

## **Part 5 Revised uniform law on notarial acts**

### **24-21-501. Short title.**

The short title of this part 5 is the "Revised Uniform Law on Notarial Acts".

### **24-21-502. Definitions.**

In this part 5:

- (1) "Acknowledgment" means a declaration by an individual before a notarial officer that the individual has signed a record for the purpose stated in the record and, if the record is signed in a representative capacity, that the individual signed the record with proper authority and signed it as the act of the individual or entity identified in the record.
- (1.3) "Audio-video communication" means communication by which an individual is able to see, hear, and communicate with a remotely located individual in real time using electronic means.
- (1.7) "Credential" means a tangible record evidencing the identity of an individual.
- (2) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.
- (3) "Electronic record" means a record containing information that is created, generated, sent, communicated, received, or stored by electronic means.
- (4) "Electronic signature" means an electronic symbol, sound, or process attached to or logically associated with an electronic record and executed or adopted by an individual with the intent to sign the electronic record.
- (5) "In a representative capacity" means acting as:
  - (a) An authorized officer, agent, partner, trustee, or other representative for a person other than an individual;
  - (b) A public officer, personal representative, guardian, or other representative, in the capacity stated in a record;
  - (c) An agent or attorney-in-fact for a principal; or
  - (d) An authorized representative of another in any other capacity.
- (5.5) "Interpreter" means an individual who provides interpreter services when a notarial officer and an individual executing a record do not communicate in the same language.
- (6) "Notarial act" means an act, whether performed with respect to a tangible or electronic record, that a notarial officer may perform under the law of this state. The term includes taking an acknowledgment, administering an oath or affirmation, taking a deposition or other sworn testimony, taking a verification on oath or affirmation, witnessing or attesting a signature, certifying a copy, and noting a protest of a negotiable instrument.
- (7) "Notarial officer" means a notary public or other individual authorized to perform a notarial act.
- (8) "Notary public" means an individual commissioned to perform a notarial act by the secretary of state.
- (9) "Official stamp" means a physical image affixed to a tangible record or an electronic image attached to or logically associated with an electronic record.
- (10) "Person" means an individual, corporation, business trust, statutory trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.
- (10.5) "Real-time" or "in real time" means, with respect to an interaction between individuals by means of audio-video communication, that the individuals can see and hear each other substantially simultaneously and without interruption or disconnection. Delays of a few seconds that are inherent in the method of communication do not prevent the interaction from being considered to have occurred in real time.
- (11) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

- (11.3) "Remotely located individual" means an individual who is not in the physical presence of the notary public who performs a notarial act under this section.
- (11.5) "Remote notarization" means an electronic notarial act performed with respect only to an electronic record by means of real-time audio-video communication in accordance with section 24-21-514.5 and rules adopted by the secretary of state.
- (11.7) "Remote notarization system" means an electronic device or process that:
- (a) Allows a notary public and a remotely located individual to communicate with each other simultaneously by sight and sound; and
  - (b) When necessary and consistent with other applicable law, facilitates communication with a remotely located individual who has a vision, hearing, or speech impairment.
- (12) "Sign" means, with present intent to authenticate or adopt a record:
- (a) To execute or adopt a tangible symbol; or
  - (b) To attach to or logically associate with the record an electronic symbol, sound, or process.
- (13) "Signature" means a tangible symbol or an electronic signature that evidences the signing of a record.
- (14) "Stamping device" means:
- (a) A physical device capable of affixing to a tangible record an official stamp; or
  - (b) An electronic device or process capable of attaching to or logically associating with an electronic record an official stamp.
- (15) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.
- (15.5) "Tamper-evident" means the use of a set of applications, programs, hardware, software, or other technologies that will display evidence of any changes made to an electronic record.
- (16) "Verification on oath or affirmation" means a declaration, made by an individual on oath or affirmation before a notarial officer, that a statement in a record is true.

**24-21-503. Applicability.**

This part 5 applies to a notarial act performed on or after July 1, 2018.

