

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

AGENCY: Secretary of State

RULE CITATION: 18 NCAC 07C .0201

DEADLINE FOR RECEIPT: February 23, 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 8, is there more detail about the "North Carolina notary public manual" given somewhere? It looks like there is a manual published by the School of Government, is that what you are referring to?

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

1 18 NCAC 07C .0201 is amended with changes as published in 38:09 NCR 563 as follows:

2
3 **18 NCAC 07C .0201 INITIAL APPLICATION**

4 ~~(a) Application Form.~~

5 ~~(1) Applicants~~ An applicant for initial appointment as a traditional notary public who is not a licensed member of the
6 North Carolina State Bar ~~shall use the application form designated by the Division for that purpose and may download~~
7 ~~the application form from the Department's website. shall:~~

8 (1) ~~possess a current personal copy of the North Carolina notary public manual applicable to traditional~~
9 ~~notaries;~~

10 (2) ~~Applicants for initial appointment who are members of the North Carolina State Bar may download~~
11 ~~the application form from the Department's website and may file the completed application without~~
12 ~~first obtaining a signature from a notary instructor. successfully complete the notary course and~~
13 ~~exam; and~~

14 (3) ~~All other applicants for initial appointment who download the application form from the~~
15 ~~Department's website shall obtain a signature on the application from a notary instructor certifying~~
16 ~~that the applicant successfully completed the required course of instruction before the applicant may~~
17 ~~file the form with the Department. submit the application form specified in 18 NCAC 07B .0407.~~

18 ~~(b) Submission of Application. An applicant for an initial appointment shall submit his or her application by:~~

19 ~~(1) U.S. mail;~~

20 ~~(2) In person delivery; or~~

21 ~~(3) Courier service.~~

22
23 *History Note: Authority G.S. 10B-4; ~~10B-14(f)~~;*

24 *Eff. April 1, 2007;*

25 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December*
26 *6, 2016;*

27 *Transferred from 18 NCAC 07B .0301 Eff. June 1, 2023- 2023;*

28 *Amended Eff. July 1, 2024.*

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

AGENCY: Secretary of State

RULE CITATION: 18 NCAC 07C .0203

DEADLINE FOR RECEIPT: February 23, 2024

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

Regarding lines 7 and 15, these seem to assume that the out of state notary is not self-employed. Is there a reason a self-employed out of state notary couldn't apply? If not, what would they do under this rule?

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

18 NCAC 07C .0203 is amended with changes as published in 38:09 NCR 564 as follows:

18 NCAC 07C .0203 ~~APPLICATION RECEIPT DATE~~ REQUIREMENTS FOR APPLICANTS
RESIDING OUTSIDE NORTH CAROLINA

Applications shall not be deemed received until complete. A commission applicant who resides outside the State of North Carolina and has a regular place of work or business in North Carolina shall submit an affidavit from the applicant's employer that ~~shall:~~ shall be on the employer's business letterhead, and include:

- (1) [be on the employer's business letterhead that includes:]
- (a) the [name] name, address, and telephone number of the employer's business;
- (b) the address of the employer's business; and
- (c) a telephone number and email address for the business; and]
- (2) [include:
- (a) the name of the applicant;
- (b) (3) affirmation that:
- (i) (a) the applicant works for the employer;
- (ii) (b) the applicant regularly spends all or part of the applicant's work time working for the employer in a physical location within the State of North Carolina; and
- (iii) (c) the street address of the physical location within North Carolina at which the applicant works; and
- (e) (4) the printed name and the signature of the individual signing the statement;
- (4) (5) the title of the individual signing the statement;
- (e) (6) a statement that the signer has the authority to sign on behalf of the employer;
- (4) (7) a telephone number and email address at which the signer can be contacted; and
- (e) (8) a jurat certificate.

History Note: Authority G.S. 10B-4; ~~10B-14(f)~~;

Eff. April 1, 2007;

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

Transferred from 18 NCAC 07B .0502(b) Eff. June 1, ~~2023~~ 2023:

Amended Eff. July 1, 2024.

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

AGENCY: Secretary of State

RULE CITATION: 18 NCAC 07C .0207

DEADLINE FOR RECEIPT: February 23, 2024

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

On line 6, are there further definitions or standards for “based on the applicant’s deceit”? I think I understand what you mean, but it seems like this could be a point of confusion.

