

DEPARTMENT OF STATE

Licensing Division

8 CCR 1505-11

PROPOSED RULES CONCERNING ELECTRONIC NOTARIZATIONS

Rule 1 Definitions

1. "Document authentication number" means a number issued by the Secretary of State that includes the Secretary of State's accounting system validation number issued to each notary upon commissioning and a randomly generated number that when used together may constitute the notary's electronic signature and identify both the individual notary and the document to which the document authentication number has been affixed.
2. "Electronic notarization" means the performance of a notarial act that involves electronic records and includes the notary's electronic signature.
3. "Electronic notarization software" means the software, coding, disk, card, certificate, or program employed to create and affix the notary's electronic signature.
4. "Notary's electronic signature" means the document authentication number(s) issued by the Secretary of State when accompanied by the information required in 12-55-106.5(1) or an electronic signature approved pursuant to Rule 2.

Rule 2 Electronic Signature Registration

1. Before performing any electronic notarization, an applicant or a notary shall file with the Secretary of State a notification of intent to electronically notarize documents. This notification may be submitted at the time of application for a notary commission or at any subsequent time during the notary's term of commission.
2. A submitted notification shall not be deemed filed until it has been approved and a certificate has been delivered by the Secretary of State. A notification submitted at the time of application for a commission shall not be deemed filed unless and until the application is accepted and the notary is commissioned by the Secretary of State and the notification of the notary's electronic signature is approved.
3. Notification of intent to electronically notarize shall be on forms prescribed by the Secretary of State, and shall include a statement whether the applicant or notary will use only document authentication numbers as his or her electronic signature. If the applicant or notary indicates an intention to use a different electronic signature than document authentication numbers, then the notification of intent shall also include the electronic signature that will be used by the applicant or notary and the following information:
 - (a) A description of the technology that will be used for the notary's electronic notarizations, specifically for the creation of the notary's electronic signature;
 - (b) The name, address, telephone number, and web or e-mail address of the supplier or vendor of such technology; and

- (c) Such other information as the Secretary of State finds necessary to confirm that the technology complies with the requirements of the Colorado Notaries Public Act, article 55 of title 12 of the Colorado Revised Statutes.
- 4. If the notary chooses to use only document authentication numbers provided by the Secretary of State as his or her electronic signature:
 - (a) The Secretary of State will:
 - (1) Provide an electronic log to the notary that contains a series of document authentication numbers.
 - (2) Maintain a copy of the electronic log at the offices of the Secretary of State.
 - (b) The notary shall use the document authentication numbers provided in the electronic log in addition to the notary's name; the words "NOTARY PUBLIC" and "STATE OF COLORADO"; and the words "my commission expires" followed by the expiration of the notary's commission as the notary's electronic signature.
 - (c) A different document authentication number shall be used for each electronic document that the notary electronically notarizes.
 - (d) When the document being notarized affects title to real property and the notary is required to maintain a journal of such acts, the notary shall complete a notary journal and include the following information next to the electronic signature next in sequence in the journal:
 - (1) The type and date of the notarial act;
 - (2) The title or type of document or proceeding that was notarized and the date of such document or proceeding, if different than the date of notarization;
 - (3) The name of each person whose oath, affirmation, acknowledgment, affidavit, declaration, deposition, protest, verification, or other statement is taken;
 - (4) The printed name and address of each witness to the notarization.
- 5. Any form of electronic signature must:
 - (a) Be discrete to the individual submitting the electronic signature;
 - (b) Be retrievable from the electronic document in perceivable form.

Rule 3 Expiration of Notice to Notarize Electronically

- 1. The approval to electronically notarize shall expire when:
 - (a) The commission for which it was filed expires;
 - (b) The commission for which it was filed is revoked;
 - (c) The notary's name changes;
 - (d) The notary, during his or her commission term, resigns the commission, is convicted of a felony, ceases to reside in Colorado, or dies;

- (e) The technology described in the notification changes;
 - (f) The technology described in the notification expires or is revoked, if applicable; or
 - (g) The identity of the supplier or vendor described in the notification changes, or the supplier or vendor goes out of business, ceases to exist, or for any other reason no longer supplies the technology described in the notification.
2. Except as provided in section (3) of this Rule 3, when a notary's approval to electronically notarize expires, the notary or the notary's duly authorized representative shall, within 30 days after such expiration, permanently erase, delete, or destroy the notary's electronic notarization software, if applicable or destroy the files in which electronic signatures are maintained by the notary.
 3. If a notary's signature notification expires solely on account of the expiration of the notary's commission, the notary need not permanently erase, delete, or destroy the electronic notarization software if the notary is recommissioned and reregisters his or her electronic signature within 30 days after the commission expiration.

Rule 4 Electronic Notarization of Signature

A notary shall electronically notarize a document only if the notary can verify that the document signer issuing a signature that the signer has adopted to function as his or her signature.

Rule 5 Lost Document Authentication Numbers

If a notary loses his or her document authentication numbers s/he shall notify the Secretary of State in the same manner as a lost journal or seal pursuant to 12-55-113. The Secretary of State shall, upon request of the notary, issue a new electronic log of electronic signatures to the notary.