

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: N.C. Department of Secretary of State

RULE CITATION: 18 NCAC 07B .0204

DEADLINE FOR RECEIPT: Wednesday, January 17, 2024

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

I noticed that in 07B .0203, you eliminated money orders as a method of in person payment. Just wanted to make sure you didn't leave it here unintentionally.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Brian Liebman
Commission Counsel
Date submitted to agency: January 3, 2024

1 18 NCAC 07B .0204 is adopted with changes as published in 38:04 NCR 193-194 as follows:

2

3 **18 NCAC 07B .0204 FEES PAID BY USPS OR BY DELIVERY SERVICE**

4 Filers who tender fees through delivery by United States Postal Service (USPS) or by a designated delivery service
5 authorized pursuant to 26 U.S.C. 7502(f)(2) shall pay with using one of the following ~~types of checks, methods,~~ made
6 payable to the N.C. Department of the Secretary of State:

7 (1) a personal or business check;

8 (2) a money order; or

9 (3) a cashier's check.

10

11 *History Note: Authority G.S. 10B-4; 10B-13; 10B-14(b); 10B-108; 10B-134.19(b), (f), (g); 25-3-506; 147-37;*
12 *Eff. July 1, 2024.*

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: N.C. Department of Secretary of State

RULE CITATION: 18 NCAC 07B .0205

DEADLINE FOR RECEIPT: Wednesday, January 17, 2024

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

Please add G.S. 25-3-506 back into your History Note.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Brian Liebman
Commission Counsel
Date submitted to agency: January 3, 2024

1 18 NCAC 07B .0205 is amended with changes as published in 38:04 NCR 194 as follows:

2
3 **18 NCAC 07B .0205 UNPAID FEES FEE FOR DISHONORED PAYMENT**

4 Pursuant to G.S. 25-3-506, the Department may charge a thirty-five dollar (\$35.00) processing fee to a filer if a
5 tendered payment is dishonored by a bank or financial institution. If a fee is paid with a check or other instrument
6 which is returned by the institution upon which it was issued for "insufficient funds" or for other similar reason:

7 (1) ~~The Division shall issue a notice of intent to deny the application or revoke the commission; and~~

8 (2) ~~The Division shall issue a denial or revocation if the fee is not paid in full within 10 business days~~
9 ~~after the date on the notice of intent to deny or revoke.~~

10 (3) ~~The Division shall charge a twenty five dollar (\$25.00) fee for which payment has been refused by~~
11 ~~the payer's bank for insufficient funds or for no account.~~

12
13 *History Note: Authority G.S. 10B-4; [10B-13; 10B-14(b);] 10B-14(f); [10B-108; 10B-134.19(b), (f), (g);] 25-3-*
14 *506; 147-37;*

15 *Eff. April 1, 2007;*

16 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December*
17 *6, 2016;*

18 *Transferred from 18 NCAC 07B .0105(c) Eff. June 1, 2023- 2023;*

19 *Amended Eff. July 1, 2024.*

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: N.C. Department of Secretary of State

RULE CITATION: 18 NCAC 07B .0301

DEADLINE FOR RECEIPT: Wednesday, January 17, 2024

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

What is the scope of "filings" here?

What must a filer do if there is no form in Section .0400?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Brian Liebman
Commission Counsel
Date submitted to agency: January 3, 2024

1 18 NCAC 07B .0301 is adopted with changes as published in 38:04 NCR 194 as follows:

2

3 **SECTION .0300 – FILING, SIGNATURES ON FILINGS, AND RESPONSES TO REQUESTS FOR**
4 **INFORMATION**

5

6 **18 NCAC 07B .0301 FORM USE REQUIRED**

7 A filer shall use a form in Section .0400 of this Subchapter ~~unless;~~ unless

8 (1) there is not a form for the filer's purpose in Section .0400 of this ~~Subchapter;~~ or Subchapter.

9 (2) ~~there is an exception in Chapter 10B of the General Statutes or a rule in this Chapter.~~

10

11 *History Note: Authority G.S. 10B-4; 10B-14(a), (f); 10B-106; 10B-125; 10B-126; 10B-134.15; 10B-134.17; 10B-*

12 *134.19; 10B-134.21; 10B-134.23;*

13 *Eff. July 1, 2024.*

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: N.C. Department of Secretary of State

RULE CITATION: 18 NCAC 07B .0305

DEADLINE FOR RECEIPT: Wednesday, January 17, 2024

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

In your History Note, why is 10B-134.19 included here? Also, why is 10B-134.21 deleted? Was this a typo?

Please omit the citation to Myers. I see what you're driving at with the case, but it doesn't specifically mention the Department of the Secretary of State, doesn't interpret Chapter 10B, and ultimately, doesn't confer statutory authority on the Department. As such, it's inappropriate in the History Note.

Based on your pre-review responses, I see that G.S. 10B-126 and 10B-134.17 do confer statutory authority, but the scope of those provisions is limited to e-notaries. Is there a similar statute for traditional notaries?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Brian Liebman
Commission Counsel
Date submitted to agency: January 3, 2024

1 18 NCAC 07B .0305 is adopted with changes as published in 38:04 NCR 195 as follows:

2

3 **18 NCAC 07B .0305 RESPONSE TO QUESTIONS AND REQUESTS FOR INFORMATION**

4 A filer shall respond to departmental requests for information within the time and in the manner specified ~~by the~~

5 ~~Department, after~~ based upon the Department's consideration of:

- 6 (1) the nature of the information requested;
- 7 (2) the urgency of the Department's need for the information; and
- 8 (3) the ease of production by the recipient of the request.

9

10 *History Note: Authority G.S. 10B-4; ~~10B-14; 10B-106; 10B-125; 10B-126; 10B-134.15; 10B-134.17; 10B-~~*

11 *134.19; ~~10B-134.21; 10B-134.123; Myers v. Holshouser, 25 N.C. App. 683, 214 S.E.2d 630 (1975);~~*

12 *cert den. 287 N.C. 664 (1975);*

13 *Eff. July 1, 2024.*

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: N.C. Department of Secretary of State

RULE CITATION: 18 NCAC 07B .0312

DEADLINE FOR RECEIPT: Wednesday, January 17, 2024

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

On line 4, deemed complete by whom, and according to what standards?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Brian Liebman
Commission Counsel
Date submitted to agency: January 3, 2024

1 18 NCAC 07B .0312 is adopted with changes as published in 38:04 NCR 195 as follows:

2

3 **18 NCAC 07B .0312 FILING DATE OF DOCUMENT**

4 A form or document is deemed filed on the day that it is deemed complete pursuant to ~~Section .0200 of the Rules in~~
5 ~~this Chapter and this Section~~ and shall not relate back to the date the filing was received.

6

7 *History Note: Authority G.S. 10B-4; ~~10B-14; 10B-106; 10B-125; 10B-126; 10B-134.15; 10B-134.17; 10B-~~*
8 *~~134.19; 10B-134.21; 10B-134.23; 147-36; 150B-2(8a)(d);~~*
9 *Eff. July 1, 2024.*