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

1 18 NCAC 07C .0207 is adopted with changes as published in 38:09 NCR 564 as follows:

2
3 **18 NCAC 07C .0207 FINDINGS OR ADMISSIONS OF LIABILITY AGAINST THE APPLICANT**
4 **BASED ON THE APPLICANT'S DECEIT**

5 A commission applicant ~~against whom~~ for whom, in a civil lawsuit, there has been a finding or admission of fault or
6 liability based on the applicant's deceit in a civil lawsuit regarding the applicant's activity as a notary public based on
7 ~~the applicant's deceit~~ shall include with the application:

- 8 (1) a list of each finding or admission;
- 9 (2) a copy of the document containing the finding or admission;
- 10 (3) a brief description of the circumstances surrounding the finding or admission;
- 11 (4) if not included in the document in Item (2) of this Rule:
 - 12 (a) the date on which the finding or admission was made;
 - 13 (b) the ~~governmental agency or~~ court in which the civil lawsuit was filed; and
 - 14 (c) the case name and docket number; and
- 15 (5) any additional information that the applicant wishes the Department to consider.

16
17 *History Note: Authority G.S. 10B-4;*
18 *Eff. July 1, 2024.*

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

AGENCY: Secretary of State

RULE CITATION: 18 NCAC 07C .0302

DEADLINE FOR RECEIPT: February 23, 2024

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

It seems like this rule is duplicative of 18 NCAC 07C .0607. Why are both necessary?

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

1 18 NCAC 07C .0302 is adopted with changes as published in 38:09 NCR 565 as follows:

2
3 **18 NCAC 07C .0302 NOTARY COURSES TAKEN BY FORMERLY COMMISSIONED NOTARIES**

4 A formerly commissioned notary public who fails to be recommissioned within 12 months of the expiration of the
5 notary's former commission and who seeks recommissioning shall successfully complete a notary course taught by a
6 certified notary instructor.

7
8 *History Note: Authority G.S. 10B-4;*
9 *Eff. July 1, 2024.*

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

AGENCY: Secretary of State

RULE CITATION: 18 NCAC 07C .0305

DEADLINE FOR RECEIPT: February 23, 2024

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

What happens if you cannot retest under this rule?

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

1 18 NCAC 07C .0305 is adopted with changes as published in 38:09 NCR 565 as follows:

2
3 **18 NCAC 07C .0305 RETESTING**

4 A notary applicant who fails to achieve a passing grade on the notary course exam and who wishes to be commissioned
5 as a notary public may retake the exam if:

- 6 (1) the institution at which the course is taught permits retesting; and
7 (2) the retest is taken within 30 days of the date of the exam failure.

8
9 *History Note: Authority 10B-4;*

10 *Eff. July 1, 2024.*

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

AGENCY: Secretary of State

RULE CITATION: 18 NCAC 07C .0401

DEADLINE FOR RECEIPT: February 23, 2024

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

On line 5, what does it mean for "The Department" to appoint or reappoint? Are there rules or statutes that establish those processes?

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

1 18 NCAC 07C .0401 is amended with changes as published in 38:09 NCR 565 as follows:

2
3 **18 NCAC 07C .0401 APPOINTMENT**

4 ~~(a) Upon determination that an applicant has complied with all requirements of the Act and this Subchapter, the~~
5 ~~Director~~ The Department shall appoint or reappoint ~~the~~ an applicant to the office of notary public after reviewing the
6 application submitted by the applicant and determining that: ~~and issue a commissioning certificate.~~

7 (1) the application is accepted; and

8 (2) the applicant is qualified to be appointed pursuant to N.C. Const. Art. VI, Sec. 8, Chapter 10B of
9 the General Statutes, and the [Rules] rules in this Chapter.

10 ~~(b) The Division shall send the commissioning certificate to the Register of Deeds in the county of commissioning.~~

11 ~~(c) The Division shall send the appointee notice that:~~

12 ~~(1) The commissioning certificate has been issued; and~~

13 ~~(2) The appointee shall appear within 45 days of the commissioning date to take the oath of office before~~
14 ~~the Register of Deeds in the county of commissioning.~~

15
16 *History Note: Authority G.S. ~~10B-2; 10B-4; 10B-5; 10B-10; 10B-11; 10B-14(f);~~*

17 *Eff. April 1, 2007;*

18 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December*
19 *6, 2016;*

20 *Transferred from ~~18 NCA 07B .0501~~ 18 NCAC 07B .0501 Eff. June 1, ~~2023;~~ 2023;*

21 *Amended Eff. July 1, 2024.*

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

AGENCY: Secretary of State

RULE CITATION: 18 NCAC 07C .0407

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

On line 4, consider “individual ~~[is in possession of]~~ has a valid”.

