

Colorado Electronic Notarization (E-Notarization) Guide

What is electronic notarization (E-notarization)?

An e-notarization involves a document in electronic format that is signed and notarized electronically, then filed or transmitted electronically to its intended destination.

Electronic notarization does not mean remote notarization. As with all notarizations, the signer must appear in the physical presence of the notary to affirm, swear, or acknowledge the document to be notarized. Several states, including Colorado, allow for this procedure.

A Colorado notary must apply for approval by submitting the form **“Notification of Intent to Notarize Electronically”** to the Secretary of State. Upon approval, 50 **Document Authentication Numbers (DANs)** will be e-mailed to the notary, who should insert one DAN in each document notarized electronically.

For additional information please see:

www.sos.state.co.us/pubs/notary/electronic_notary_home.htm

Background

Changes made to the Notaries Public Act in 2004 expanded on the statutory provisions concerning a notary’s electronic signature and formulated a method for a notary to apply a notarization electronically.

This new ability, electronic notarization (E-notarization) of an electronic signature applied to a document in electronic format, is available only to Colorado notaries who are currently commissioned and have been approved by the office of the Secretary of State. Commissioned notaries, or notaries applying for a commission, may apply to be an **e-Notary** by submitting a completed “Notice of Intent to Notarize Electronically” to the office of the Secretary of State.

Currently, the uses for electronic notarization are limited. An e-notarization involves a document in electronic format that is signed and notarized electronically, then filed or transmitted electronically to its intended destination. They may be used in transactions between private parties who agree to such use, such as contracts requiring notarization that are emailed or otherwise transmitted electronically between the parties.

Some counties within Colorado are accepting certain forms of electronic documents for filing, but only from submitters with whom they have contractual arrangements.

For additional information on electronic notarization or e-Notary application, please refer to the Colorado Secretary of State website or contact the Notary Section at notary@sos.state.co.us or (303) 894-2200 ext. 9500. If you are currently a Colorado Notary Public and wish to apply to be an Electronic Notary Public, please login to the SOS online system to apply.

Electronic Notarization Basics

E-Notarization does not mean remote notarization

All the requirements of a “wet” (ink signed) notarization must be met:

- Physical Presence of Signer
- Notary Certificate
- No Blanks

The E-Notarization Process

1. Identify the signer using “Satisfactory Evidence”
2. Signer acknowledges in notary’s physical presence that document was signed by him or her, or notary administers an oath or affirmation
3. Complete notarial certificate
4. Notary attaches a “DAN” – Document Authentication Number
5. Notary records transaction in journal, including DAN

The “DAN” - Document Authentication Number

Legal equivalent of using an embosser seal or rubber stamp seal.

Composition of “DAN”

20XX1234567 – XXXXXX

Notary Certificate Number – Randomly assigned numbers

11 digits 6 digits

RULES CONCERNING ELECTRONIC NOTARIZATION

COLORADO DEPARTMENT OF STATE

Licensing Division

8 CCR 1505-11

Notary Program Rules

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 any software, coding, disk, card, certificate, or program that may be 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 notarize documents electronically. 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 an approval certificate has been issued 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 approval certificate has been issued.

3. Notification of intent to notarize electronically 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 be accompanied by an example of the electronic signature that will be used by the applicant or notary, and shall include 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 is certified to notarize electronically:

a. The Secretary of State will:

1. Provide an electronic log to the notary that contains a series of document authentication numbers. Such log shall constitute the journal referenced in section 12-55-104(2) CRS.

2. Maintain a record of the series of numbers issued at the offices of the Secretary of State.

b. The notary may use the document authentication numbers provided in the electronic log as the notary’s electronic signature, provided that 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, accompany each authentication number so used.

c. A different document authentication number shall be used for each electronic notarization that the notary performs.

d. A notary shall take reasonable measures to secure his or her journal of authentication numbers against access or use by other persons, and shall not, under any circumstances, permit such access or use by another.

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. Thirty days have elapsed after the notary’s name changes, unless the notary sooner submits a change of name pursuant to section 12-55-114 CRS, including with the submission, if the notary uses a different signature than the document authentication numbers issued by the Secretary of State, a description and example of the notary’s new electronic signature, in accord with section 3 of Rule 2 of these Rules Concerning Electronic Notarization.

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 supplier or vendor goes out of business 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 notarize electronically 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, and, if the notary has elected to use document authentication numbers provided by the Secretary of State as his or her electronic signature, any and all unused authentication numbers.

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 is issuing a signature that the signer has adopted to function as his or her signature.

Rule 5 Lost or Compromised Document Authentication Numbers

If a notary loses his or her document authentication numbers, or becomes aware that any person other than the Secretary of State has access to, or control of, such authentication numbers, s/he shall notify the Secretary of State in the same manner as for a lost journal or seal pursuant to section 12-55-113 CRS. The Secretary of State shall, upon request of the notary, issue a new electronic journal of electronic signatures to the notary.

Rule 6 Effective Date

These Rules Concerning Electronic Notarizations shall take effect November 30, 2004.

Colorado Revised Statutes on Electronic Notarization

12-55-106.5. Notary's electronic signature - secretary of state.

