119: Memorandum of Lease
- 47-120: Memorandum of Option or Lease
- 47B: Marketable Title Act
- 47B-4: Preservation of Notice
- 47F: Planned Community Act
- 51-8.2: Marriage License when Applicant Unable to Appear
- 52-10: Marital Agreements
- 52-10.1: Separation Agreements
- 52B: Antenuptial Agreements
- 55-43.7: Safe Deposit Box Inventory
- 58-71-155: Bondsman POW with Securities
- 58-72-50: Official Bonds

- 58-88-20: Claim to NC Association of Rescue & Emergency Medical Services
- 59:59-201 to 204: Partnerships
- 65-13: Grave Removals
- 66-68: Assumed Name Certificates
- 68-18 & 68-18.1: Strays and Impoundment of Livestock
- 80-15: Timber Dealer Trademarks
- 80-33: Farm Names
- 87-109: Contractors (utility – associations)
- 87-110: Utility Owners
- 104 E-10: Radioactive Waste
- 106, Art. 61, 735-744: Farmland Preservation Enabling Act; Conservation Easements
- 106-803: Siting Swine Houses
- 121, Art. 4, 121-41: Preservation/Conservation Easements
- 130A-301: Permit for Disposal of Waste on Land
- 130A-301.1: Land Clearing and Inert Debris Landfill
- 130A-301(f): Notice of Open Dump
- 130A-310.8: Inactive Hazardous Substance or Waste Disposal Site
- 130A-310.35: Notice of Brownfields Property
- 143-215.85A: Notice of Oil or Hazardous Substance Discharge Site
- 143-215.104M: Notice of Dry-Cleaning Solvent Remediation
- 143B-279.10: Notice of Contaminated Site
- 143B-279.11: Notice of Residual Petroleum
- 162A-6: Water & Sewer System – condemnation/eminent domain

**Prioritization of Statutes Affected by E-Recording and E-Notarization
Study Commission – Secondary**

- 1C-1604: Exemption Orders
- 10A-9(e): Military Acknowledgments
- 22A-1: Signature of Handicapped Person
- 31-11.6: Self-Proving Will
- 32A-25: Health Care Power of Attorney
- 43: Torrens
- 44A-12: Claim of Lien
- 44A-12.1: Fraudulent Claim of Lien
- 45-21.17: Foreclosures
- 46-18: Partition – map
- 46-20: Partition – report and confirmation enrolled and registered
- 47-2: Federal/Foreign Officials Acknowledging
- 47-2.2: Foreign Notaries – no seal or expiration

Prioritization of Statutes Affected by E-Recording and E-Notarization
Secondary Continued

- 47-5: Seals
- 47-13 & 47-13.1: Unattested Documents
- 47-16: Corporate Deeds, Corporation Ceased to Exist
- 47-17: Probate and Registration without Livery of Seizin
- 47-17.1: Draftsman Designation
- 47-17.2: Assignments
- 47-18: Deeds, Contracts, Leases, Options – Priority Based on Recordation
- 47-18.1: Entity Mergers, Amendments, Conversions – SOS certificate
- 47-18.2: Inheritance and Estate Tax Waiver from Secretary of Revenue
- 47-18.3: Corporate Officers Executing Documents
- 47-19: Unregistered Deeds pre-1/20 – Affidavit
- 47-20: Deeds of Trust – priority based on recordation
- 47-20.3: Personal & Real Property – Records for type of property involved
- 47-20.5: After Acquired Property
- 47-20.6: Mobile Home – DMV title
- 47-20.7: Mobile Home – No DMV title
- 47-21: Master Deed of Trust
- 47-25: Marriage Settlements
- 47-27: Deeds of Easement
- 47-28: Power of Attorney – Notarizing AIF Signature
- 47-29: Bankruptcy Records
- 47-29.1: Environmental Notices (see list in statute)
- 47-30, -.1 & 47-32, -.1: Maps, Plats, and Surveys
- 47-36: Court Ordered Correction
- 47-36.1: Correction of Errors – Explanation of Errors
- 47-46: Register of Deeds “verification”
- 47-46.1: Notice of Satisfaction
- 47-46.2: Certificate of Satisfaction
- 47-46.3: Affidavit of Lost Note
- 47-111 (47-113.2): Military Discharge
- 47-115: Power of Attorney – Indexing
- 47A: Planned Unit Developments
- 47C: Condominiums
- 47E: Groundwater Contamination
- 54B-75: Statement of Standing to Commissioner of Banks
- 55;55-2-02: Corporation Documents
- 55A;55A-2-02: Nonprofit Corporation
- 55B-4: Professional Corporation Act
- 55D;55D-10(6) & (7): Reservation of Corporate or Entity Name

Prioritization of Statutes Affected by E-Recording and E-Notarization
Secondary Continued

- 57: Limited Liability Companies
- 57C-2-21 to 22.1: Limited Liability Company
- 90-321: Declaration of Desire for Natural Death; Health Care Power of Attorney
- 105-303: Tax Listing – property transfers
- 113A-206: Ridge Law – protected ridges
- 113A-212: Ridge Law
- 122C-77: Mental Health Instruction
- 130A-301.2: Demolition Debris Disposal
- 130A-310: Waste Disposal
- 132-7: Certified Copies of Public Records
- 136-104: DOT Condemnation – memorandum of action and declaration of taking
- 153A-241: Closing Public Roads or Easements
- 160A-400.5: Historic Landmarks
- 161-9: Register of Deeds Seal
- 161-10: Uniform Fees of Registers
- 161-14: Registers of Deeds
- 161-15: Registers of Deeds original document return
- 162A: Assessments of Water & Sewer