



NC Department *of the* Secretary of State

Remote Electronic Notarization Act *Information Meeting*

**Tranche 3 Rulemaking
18 NCAC 07**

**William Toole, Deputy
January 14, 2025**



Elaine F. Marshall, NC Secretary of State

Agenda



- Rulemaking process
- Procedures for conducting RENs
- Technology providers subject to licensure and approval
- Technology provider requirements
- Requirements for notary seal manufacturers and vendors

Disclaimer



- This is an Informational Meeting only
- These slides and the presentation are a summary of the proposed third tranche of RENA rules
- Reference to the proposed rules is necessary for a complete understanding of the proposed requirements
- Text of the proposed rules controls over any information presented in the Informational Meeting

Agenda



➤ Rulemaking process

- Procedures for conducting RENs
- Technology providers subject to licensure and approval
- Technology provider requirements
- Requirements for notary seal manufacturers and vendors

RENA Rulewriting



- Implement Remote Electronic Notarization Act
 - 10B Article 2 (current through S.L. 2023-151)
 - (S.L. 2024-47 -- not yet codified)

The screenshot displays the North Carolina General Assembly website. At the top, there is a navigation bar with the text "NORTH CAROLINA GENERAL ASSEMBLY" and "Employee Portal". Below this, there is a search bar for "Bill # (Ex: H1 or S1)" and "2025-2026 Session". The main content area is titled "NEWS & INFORMATION" and includes a list of news items:

- 2023-2024 Legislation with Effective Dates of July 1, 2023 through January 1, 2024
- Governor's Veto of S.B. 382 - Disaster Relief-3/Budget/Various Law Changes. >
- S.B. 382: Disaster Relief-3/Budget/Various Law Changes.
- Unofficial General Election Results - 2025 Senate
- Unofficial General Election Candidates for 2025 NC House
- Gov Ops Subcommittee on Hurricane Response and Recovery

Below the news items, there are two sections for the "HOUSE" and "SENATE". Each section features a photograph of the respective chamber and text indicating the convening time:

- HOUSE**
Convenes Wed, 1/8/25 at 12:00 p.m.
- SENATE**
Convenes Wed, 1/8/25 at 12:00 p.m.

RENA Rulewriting



- Implement Remote Electronic Notarization Act
 - 10B Article 2 (current through S.L. 2023-151)
 - (S.L. 2024-47 -- not yet codified)

- Perform mandated decadal rules review
 - GS 150B-21.3A

- Resulted in various statutory amendments necessary to address issues discovered during the rulewriting process

RENA Rulewriting



- Three year process
 - Notary experts, technology experts, lawyers
- Two tranches of rules already adopted
 - Variously effective 7/1/24, 3/1/25
- Comprehensive rule set (adopted and proposed) available Jan 18
www.sosnc.gov/rulemaking

The Department has expended over 14,500 hours without General Assembly appropriations to support the rulemaking. The Department has seen a 20% increase in business registration filings over the same period.

Navigating to Rule Set

www.sosnc.gov/rulemaking



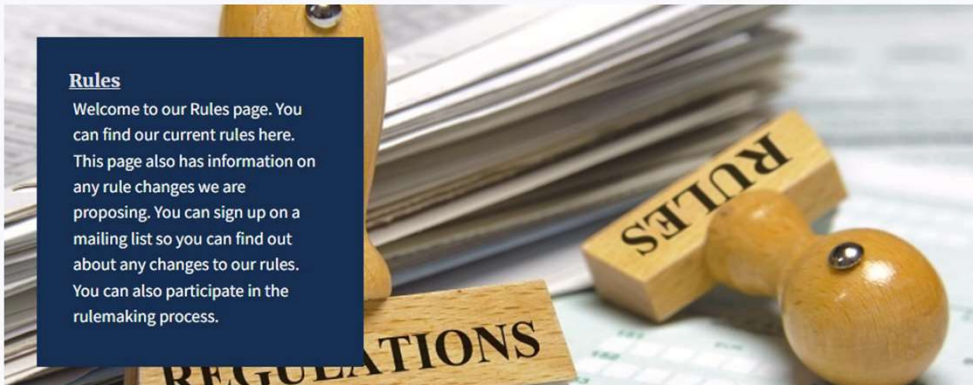
Secretary of State
Elaine F. Marshall

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Our Rules



Rules

Welcome to our Rules page. You can find our current rules here. This page also has information on any rule changes we are proposing. You can sign up on a mailing list so you can find out about any changes to our rules. You can also participate in the rulemaking process.