**24-21-504. Authority to perform notarial act.**

- (1) A notarial officer may perform a notarial act authorized by this part 5 or by law of this state other than this part 5.
- (2) A notarial officer shall not perform a notarial act with respect to a record in which the officer has a disqualifying interest. For the purposes of this section, a notarial officer has a disqualifying interest in a record if:
- (a) The officer or the officer's spouse, partner in a civil union, ancestor, descendent, or sibling is a party to or is named in the record that is to be notarized; or
  - (b) The officer or the officer's spouse or partner in a civil union may receive directly, and as a proximate result of the notarization, any advantage, right, title, interest, cash, or property exceeding in value the sum of any fee properly received in accordance with this part 5.
- (3) A notarial act performed in violation of this section is voidable.

**24-21-505. Requirements for certain notarial acts.**

- (1) A notarial officer who takes an acknowledgment of a record shall determine, from personal knowledge or satisfactory evidence of the identity of the individual, that the individual appearing before the officer and making the acknowledgment has the identity claimed and that the signature on the record is the signature of the individual.
- (2) A notarial officer who takes a verification of a statement on oath or affirmation shall determine, from personal knowledge or satisfactory evidence of the identity of the individual, that the individual appearing before the officer and making the verification has the identity claimed and that the signature on the statement verified is the signature of the individual.
- (3) A notarial officer who witnesses or attests to a signature shall determine, from personal knowledge or satisfactory evidence of the identity of the individual, that the individual appearing before the officer and signing the record has the identity claimed.
- (4)
  - (a) A notarial officer who certifies a copy of a record or an item that was copied shall determine that the copy is a full, true, and accurate transcription or reproduction of the record or item.
  - (b) A notarial officer shall not certify a copy of a record that can be obtained from any of the following offices in this state:
    - (I) A clerk and recorder of public documents;
    - (II) The secretary of state;
    - (III) The state archives; or
    - (IV) An office of vital records.
  - (c) A notarial officer shall not certify a copy of a record if the record states on its face that it is illegal to copy the record.
- (5)
  - (a) A notarial officer who makes or notes a protest of a negotiable instrument shall determine the matters set forth in section 4-3-505 (b) of the "Uniform Commercial Code".
  - (b) A notary public shall not make or note a protest of a negotiable instrument unless the notary is an employee of a financial institution acting in the course and scope of the notary's employment with the financial institution.

**24-21-506. Personal appearance required - definition.**

- (1) If a notarial act relates to a statement made in or a signature executed on a record, the individual making the statement or executing the signature shall appear personally before the notarial officer.
- (2) As used in this section, "appear personally" means:
  - (a) Being in the same physical location as another individual and close enough to see, hear, communicate with, and exchange tangible identification credentials with that individual; or
  - (b) Interacting with a remotely located individual by means of real-time audio-video communication in compliance with section 24-21-514.5 and rules adopted by the secretary of state.

**24-21-507. Identification of individual.**

- (1) A notarial officer has personal knowledge of the identity of an individual appearing before the officer if the individual is personally known to the officer through dealings sufficient to provide reasonable certainty that the individual has the identity claimed.

(2) A notarial officer has satisfactory evidence of the identity of an individual appearing before the officer if the officer can identify the individual:

(a) By means of:

(I) A passport, driver's license, or government-issued nondriver identification card that is current or expired not more than one year before performance of the notarial act; or

(II) Another form of government identification issued to the individual that is current or expired not more than one year before performance of the notarial act, contains the signature or a photograph of the individual, and is satisfactory to the officer; or

(b) By a verification on oath or affirmation of a credible witness personally appearing before the officer and known to the officer or whom the officer can identify on the basis of a passport, driver's license, or government-issued nondriver identification card that is current or expired not more than one year before performance of the notarial act.

(3) A notarial officer may require an individual to provide additional information or identification credentials necessary to assure the officer of the identity of the individual.

