



December 8, 2023

Colorado Secretary of State
1700 Broadway, Suite 550
Denver, CO 80290

RE: TRACKING NUMBER 2023-00757 — ITEMIZATION AND INVOICING OF ANCILLARY NOTARY PUBLIC FEES

To Whom It May Concern,

On behalf of our Colorado members, I provide the following comments on the proposed Notary Program rules related to a Notary Public charging ancillary fees in addition to the fee for a notarial act.

The NNA supports the proposed rule. Notaries should be allowed to charge ancillary fees for travel, making photocopies, couriering documents, or other services incident to the notarial act. Although the maximum fees for notarial acts have recently been increased, there are occasions when a Notary must incur expenses to service the need of the requestor. The Notary should be compensated for these expenses.

The NNA also concurs that Notaries must inform a customer of the ancillary fee. Some written documentation of the ancillary fee is also warranted, as the proposed rule would require.

However, we suggest the following amendments to the proposed rule.

1. The rule should clarify that the Notary and customer must agree on the ancillary fee prior to it being charged.
2. The rule should require the Notary to disclose to the customer that while Colorado law authorizes the charging of an ancillary fee, the amount of the ancillary fee is not prescribed by law and is separate from the maximum fee for the notarial act that is prescribed by law.
3. In paragraph (B), we suggest the insertion of the words “or receipt” following “invoice” on the grounds that is common practice among Notaries to write out a receipt for fees at the actual time of the notarial act.
4. There should be a provision authorizing Notaries to require prepayment of fees for a notarial act and any ancillary fees and to clarify that prepaid fees are nonrefundable under certain circumstances. These might include the customer having second thoughts or the Notary determining at the time of notarization that the notarial act was prohibited. This provision would protect the Notary should the Notary have incurred expense to perform the notarial act — such as commencing travel — only to find that the notarial act could not be performed at no fault of the Notary.

In considering these amendments, we encourage you to consult our [Model Notary Act of 2022](#), Sections 5-2 and 5-3, as well as the commentary for these sections. These materials will provide specific language for these suggested amendments and inform you of the policy issues behind them.

Thank you for the opportunity to provide these comments for your consideration.

Sincerely,

A handwritten signature in blue ink that reads "Bill Anderson".

Bill Anderson
Vice President, Government Affairs