

§ 47-14. Register of deeds to verify the presence of proof or acknowledgement and register instruments and electronic documents; order by judge; instruments to which register of deeds is a party.

(a) Verification of Instruments. – The register of deeds shall not accept for registration any instrument that requires proof or acknowledgement unless the execution of the instrument by one or more signers appears to have been proved or acknowledged before an officer with the apparent authority to take proofs or acknowledgements, and the proof or acknowledgement includes the officer's signature, commission expiration date, and official seal, if required. The register of deeds shall accept an instrument for registration that does not require proof or acknowledgement if the instrument otherwise satisfies the requirements of G.S. 161-14. Any instrument previously recorded or any certified copy of any instrument previously recorded may be rerecorded provided the instrument is conspicuously marked on the first page as a rerecording. The register of deeds may rely on the marking and the appearance of the original recording office's recording information to determine that an instrument is being presented as it was previously recorded. The register of deeds is not required to further verify the proof or acknowledgement of or determine whether any changes or alterations have been made after the original recording to an instrument presented for rerecording. The register of deeds is not required to verify or make inquiry concerning any of the following:

- (1) The legal sufficiency of any proof or acknowledgement.
- (2) The authority of any officer who took a proof or acknowledgement.
- (3) The legal sufficiency of any document presented for registration.

(a1) Verification of Electronic Documents. – The requirements of subsection (a) of this section for verification of the execution of an instrument are satisfied with respect to an electronic document if all of the conditions in this subsection are met. For purposes of this subsection, the term "electronic document" is as defined in G.S. 47-16.2(3). The conditions are:

- (1) The register of deeds has authorized the submitter to electronically register the electronic document.
- (2) The document is submitted by a United States federal or state governmental unit or instrumentality or a trusted submitter. For purposes of this subsection, "a trusted submitter" means a person or entity that has entered into a memorandum of understanding regarding electronic recording with the register of deeds in the county in which the electronic document is to be submitted.
- (3) The execution of the instrument by one or more signers appears to have been proved or acknowledged before an officer with the apparent authority to take proofs or acknowledgements, and the proof or acknowledgement includes the officer's signature, commission expiration date, and official seal, if required, based on the appearance of these elements on the digitized image of the document as it will appear on the public record.
- (4) Evidence of other required governmental certification or annotation appears on the digitized image of the document as it will appear on the public record.
- (5) With respect to a document submitted by a trusted submitter, the digitized image of the document as it will appear on the public record contains the submitter's name in the following completed statement on the first page of the document image: "Submitted electronically by ___ (submitter's name) in compliance with North Carolina statutes governing recordable documents and the terms of the submitter agreement with the ___ (insert county name) County Register of Deeds."

- (6) Except as otherwise provided in this subsection, the digitized image of the electronic document conforms to all other applicable laws and rules that prescribe recordation.

(a2) **Verification of Officer's Signature.** – Submission to a register of deeds of an electronic document requiring proof or acknowledgement is a representation by the submitter that, prior to submission, the submitter verified the officer's signature required under subdivision (a1)(3) of this section to be one of the types of signatures listed in this subsection. The register of deeds may rely on this representation for purposes of determining compliance with the signature requirements of this section. The electronic registration of a document with a register of deeds prior to the effective date of this statute is not invalid based on whether the register verified the officer's signature in accordance with this subsection. The types of signatures are:

- (1) A signature in ink by hand.
- (2) An electronic signature as defined in G.S. 10B-101(7).

(b) **Order by Judge.** – If a register of deeds denies registration pursuant to subsection (a), the person offering the instrument for registration may apply to any judge of the district court in the district, including the county in which the instrument is to be registered, for an order for registration. Upon finding all of the requirements in this subsection, the judge shall order the instrument to be registered, together with the certificates, and the register of deeds shall register them accordingly. The requirements are:

- (1) If the instrument requires proof or acknowledgement, that the signature of one or more signers has been proved or acknowledged before an officer authorized to take proofs and acknowledgements.
- (2) That the proof or acknowledgement includes the officer's signature and commission expiration date and official seal, if required.

(c) Repealed by Session Laws 2008-194, s. 7(a), effective October 1, 2008.

(d) **Scope.** – Registration of an instrument pursuant to this section is not effective with regard to parties who have not executed the instrument or whose execution thereof has not been duly proved or acknowledged.

(e) **Register of Deeds as Party.** – Any instrument required or permitted by law to be registered in which the register of deeds of the county of registration is a party may be proved or acknowledged before any magistrate or any notary public.

(f) **Presumption of Notarial Seal.** – The acceptance of a record for registration by the register of deeds shall give rise to a presumption that, at the time the record was presented for registration, a clear and legible image of the notary's official seal was affixed or embossed on the record near the notary's official signature. This presumption applies regardless of whether the image is legible or photographically reproduced in the records maintained by the register of deeds and applies to all instruments filed in the records maintained by the register of deeds regardless of when the instrument was presented for registration. A register of deeds may not refuse to accept a record for registration because a notarial seal does not satisfy the requirements of G.S. 10B-37. The presumption under this subsection is rebuttable and shall apply to all instruments whenever recorded. However, a court order finding the lack of a valid seal shall not affect the rights of a person who (i) records an interest in the real property described in the instrument before the finding of a lack of a valid seal and (ii) would otherwise have an enforceable interest in the real property. (1899, c. 235, s. 7; 1905, c. 414; Rev., s. 999; C.S., s. 3305; 1921, c. 91; 1939, c. 210, s. 2; 1967, c. 639, s. 1; 1969, c. 664, s. 2; 1973, c. 60; 2005-123, s. 2; 2006-59, s. 26; 2006-259, s. 52(a)-(b); 2006-264, s. 40(c); 2008-194, s. 7(a); 2012-18, s. 1.4; 2013-204, s. 1.14.)