

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

AGENCY: Secretary of State

RULE CITATION: 18 NCAC 07F (note rule numbers within document)

DEADLINE FOR RECEIPT: Friday, May 21, 2025

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

In reviewing these Rules, the staff recommends the following changes be made:

18 NCAC 07F .0804: *In item (c) you use the phrase “private key”, which I believe is the first and only time you use this phrase within the rules. This needs some clarification.*

My assumption (and correct me if I am wrong) is that this refers to the portion of a cryptographic security system provided by a platform and used by a notary to ensure unique control over the digital signature. If so, I can preemptively agree that the details of how this work are engineering standards that don't belong in a rule.

However, I do not think this term is in wide enough use that a reader is likely to understand what is meant. I can imagine lots of ways to address this, either by defining the phrase in the rule, adding a note (i.e. Note: a private key is a unique password provided by the digital platform), or by changing the phrase to something more commonly used (i.e. password, security code, etc.).

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

1 18 NCAC 07F .0804 is amended with changes as published in 39:13 NCR 821 as follows:

2
3 **SECTION .0800 – ELECTRONIC NOTARY SEAL**
4

5 **18 NCAC 07F .0804 ATTRIBUTES OF ELECTRONIC SEAL**

6 The electronic notary seal shall: ~~[public shall apply the electronic notary's electronic seal to the document being~~
7 ~~notarized and upon commitment the seal shall be permanently affixed to the document.]~~

8 ~~(1) be attached to, or logically associated with, a notarized document; and~~

9 ~~(2) link the data in such a manner that any subsequent alterations are observable through visual~~
10 ~~examination of:~~

11 ~~(a) the underlying document; or~~

12 ~~(b) the electronic notary certificate.~~

13 (a) After completing a notarial certificate for an in-person electronic or remote electronic notarial act, the
14 electronic notary public shall do the following in this order:

15 (1) apply an image of the notary's electronic seal;

16 (2) apply an image of the notary's electronic signature;

17 (3) review the notarial certificate and images of the notary's electronic seal and signature for accuracy;

18 and

19 (4) digitally sign, or authorize the platform or IPEN solution to digitally sign, the certificate.

20 (b) An electronic notary shall not exit the notarial session before satisfying the requirements of Paragraph (a)
21 of this Rule.

22 (c) For purposes of Paragraph (a)(4) of this Rule, "digitally sign" means creating a digital signature on the
23 electronically notarized record using the private key of the electronic notary's digital certificate.

24
25 *History Note: Authority G.S. 10B-4; 10B-125(b); 10B-126(d); 10B-127; 10B-134.21;*

26 *Eff. January 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 07C .0402(d) Eff. June 1, 2023;*

30 *Amended Eff. July 1, 2025; July 1, 2024.*