[Browse Our Rules](#)

*Available after Jan. 18
due to website overhaul*

Scope of Third Tranche Rules



- Notarial use of technology
- Technology performance criteria
- Licensure and approval of technology providers
- Manufacturers and vendors of notarial seals
- Ancillary harmonization changes

Purpose of Notaries Informs All Rulemaking



Reduce transactional repudiation as a result of:

1. Mental incapacity of the principal
2. Coercion or duress or
3. Fraud

LexisNexis estimates the direct and indirect costs of seller impersonation fraud involving a \$370,000 home (median value NC home sale) to be as high as \$1.6 million in direct and indirect expenses (investigation, underwriting, attorney fees, external recovery fees, etc.).

RENA Statutory Mandates



- Promote reliable identification of remote principals
- Assure security of remote transactions
- Establish security of transactional records
- Counter fraud-amplification inherent in digital transactions

Effects of 2008 Great Recession were exacerbated by lax notarial enforcement in states like VA, GA, TX and FL.

NC noticeably less affected because it is an attorney close state with a strong notarial oversight program.

RENA Program Funding



- Platform statutory application fees
 - \$5,000 annually

- \$5 per remote electronic notarial act -- statutory
 - Oaths as well as signatures
 - Must be capable of confirmation through audit
 - Additional to the statutory fee notaries may charge

- No General Assembly appropriation for implementation before fees generated

REN Rulewriting Overarching Philosophy



- No more regulatory oversight than required to meet statutory mandates
- Rules must promote
 - Security
 - Efficiency
 - Transparency
 - Reliability
- Technology and vendor agnostic
- Sufficiently flexible to permit change as threats and vulnerabilities evolve
 - Best practices (application, security standards, etc.) quickly become outdated
 - Laws and regulations take years to develop, even longer to update

Rules Review Commission Style Guide

Partial “Forbidden Words” List



Successful
Finalize
 Substantial
 Applicable
 Appropriate
 Necessary
Acceptable
 Reasonable
 Satisfactory
 Sufficient
 Temporarily
 Permanent

- RRC style guide (36 pages)
- Four pages of over 100 words and phrases to avoid
- Plus: “Avoid all adverbs”
- Rules typically 1 or 2 sentences
- Permits easier future updating

Rulewriting Process (Completed Steps – Jan. 2, 2025)



- Research
 - Ask stakeholders about needs through 2 Advance Notices of Proposed Rulemaking
 - Other state regulatory approaches
 - Existing applicable industry standards
 - Academic and outside expert input

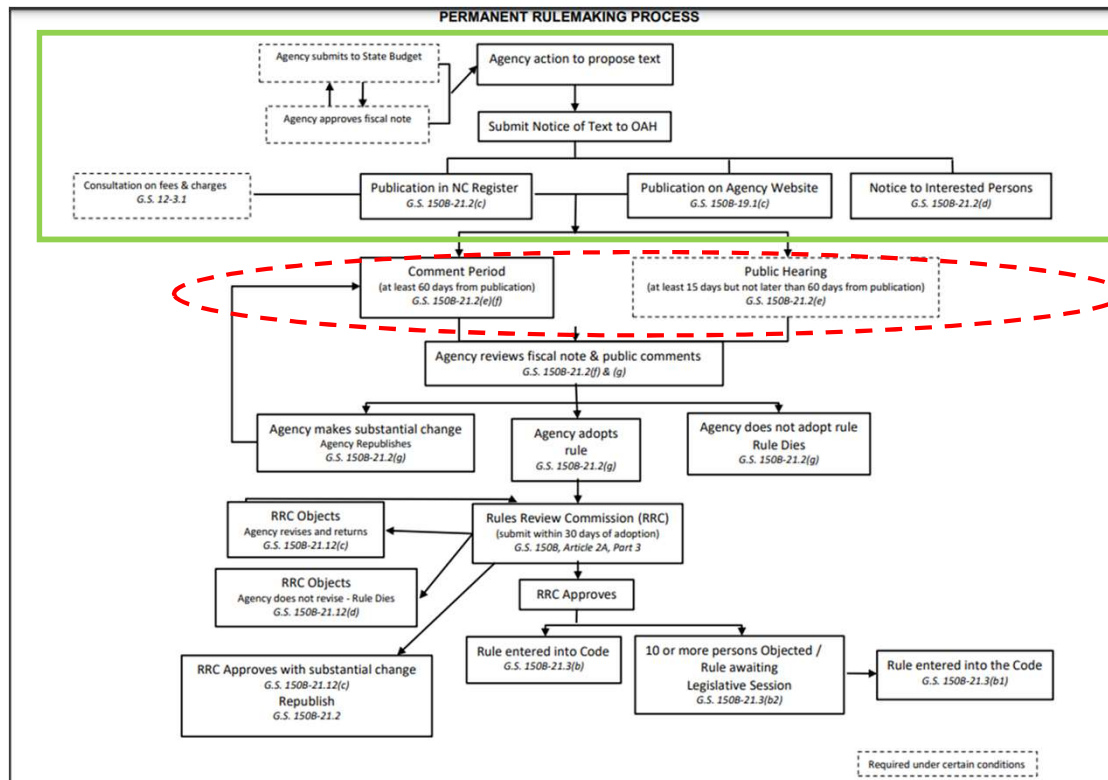
- Two rule tranches now adopted
 - Effective variously 7/1/24, 3/1/25