**24-21-508. Authority to refuse to perform notarial act.**

(1) A notarial officer may refuse to perform a notarial act if the officer is not satisfied that:

(a) The individual executing the record is competent or has the capacity to execute the record; or

(b) The individual's signature is knowingly and voluntarily made.

(2) A notarial officer may refuse to perform a notarial act unless refusal is prohibited by law other than this part 5.

**24-21-509. Signature if individual unable to sign.**

(1) If an individual is physically unable to sign a record, the individual may, in the presence of the notarial officer, direct an individual other than the notarial officer to sign the individual's name on the record. The notarial officer shall insert "Signature affixed by (name of other individual) at the direction of (name of individual)" or words of similar import under or near the signature.

(2) A notary public may use signals or electronic or mechanical means to take an acknowledgment from, administer an oath or affirmation to, or otherwise communicate with any individual in the presence of the notary public when it appears that the individual is unable to communicate verbally or in writing.

**24-21-510. Notarial act in this state.**

(1) A notarial act may be performed in this state by:

(a) A notary public of this state;

(b) A judge, clerk, or deputy clerk of a court of this state; or

(c) Any other individual authorized to perform the specific act by the law of this state.

(2) The signature and title of an individual performing a notarial act in this state are prima facie evidence that the signature is genuine and that the individual holds the designated title.

(3) The signature and title of a notarial officer described in subsection (1)(a) or (1)(b) of this section conclusively establish the authority of the officer to perform the notarial act.

**24-21-511. Notarial act in another state.**

(1) A notarial act performed in another state has the same effect under the law of this state as if performed by a notarial officer of this state if the act performed in that state is performed by:

- (a) A notary public of that state;
- (b) A judge, clerk, or deputy clerk of a court of that state; or
- (c) Any other individual authorized by the law of that state to perform the notarial act.

(2) The signature and title of an individual performing a notarial act in another state are prima facie evidence that the signature is genuine and that the individual holds the designated title.

(3) The signature and title of a notarial officer described in subsection (1)(a) or (1)(b) of this section conclusively establish the authority of the officer to perform the notarial act.

**24-21-512. Notarial act under authority of federally recognized Indian tribe.**

(1) A notarial act performed under the authority and in the jurisdiction of a federally recognized Indian tribe has the same effect as if performed by a notarial officer of this state if the act performed in the jurisdiction of the tribe is performed by:

- (a) A notary public of the tribe;
- (b) A judge, clerk, or deputy clerk of a court of the tribe; or
- (c) Any other individual authorized by the law of the tribe to perform the notarial act.

(2) The signature and title of an individual performing a notarial act under the authority of and in the jurisdiction of a federally recognized Indian tribe are prima facie evidence that the signature is genuine and that the individual holds the designated title.

(3) The signature and title of a notarial officer described in subsection (1)(a) or (1)(b) of this section conclusively establish the authority of the officer to perform the notarial act.

**24-21-513. Notarial act under federal authority.**

(1) A notarial act performed under federal law has the same effect under the law of this state as if performed by a notarial officer of this state if the act performed under federal law is performed by:

- (a) A judge, clerk, or deputy clerk of a court;
- (b) An individual in military service or performing duties under the authority of military service who is authorized to perform notarial acts under federal law;
- (c) An individual designated a notarizing officer by the United States department of state for performing notarial acts overseas; or
- (d) Any other individual authorized by federal law to perform the notarial act.

(2) The signature and title of an individual acting under federal authority and performing a notarial act are prima facie evidence that the signature is genuine and that the individual holds the designated title.

(3) The signature and title of an officer described in subsection (1)(a), (1)(b), or (1)(c) of this section conclusively establish the authority of the officer to perform the notarial act.