(1) In every instance, the electronic signature of a notary public shall contain or be accompanied by the following elements, all of which shall be immediately perceptible and reproducible in the electronic record to which the notary's electronic signature is attached: The notary's name; the words "NOTARY PUBLIC" and "STATE OF COLORADO"; a document authentication number issued by the secretary of state; and the words "my commission expires" followed by the expiration date of the notary's commission. A notary's electronic signature shall conform to any standards promulgated by the secretary of state.

(2) The secretary of state shall promulgate rules necessary to establish standards, procedures, practices, forms, and records relating to a notary's electronic signature.

(3) To the extent the provisions of this part 1 differ from the requirements of the federal "Electronic Signatures in Global and National Commerce Act", 15 U.S.C. sec. 7001 et seq., the provisions of this part 1 are intended to modify, limit, or supercede the requirements of such act, as provided for in section 7002 (a) of such act.

12-55-111. Journal.

(1) Every notary public shall keep a journal of every notarial act of the notary and, if required, give a certified copy of or a certificate as to any such journal or any of the notary's acts, upon payment of the notary's fee.

(2) For each notarial act, a notary's journal may contain the following information:

- (a) The type and date of the notarial act;
 - (b) 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 the notarization;
 - (c) The name of each person whose oath, affirmation, acknowledgment, affidavit, declaration, deposition, protest, verification, or other statement is taken;
 - (d) The signature and address of each person whose oath, affirmation, acknowledgment, affidavit, declaration, deposition, protest, verification, or other statement is taken;
 - (e) The signature, printed name, and address of each witness to the notarization;
- (e.5) (Deleted by amendment, L. 2004, p. 1371, § 5, effective May 28, 2004.)

(f) Any other information the notary considers appropriate to record that concerns the notarial act.

(3) (a) Subsection (1) of this section shall not apply to any document or electronic record where the original or a copy of such document or electronic record contains the information otherwise required to be entered in the notary's journal and such original or copy or electronic record is retained by the notary's firm or employer in the regular course of business.

(b) Notwithstanding any provision of this subsection (3) to the contrary, no firm, employer, or professionally licensed person shall prohibit an employee who is a notary from maintaining a journal of his or her notarial acts in the regular course of business of such firm, employer, or professionally licensed person.

(c) For purposes of this subsection (3), "firm" includes but is not limited to an office where the business of a real estate broker, lawyer, title insurance company, title insurance agent, or other licensed professional is regularly carried on and the records of such business are regularly maintained.

(4) Except as otherwise exempted by paragraph (a) of subsection (3) of this section or by another law of this state, for each electronic record or document signed by the notary public, the notary public shall record the

document authentication number issued by the secretary of state for each document authenticated in the journal pursuant to this section.

12-55-112. Official signature - rubber stamp seal - seal embosser - notary's electronic signature.

(1) At the time of notarization, a notary public shall sign such notary's official signature on every notary certificate or in the case of an electronic record, a notary public shall affix his or her electronic signature.

(2) Under or near such notary's official signature on every notary certificate, a notary public shall rubber stamp or emboss clearly and legibly such notary's official seal. The official notary seal shall contain only the outline of the seal, the name of the notary, exactly as such notary writes his or her official signature, the words "STATE OF COLORADO", and the words "NOTARY PUBLIC".

(3) Under or near such notary's official signature on every notary certificate, a notary public shall write or stamp "my commission expires (commission expiration date)".

(4) Every notary public may provide, keep, and use a seal embosser engraved to show such notary's name and the words "NOTARY PUBLIC" and "STATE OF COLORADO". The indentations made by the seal embosser shall not be applied on the document where the notary certificate appears in a manner that will render illegible or incapable of photographic reproduction any of the printed marks or writing.

(4.5) In the case of notarization of an electronic record, the application of a notary's electronic signature in lieu of a handwritten signature and rubber stamp seal or seal embosser is sufficient. A notary shall not use an electronic signature unless:

- (a) The notary uses a journal if maintaining such journal is required by section 12-55-111; and
 - (b) The notary attaches to the document a document authentication number issued by the secretary of state.
- (5) The illegibility of any of the information required by this section does not affect the validity of a document or transaction.
- (6) For purposes of this section, "notary certificate" means a certificate or other statement of a notary relating to a notarial act performed by such notary.

12-55-121. Fees.

(1) The fees of notaries public may be, but shall not exceed, five dollars for each document attested by a person before a notary, except as otherwise provided by law. The fee for each such document shall include the following incidental services of such notary:

- (a) Receiving evidence of such person's identity as enumerated in section 12-55-110 (4);
 - (b) Administering an oath or affirmation to such person; and
 - (c) Signing and sealing a certificate or statement of such notary that is included in or attached to such document and evidences that the document was attested before such notary.
- (2) In lieu of the fee authorized in subsection (1) of this section, a notary public may charge a fee, not to exceed ten dollars, for the notary's electronic signature.

12-55-211. Seals.

Whenever any law, rule, or regulation requires the use of a seal, it shall be sufficient that a rubber stamp with a facsimile affixed thereon of the seal required to be used is placed or stamped upon the document requiring the seal with indelible ink or, in the case of an electronic record, attachment of such information that is required in lieu of a notary seal by the laws of the place granting notarial authority to the person performing the notarial act shall be sufficient in lieu of any other form of notary seal.