- Third tranche drafted

- Fiscal Note approved

- Third tranche proposed rules published Jan. 2, 2025

Rulewriting Process Administrative Procedure Act



Completed

Adoption Schedule (Best Case)



January 14	Public Information Meeting
February 4	Public Hearing
March 3	Public Comment Period Closes
March 20	Adopt and File Final Rules with Rules Review Commission
April 24	Rules Review Comm'n Evaluates
July 1	Requested effective date

Questions



➤ Rulemaking process

- Procedures for conducting RENs
- Technology providers subject to licensure and approval
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➤ Rulemaking process

➤ Procedures for conducting RENs

➤ Technology providers subject to licensure and approval

➤ Technology provider requirements

➤ Requirements for notary seal manufacturers and vendors

Traditional In-person Notarization Steps



Principal personally appears before notary

Notary identifies principal using

- Personal knowledge

- Satisfactory evidence consisting of proper identification

- Credible witness

Notary conducts notarial act

- Acknowledgement, or administer oath or affirmation

Notary records journal entry (best practice)

Notary signs notarial certificate and affixes notarial seal

REN and IPEN Technology Providers Some Definitions



- Platform – technology used for remote electronic notarial acts (GS 134.1(6), 134.19(g))
- Identity Proofing -- affirmation of identity by reference to public and private data sources (GS 134.1(5))
- Credential Analysis -- evaluate characteristics and security features of identification credentials (GS 134.1(3))
- Custodian -- long-term storage electronic journal and communication recordings (GS 134.1(3a), (3b))
- IPEN -- technology for in-person electronic notarial acts (18 NCAC 07B .0102(16))

Remote Electronic Notarial Acts

Who may perform



Electronic notaries who may perform

All electronic notaries registered or re-registered after 7/1/25

Electronic notaries registered as of 7/1/25 who take bridge course (18 NCAC 07F .0303)

Traditional notaries who may perform (18 NCAC 07D .0500)

Only GS 10B-134.9(d) judicial actions or proceedings

Satisfy training requirement

Requested by judicial officer or officer of court

Must use Platform licensed by and Custodial Services approved by Department

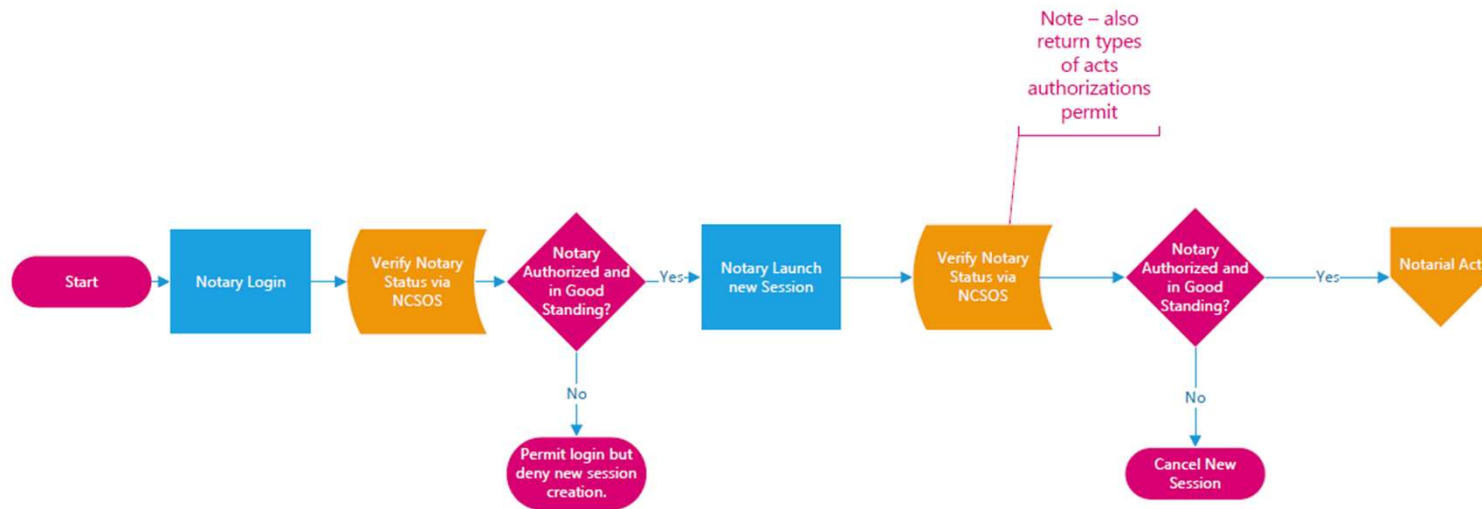
Electronic notaries notify Department of technology providers to be used (18 NCAC 07F .0600)