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

1 18 NCAC 07C .0407 is adopted as published in 38:09 NCR 566 as follows:

2
3 **18 NCAC 07C .0407 PERFORMING TRADITIONAL NOTARIAL ACTS**

4 No individual may perform a notarial act unless the individual is in possession of a valid commission certificate.

5
6 History Note: Authority G.S. 10B-4;

7 Eff. July 1, 2024.

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

AGENCY: Secretary of State

RULE CITATION: 18 NCAC 07C .0409

DEADLINE FOR RECEIPT: February 23, 2024

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

This rule strikes me as awkwardly phrased. Consider rewriting to make the term itself the subject of the rule. I.e., "The term of a notary publics' commission shall be calculated. . ."

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

1 18 NCAC 07C .0409 is amended with changes as published in 38:09 NCR 566 as follows:

2
3 **18 NCAC 07C .0409 TERM OF ~~OFFICE~~ COMMISSION**

4 (a) ~~A notary's commission or recommission shall not be effective until the oath of office has been administered.~~

5 (b) A ~~notary's~~ notary public shall have a commission five year term ~~of office begins on that~~ shall be calculated from
6 the date ~~on the commissioning certificate. [an]~~ that the commission application is [accepted] filed pursuant to 18
7 NCAC 07B .0312 [or the day immediately following the expiration date of a commission, whichever is later.] unless
8 Rule .0410 of this Subchapter applies.

9
10 *History Note: Authority G.S. 10B-4; ~~10B-14(f)~~;*

11 *Eff. April 1, 2007;*

12 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December*
13 *6, 2016;*

14 *Transferred from 18 NCAC 07B .0505 Eff. June 1, ~~2023~~; 2023;*

15 *Amended Eff. July 1, 2024.*

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

AGENCY: Secretary of State

RULE CITATION: 18 NCAC 07C .0505

DEADLINE FOR RECEIPT: February 23, 2024

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

On line 18, you have “[Rules] rules”. I think you mean for the Rules in brackets to be struck through.

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

1 18 NCAC 07C .0505 is amended with changes as published in 38:09 NCR 567 as follows:

2
3 **18 NCAC 07C .0505 ~~FAILURE TO TAKE TIMELY OATH~~ APPLICATION FOR**
4 **RECOMMISSIONING WITHIN [TWELVE] 12 MONTHS OF COMMISSION**
5 **EXPIRATION OR PURSUANT TO G.S. 10B-53**

6 ~~(a) An appointee who fails to take the oath of office within 45 days of the commissioning certificate date may~~
7 ~~reapply for reappointment.~~

8 ~~(b) Reapplication within one year of commission date. If an appointee seeks reappointment more than 45 days and~~
9 ~~less than one year after the commissioning certificate date, the appointee shall:~~

10 ~~(1) Apply for reappointment;~~

11 ~~(2) Submit another application fee; and~~

12 ~~(3) Pass the reappointment test.~~

13 ~~(c) Reapplication one year or more after commissioning certificate date. If an appointee seeks reappointment one year~~
14 ~~or more after the commissioning certificate date, the appointee shall:~~

15 ~~(1) Comply with the requirements of G.S. 10B-8(a);~~

16 ~~(2) Apply for reappointment; and~~

17 ~~(3) Submit another application fee.~~

18 A notary **public** may seek recommissioning by complying with G.S. 10B-11 and the **[Rules]** **rules** in this Subchapter
19 if:

20 (1) the notary's commission has **[expired; expired]** and

21 **[(2)]** less than **[twelve] 12** months have elapsed since the expiration of the prior **[commission;]**
22 **commission; or**

