



# HOUSE BILL 394: Authorize Federal Notaries.

2023-2024 General Assembly

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<b>Committee:</b>	House Judiciary 1. If favorable, re-refer to Federal Relations and American Indian Affairs. If favorable, re-refer to Rules, Calendar, and Operations of the House	<b>Date:</b>	April 26, 2023
<b>Introduced by:</b>	Rep. Cleveland	<b>Prepared by:</b>	Debbie Griffiths Staff Attorney
<b>Analysis of:</b>	First Edition		

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**OVERVIEW:** *House Bill 394 would allow notarial acts performed by a person with the general powers of a notary public under 10 U.S.C. §1044a to be treated as a notarial act by a person commissioned as a notary public under North Carolina law.*

**CURRENT LAW:** The Secretary of State must commission any qualified person who applies to be a notary public in North Carolina unless an exception applies. Those exceptions include:

- Submission of an incomplete application or an application containing a material misstatement or omission of fact.
- The applicant's conviction, plea of admission, or nolo contendere to a felony or any crime involving dishonesty or moral turpitude, or a finding or admission of liability in a civil lawsuit based on the applicant's deceit.
- A revocation, suspension, restriction, or denial of a notary commission in North Carolina or any other state or nation.
- A finding that the applicant engaged in misconduct, whether disciplinary action was taken or not, or a finding by a state bar or court that the applicant engaged in the unauthorized practice of law.

. To be a qualified person, the individual must meet the following requirements:

- Be at least 18 years old or legally emancipated.
- Reside or have regular place of work in North Carolina and reside in the United States.
- Speak, read, and write the English language.
- Possess a high school diploma or its equivalent.
- Pass the required notary course or be a licensed member of the North Carolina State Bar.
- Purchase and keep the most recent copy the approved notary handbook.
- Submit a notarized application containing no significant misstatement or omission of fact.

**BILL ANALYSIS:** House Bill 394 would allow notarial acts performed by a person with the general powers of a notary public under 10 U.S.C. §1044a to be treated as a notarial act by a person commissioned as a notary public under North Carolina law. Individuals with general powers of a notary public under this section of the U.S. Code include:

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# House Bill 394

Page 2

- All judge advocates, including reserve judge advocated when not in a duty status.
- All civilian attorneys serving as legal assistance attorneys.
- All adjutants, assistant adjutants, and personnel adjutants, including reserve members when not in duty status.
- All other members of the uniformed services, including reserve members when not in duty status, who are designated by regulations of the uniformed services or by statute to have those powers.
- For performance of notarial acts outside of the United States, all employees of a military department or Coast Guard who are designated by regulations of the Secretary concerned or by statute to have those powers for exercise outside of the United States.
- All civilian paralegals serving at military legal assistance offices, supervised by a military legal assistance counsel.

This general power applies to notarial acts to be executed by any of the following:

- Members of any of the armed forces.
- Other persons eligible for legal assistance under the provisions of section 1044 or regulations of the Department of Defense.
- Persons serving with, employed by, or accompanying the armed forces outside of the United States and outside of the Commonwealth of Puerto Rico, Guam, and the Virgin Islands.
- Other persons subject to the Uniform Code of Military Justice outside of the United States.

**EFFECTIVE DATE:** This bill would become effective when it becomes law.