Platform confirms notary in good standing

Remote Electronic Notarial Acts



Session Initiation



Remote Electronic Notarial Acts Steps – 07H



- Notary login
 - Platform confirmation of notarial good standing status

- Remote Principal login

Remote Electronic Notarial Acts (cont.)

Steps – 07H



- Identify Remote Principal
 - Personal knowledge; or
 - Credential Analysis, Identity Verification, and facial comparison
 - No credible witness

- Locate Principal
 - Geolocation using Platform; or
 - Self-attestation, if appropriate

- Notary evaluation of identification, location

Remote Electronic Notarial Acts (cont.)

Steps in the REN Act – 07H



- Preliminary requirements for communication recording (18 NCAC 07H .0600)
 - Obtain remote principal permission, inform of right to attorney attendance
 - Not applicable to GS 10B-134(d) judicial acts or proceedings

- Notary initiates
 - Preliminary Electronic journal entry (18 NCAC 07I)
 - Communication recording
 - Notarial and principal recitations entered into recording

Remote Electronic Notarial Acts (cont.)

Steps in the REN Act – 07H



- Conducts notarial act
 - Acknowledgement or administer oath or affirmation
 - Sign notarial certificate and affix notarial seal on electronic records

- Completes electronic journal entry

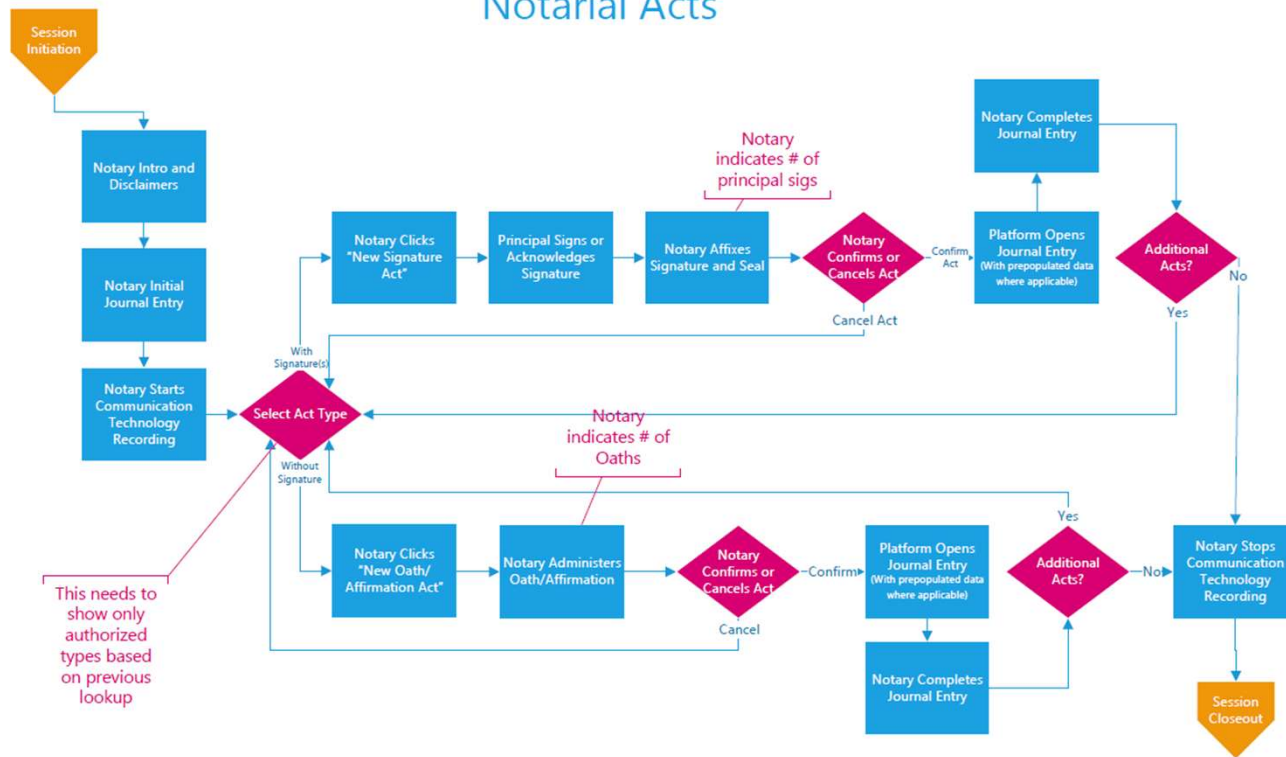
- Ends communication recording

Remote Electronic Notarial Acts

Steps in the REN Act – 07H



Notarial Acts



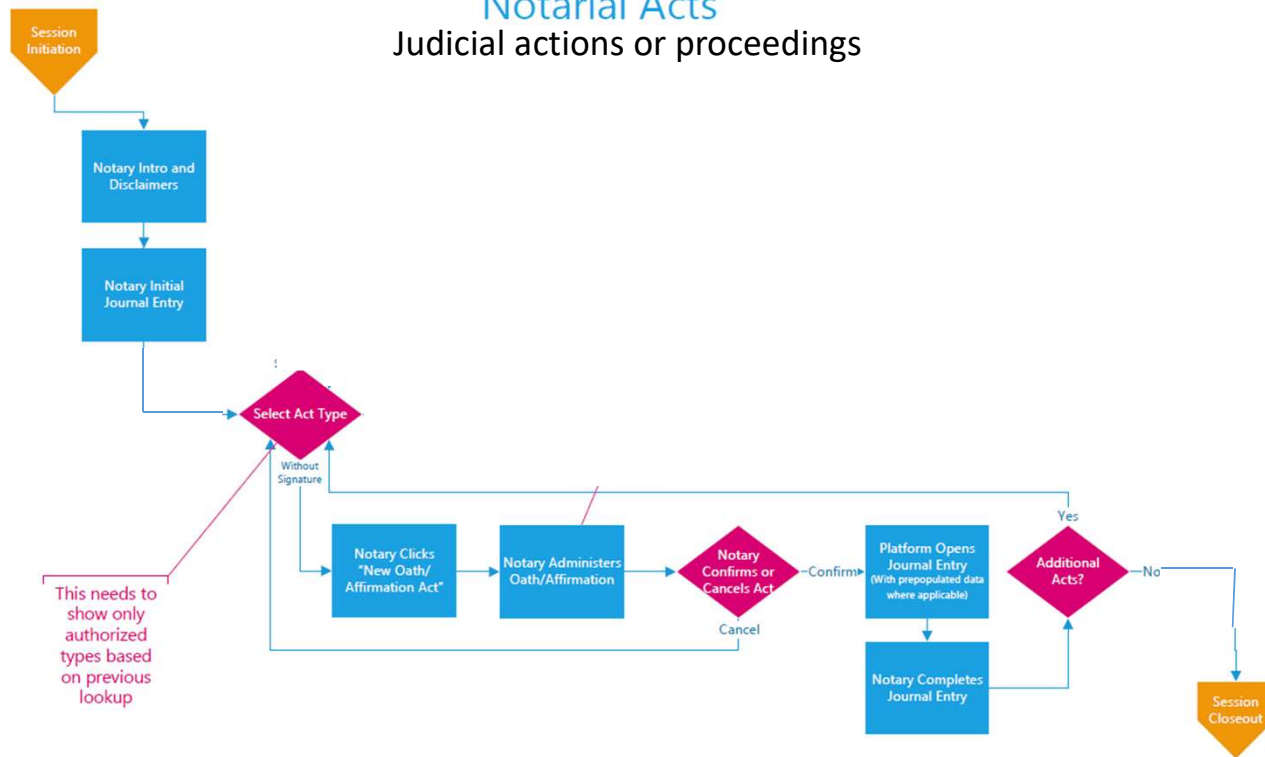
Remote Electronic Notarial Acts

Steps in the REN Act – 07H



Notarial Acts

Judicial actions or proceedings



Remote Electronic Notarial Acts REN Session Closeout



- Notary enters notarial act types and number of acts in journal/platform
- Notary commits the session
- Principal may download any electronic record that has been electronically notarized

Remote Electronic Notarial Acts REN Session Closeout (cont.)