**24-21-514. Foreign notarial act.**

- (1) In this section, "foreign state" means a government other than the United States, a state, or a federally recognized Indian tribe.
- (2) If a notarial act is performed under authority and in the jurisdiction of a foreign state or constituent unit of the foreign state or is performed under the authority of a multinational or international governmental organization, the act has the same effect under the law of this state as if performed by a notarial officer of this state.
- (3) If the title of office and indication of authority to perform notarial acts in a foreign state appears in a digest of foreign law or in a list customarily used as a source for that information, the authority of an officer with that title to perform notarial acts is conclusively established.
- (4) The signature and official stamp of an individual holding an office described in subsection (3) of this section are prima facie evidence that the signature is genuine and the individual holds the designated title.
- (5) An apostille in the form prescribed by the Hague Convention of October 5, 1961, and issued by a foreign state party to the convention conclusively establishes that the signature of the notarial officer is genuine and that the officer holds the indicated office.
- (6) A consular authentication issued by an individual designated by the United States department of state as a notarizing officer for performing notarial acts overseas and attached to the record with respect to which the notarial act is performed conclusively establishes that the signature of the notarial officer is genuine and that the officer holds the indicated office.

**24-21-514.5. Audio-video communication - definitions.**

- (1) As used in this section:
  - (a) "Credential analysis" means a process or service that complies with any rules adopted by the secretary of state through which a third party affirms the validity of a government-issued identification credential through the review of public or proprietary data sources.
  - (b) "Dynamic, knowledge-based authentication assessment" means an identity assessment that is based on a set of questions formulated from public or private data sources for which the remotely located individual taking the assessment has not previously provided an answer and that meets any rules adopted by the secretary of state.
  - (c) "Outside the United States" means a location outside the geographic boundaries of the United States, Puerto Rico, the United States Virgin Islands, and any territory or insular possession subject to the jurisdiction of the United States.
  - (d) "Public key certificate" means an electronic credential that is used to identify a remotely located individual who signed an electronic record with the credential.
  - (e) "Remote presentation" means transmission to the notary public through communication technology of an image of a government-issued identification credential that is of sufficient quality to enable the notary public to:
    - (I) Identify the remotely located individual seeking the notary public's services; and
    - (II) Perform credential analysis.
- (2) (a) Except as provided in subsection (2)(b) of this section, a notary public may perform a remote notarization only with respect to an electronic record and in compliance with this section and any rules adopted by the secretary of state for a remotely located individual who is located:
  - (I) In this state;
  - (II) Outside of this state but within the United States; or
  - (III) Outside the United States if:
    - (A) The notary public has no actual knowledge that the notarial act is prohibited in the jurisdiction in which the remotely located individual is physically located at the time of the act; and

(B) The remotely located individual confirms to the notary public that the requested notarial act and the record relate to: A matter that will be filed with or is currently before a court, governmental entity, or other entity in the United States; property located in the United States; or a transaction substantially connected to the United States.

(b) A notary public shall not use a remote notarization system to notarize:

(I) A record relating to the electoral process; or

(II) Except as provided in the "Colorado Uniform Electronic Wills Act", part 13 of article 11 of title 15, a will, codicil, document purporting to be a will or codicil, or any acknowledgment required under section 15-11-502 or 15-11-504.

(3) Before a notary public performs the notary public's initial notarization using a remote notarization system, the notary public shall notify the secretary of state that the notary public will be performing remote notarizations and shall identify each remote notarization system that the notary public intends to use. The remote notarization system must conform to this part 5 and any rules adopted by the secretary of state. The notice must be submitted in the format required by the secretary of state and must:

(a) Include an affirmation that the notary public has read and will comply with this section and all rules adopted by the secretary of state; and

(b) Be accompanied by proof that the notary public has successfully completed any training and examination required by the secretary of state.

(4) A notary public who performs a notarial act for a remotely located individual by means of audio-video communication must:

(a) Be located within this state at the time the notarial act is performed;

(b) Execute the notarial act in a single, real-time session;

(c) Confirm that any record that is signed, acknowledged, or otherwise presented for notarization by the remotely located individual is the same record signed by the notary public;

(d) Confirm that the quality of the audio-video communication is sufficient to make the determinations required for the notarial act under this part 5 and any other law of this state; and

(e) Identify the venue for the notarial act as the jurisdiction within the state of Colorado where the notary public is physically located while performing the act.