23 **(2) the notary seeks recommissioning pursuant to G.S. 10B-53.**
24

25 *History Note: Authority G.S. ~~10B-4; 10B-11; 10B-14(f);~~*

26 *Eff. April 1, 2007;*

27 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December*
28 *6, 2016;*

29 *Transferred from 18 NCAC 07B .0504 Eff. June 1, ~~2023.~~ 2023;*

30 *Amended Eff. July 1, 2024.*

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

AGENCY: Secretary of State

RULE CITATION: 18 NCAC 07C .0507

DEADLINE FOR RECEIPT: February 23, 2024

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

On line 6, G.S. 10B-8(a) is explicitly a requirement for initial commissions, so clarify how it is meant to apply. Consider “comply with the requirements of ~~G.S. 10B-8(a)~~; G.S. 10B-8(a) as though the applicant were applying for an initial notary commission.”

It seems like this rule is duplicative of 18 NCAC 07C .0607. Why are both necessary?

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

1 18 NCAC 07C .0507 is adopted with changes as published in 38:09 NCR 567 as follows:

2
3 **18 NCAC 07C .0507 APPLICATION FOR RECOMMISSIONING MORE THAN ~~TWELVE~~ 12**
4 **MONTHS AFTER COMMISSION EXPIRATION**

5 If an applicant seeks recommissioning one year or more after the expiration of a prior commission, the applicant shall:

- 6 (1) comply with the requirements of G.S. 10B-8(a);
7 (2) apply for appointment using the form described in 18 NCAC 07B .0407; ~~and~~
8 (3) include on the form the applicant's commission number; and
9 (4) submit another application fee.

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

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

AGENCY: Secretary of State

RULE CITATION: 18 NCAC 07C .0603

DEADLINE FOR RECEIPT: February 23, 2024

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

On line 7, many of the Rules is Section .0300 are specific to initial applicants, so clarify how you mean for the applicant to comply. Consider “in Section .0300 of this Subchapter as though the applicant were applying an initial notary commission in lieu”.

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

18 NCAC 07C .0603 is amended as published in 38:09 NCR 568 as follows:

18 NCAC 07C .0603 COURSE AS ALTERNATIVE TO REAPPOINTMENT RECOMMISSIONING
TEST EXAM

~~(a) Attorneys who are licensed members of the North Carolina State Bar do not have to take a reappointment test.~~

~~(b) The~~ An applicant for reappointment recommissioning test may be taken either: comply with the Rules in Section .0300 of this Subchapter in lieu of taking or retaking the recommissioning exam.

~~(1) — By completing the on-line test on the Department's website;~~

~~(2) — By completing a paper test at the Department's offices at a time based upon:~~

~~(A) — The availability of the Division's staff; and~~

~~(B) — The availability of the applicant; or~~

~~(3) — By completing a paper test at a time and place mutually agreed upon by the applicant and a certified notary public instructor.~~

~~(c) An applicant for reappointment shall have 30 minutes to complete the test. An applicant needing accommodation pursuant to the Americans with Disabilities Act shall contact the Division and request the accommodation.~~

~~(d) If an applicant fails the reappointment test, the applicant may re-take the test no more than two times within 30 days of the date on which the test is first taken.~~

~~(e) If the applicant fails to pass the reappointment test within 30 days, the applicant shall not be reappointed and the application shall be denied.~~

History Note: Authority G.S. ~~10B-2; 10B-4; 10B-8; 10B-14(f); 168A-7; 42 USC 12132;~~

Eff. April 1, 2007;

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

Transferred from 18 NCAC 07B .0402 Eff. June 1, ~~2023; 2023;~~

Amended Eff. July 1, 2024.

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

AGENCY: Secretary of State

RULE CITATION: 18 NCAC 07C .0607

DEADLINE FOR RECEIPT: February 22, 2022

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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:

It seems like this rule is duplicative of 18 NCAC 07C .0302 and .0507. Why are both necessary?

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

1 18 NCAC 07C .0607 is adopted with changes as published in 38:09 NCR 568 as follows:

2
3 **18 NCAC 07C .0607 INDIVIDUAL WHO FAILS TO SEEK RECOMMISSIONING WITHIN ONE**
4 **YEAR**

5 An individual who fails to seek recommissioning within one year of commission expiration may be commissioned as
6 a notary public only upon completion of all requirements for an initial notary commission.

7
8 *History Note: Authority G.S. 10B-4;*
9 *Eff. July 1, 2024.*