- Depository creates and digitally seals session record
 - Consists of journal entry, communication recording (if any)

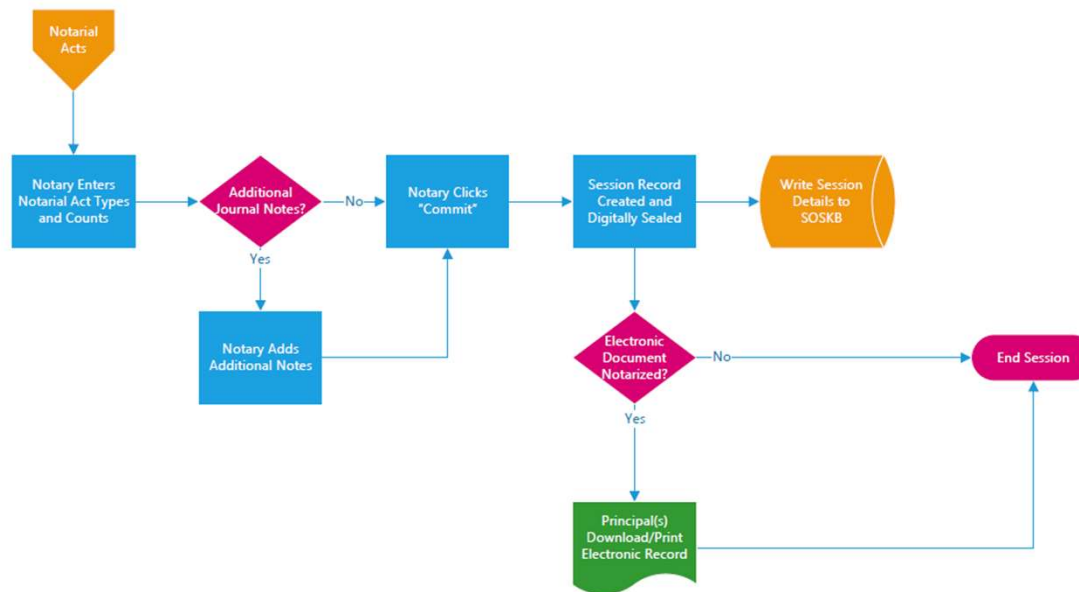
- Depository creates session record log
 - Session log details submitted to Department

- Session record and log delivered to approved Custodian within one year

Remote Electronic Notarial Acts REN Session Closeout



Session Closeout



Notarial Record Retention Integrity and Chain of Custody



- Notarial Record Content and Format
- Transfer from Depository to Custodian
- Allowing Custodial Notaries
- Assuring security of notarial records
 - Physical, digital, disaster recovery

Securing and Tracking Session Records



- Electronic notary notifies Department of designated approved Custodian
- Custodian is responsible for secure retention of session records
- Session records may not be released except to
 - Notary
 - Persons pursuant to GS 10B-20(p)

Tracking/chain of custody process helps assure reliability and authenticity of each session record.

In-Person Electronic Notarial Acts Steps



- Electronic Notary login
 - IPEN provider confirms notarial status
 - Credential Analysis/Identity Verification for initial account creation (18 NCAC 07J .1200)

- Identify Principal
 - Personal knowledge
 - Satisfactory evidence consisting of proper identification
 - Credible witness

In-Person Electronic Notarial Acts Steps (cont.)



- Notary conducts notarial act
- Notary records electronic journal entry
- Notary electronically signs notarial certificate and affixes electronic notarial seal
- IPEN establishes session record and transfers to approved Custodian designated by notary

Questions



- Rulemaking process

➤ Procedures for conducting RENs

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- Technology provider requirements
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- **Technology providers subject to licensure and approval**
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Technology Provider Applications, Licenses and Approvals



- Platform – annual licensing
- Identity Proofing – approval every three years
- Credential Analysis – approval every three years
- Custodian – approval every three years
- IPEN – approval every three years

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Platform Components

18 NCAC 07J .1400



- Communication technology
- Credential Analysis and Identity Proofing
- Geolocation
- Communication Technology Recordings
- Electronic notarial signature and seal
- Electronic journals
- Depository
- Fee remission to Department

Platform Licensure

18 NCAC 07J .1500



- Submit criminal history record checks for “key individuals”
- Submit \$5,000 statutory application fee
- Annual licensure
- Provide following disclosures in standardized format to Department and public
 - Whether Platform retains copy of notarized electronic document
 - Whether Platform retains principal personal information
 - Devices principal may use to complete notarial transaction
 - Auxiliary aids for accommodation successfully tested for use with Platform

Platform Licensure (cont.)

18 NCAC 07J .1500



- Technology requirements
 - Continuous and real time communication
 - Reasonable accommodation for remote principals with vision, hearing or speech impairment
 - Technological processes necessary to perform REN acts
 - Security

- Before opening account, verify electronic notary identity, active registration
 - Must use approved Credential Analysis and Identity Proofing

- Verify with Department electronic notary in active status prior to each notarial session

Communication Technology Standards

18 NCAC 07J .0900



- Limit ability of imposters to eavesdrop on or successfully exploit remote notarial acts
- Permit the notary to
 - Compare the face of the remotely located principal to credentials presented
 - View events leading up to the notarial act (document signing, etc)
- Permit recording for mandated communication technology recordings
 - Associate metadata with recording
- Accommodate vision, hearing, or speech impairments
 - Must balance with requirement of direct notarial communication necessary to establish identity, mental capacity, and determine absence of fraud or duress

Identity Verification



Identity Proofing and Credential Analysis required by statute

Identity Proofing – vendor affirms identity through review of personal information from public or proprietary data sources

Credential Analysis – vendor performs remote analysis of the characteristics and security features of each identification document that otherwise satisfies GS 10B-3(22a) (satisfactory evidence)

Notary uses these tools, plus facial comparison, to determine whether, in the judgment of the notary, the identity of the principal has been established.

Credential Analysis/Identity Proofing (cont.)

18 NCAC 07J .1600; .1800



- Credential analysis to include
 - Facial match
 - Liveness detection
 - Credential evaluation

Credential Analysis/Identity Proofing

18 NCAC 07J .1600; .1800



- Department approval required every three years
- Must measure and disclose reliability of technology
 - No industry standard measure of reliability
 - Rules establish uniform tests of reliability
- Require disclosures of reliability for stakeholder evaluation
 - False negative rate
 - False positive rate
 - Overall success rate
 - System error rate
- No minimum reliability threshold established

Establishing Reliability



- False positive rate -- rate at which bad credential/imposter “passes”
- False negative rate -- rate at which good credential/real person “rejected”
- System error rate -- credential cannot be processed
- Overall success rate

North Carolina needs trustworthy, replicable tests that can establish the reliability of the identity verification technologies.

Geolocation

18 NCAC 07J .1400



- Platform determines whether principal is using GPS-enabled device or location services disabled
- Communicate location on map
 - See Scientific, Architectural, and Engineering Protocols for Technology Providers (“Protocols”) for required precision
- Notary determines if location acceptable, self-attestation permissible, or national security exceptions apply
 - 18 NCAC 07H .0200

Communication Recordings

18 NCAC 07J .0900



- Capable of recording remote electronic notarial session
- Notary initiates, concludes recording
- Platform excludes or blurs from recording any document being notarized
- Part of the “session record” of the notarial transaction, along with metadata

Communication Recordings (cont.) 18 NCAC 07J .0900



- “Session record” electronic record of remote electronic notarial act -- 18 NCAC 07J .0101(13)
 - Communication recording
 - Electronic journal entry
 - PDF/A format

- Property of the notary

Electronic Notarial Signature and Seal

18 NCAC 07J .0700



- Comply with existing rules
 - 18 NCAC 07F .0700, .0800

- Electronic signature and seal to be “permanently affixed” to electronic record
 - “Permanently affixed” standards set out in Protocols

Electronic Journals

18 NCAC 07J .0800



- Separate journal entry for
 - Each notarial act
 - Cancelled notarial acts
 - Supplemental entries

- Prohibit amendment once entry is committed

- Searchable by any field

- Becomes part of the “session record” of the notarial transaction

- Property of the notary

Depository Standards

18 NCAC 07J .1000



- Create, temporarily hold session records
 - Journal entries, any communication recordings, metadata
- Digitally sign PDF/A of session record (see also 18 NCAC .1418)
- Create and apply session identifier

Depository and related Custodian rules are designed to establish a chain of custody to help assure the reliability and authenticity of each session record and assure the integrity of the REN act.

Depository Standards (cont.)

18 NCAC 07J .1000



- Maintain session record log for at least 15 years
- Must transfer session record and copy of session record log to Custodian
 - No later than one year after creation
 - Validate transfer to Custodian
- Update Department database with session identifier and Custodian transferee information

Reporting to the Department aids in the location of session records over time and the investigation of alleged fraud or notarial misconduct.

Platform Fee Remission Standards

18 NCAC 07J .1419 -- .1426



- Statute requires remission to Department of \$5 per remote electronic notarial act
 - All remote electronic notarial acts, including oaths/affirmations associated with GS 10B-134.9(d) judicial actions or proceedings
 - Fee independent of amount notaries may charge

- Notary enters number of notarial acts into Platform

Mechanisms designed to assure accurate and auditable fee remission to the Department.

Platform Fee Remission Standards (cont.) 18 NCAC 07J .1419 -- .1426



- Platform calculates fees from notary count of acts
- Platform separately tabulates notarial acts from journal entries
- Platform prepares monthly log of all remote electronic notarial acts
- Fees and log submitted to Department monthly

Mechanisms designed to assure accurate and auditable fee remission to the Department.

Custodian Standards

18 NCAC 07J .2000



- Must be approved by Department every 3 years
- Receive session record and copy of session record log from Depository or previous Custodian
 - Validate file integrity upon receipt
- Permit notarial access to session record within 48 hours of request

Custodian Standards (cont.) 18 NCAC 07J .2000



- Maintain records in two geographically separated data facilities
- Maintain session record for at least 10 years from last committed journal entry associated with session record unless transferred to another Custodian
- May delete session record upon confirmation of receipt by Custodian transferee or expiration of mandated custodianship
- Maintain session record log for at least 15 years from date of notarial session
- Update Department database with session identifier, transferor and transferee information

IPEN Standards 18 NCAC 07J .1200



- Must be approved by Department every 3 years
 - Submit criminal history record checks for “key individuals”

- Provide following disclosures in standardized format to the Department and public
 - Whether IPEN retains copy of notarized electronic document
 - Whether IPEN retains principal personal information

- Existing IPENs subject to bridge rules through 7/1/26 -- 18 NCAC .1100

IPEN Standards (cont.)

18 NCAC 07J .1200



- Verify electronic notary identity, registration before opening account
 - Must use approved Credential Analysis and Identity Proofing
- Offer solutions for electronic seal/notarial signature, electronic journal
- Confirm with Department electronic notary in active status prior to each notarial session
- Create session record for transfer to Custodian

Custodial Notary Standards

18 NCAC 07J .2200



- Electronic notary who designates self as Custodial Notary pursuant to 18 NCAC 07H .0504
 - Only own session records
 - Any transfer must be to approved Custodian

- IPEN acts only
 - Session record consists solely of electronic journal entry

Custodial Notary Standards (cont.)

18 NCAC 07J .2200



- Comply with many, but not all, Custodian requirements (18 NCAC 07J .2204)
 - Session record log is notable exception
- Maintain two copies of each session record
 - Not stored on same device
 - One copy must be digital
- Annual verification to Department of compliance with Custodial Notary standards

Security Standards for All Providers

18 NCAC 07J .0600



- At-rest data stored in United States
- Physical, digital, disaster recovery
- Business continuity
- Codify industry standard security practices already in place
- Protocols provide greater details

Questions



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➤ Technology provider requirements

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Seal Manufacturers and Vendors G.S. 10B-36(e); G.S. 10B-60(m), (n)



- Applies to physical and electronic seals
- Confirm active notarial commission before distributing
 - Retain record of confirmation for 10 years
- Register annually with Department
- \$1,000 fine, plus potential civil liability
 - Class G felony for knowing violation

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➤ **Requirements for notary seal
manufacturers and vendors**

Next Steps (Best Case)



February 4	Public Hearing
March 3	Public Comment Period Closes
March 20	Adopt and File Final Rules with Rules Review Commission
April 24	Rules Review Comm'n Evaluates
July 1	Requested effective date
June – Sept.	Train instructors, notaries; review provider applications

Public Comment Tips



- Give rule citation that is the subject of comment
- Try to be specific about the issue
- Be aware of statutory mandates
- Pay attention to authority citations
- Proposed alternate solutions to identified policy issues welcomed
- All written comments must be received by close of business March 3
 - Send PDF to rules@sosnc.gov or snail mail

Other Questions



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Thanks



Thank you for your interest
in the work of
the Department of Secretary of State