(5) A remote notarization system used to perform remote notarizations must:

(a) Require the notary public, the remotely located individual, and any required witness to access the system through an authentication procedure that complies with rules adopted by the secretary of state regarding security and access;

(b) Enable the notary public to verify the identity of the remotely located individual and any required witness by means of personal knowledge or satisfactory evidence of identity in compliance with subsection (6) of this section; and

(c) Confirm that the notary public, the remotely located individual, and any required witness are viewing the same record and that all signatures, changes, and attachments to the record are made in real time.

(6) (a) A notary public shall determine from personal knowledge or satisfactory evidence of identity as described in subsection (6)(b) of this section that the remotely located individual appearing before the notary public by means of audio-video communication is the individual that he or she purports to be.

(b) A notary public has satisfactory evidence of identity if the notary public can identify the remotely located individual who personally appears before the notary public by means of audio-video communication by using at least one of the following methods:

(I) The oath or affirmation of a credible witness who personally knows the remotely located individual, is personally known to the notary public, and is in the physical presence of the notary public or the remotely located individual during the remote notarization;

(II) Remote presentation and credential analysis of a government-issued identification credential, and the data contained on the credential, that contains the signature and a photograph of the remotely located individual, and at least one of the following:

(A) A dynamic, knowledge-based authentication assessment by a trusted third party that complies with rules adopted by the secretary of state;

(B) A valid public key certificate that complies with rules adopted by the secretary of state; or

(C) An identity verification by a trusted third party that complies with rules adopted by the secretary of state; or

(III) Any other method that complies with rules adopted by the secretary of state.

(7) Without limiting the authority of a notary public under section 24-21-508 to refuse to perform a notarial act, a notary public may refuse to perform a notarial act under this section if the notary public is not satisfied that the requirements of this section are met.

(8) The certificate of notarial act for a remote notarization must, in addition to complying with the requirements of section 24-21-515, indicate that the notarial act was performed using audio-video communication technology.

(9) (a) A notary public shall create an audio-video recording of a remote notarization if:

(I) The notary public first discloses to the remotely located individual the fact of the recording and the details of its intended storage, including where and for how long it will be stored;

(II) The remotely located individual explicitly consents to both the recording and the storage of the recording; and

(III) The recording is stored and secured in compliance with rules adopted by the secretary of state.

(b) The audio-video recording required by this subsection (9) must be in addition to the journal entry for the notarial act where required by section 24-21-519. The recording must include the information described in this subsection (9)(b). A notary public shall make a good faith effort to not include any other information on the recording. Any other information included on the recording is not admissible in any court of law, legal proceeding, or administrative hearing for any purpose, nor is the information admissible in any proceeding in any other court of law, legal proceeding, or administrative hearing if Colorado law applies with respect to remote notarization. The recording must include:

(I) At the commencement of the recording, a recitation by the notary public of information sufficient to identify the notarial act, including the name of the notary public, the date and time of the notarial act, a description of the nature of the document or documents to which the notarial act is to relate, the identity of the remotely located individual whose signature is to be the subject of the notarial act and of any person who will act as a credible witness to identify the individual signer, and the method or methods by which the remotely located individual and any credible witness will be identified to the notary public;

(II) A declaration by the remotely located individual that the individual's signature on the record is knowingly and voluntarily made;

(III) If the remotely located individual for whom the notarial act is being performed is identified by personal knowledge, an explanation by the notary public as to how the notary public knows the remotely located individual and how long the notary public has known the remotely located individual;

(IV) If the remotely located individual for whom the notarial act is being performed is identified by a credible witness:

(A) A statement by the notary public as to how the notary public knows the credible witness and how long the notary public has known the credible witness; and

(B) An explanation by the credible witness as to how the credible witness knows the remotely located individual and how long the credible witness has known the remotely located individual; and

(V) The statements, acts, and conduct necessary to perform the requested notarial act or supervision of signing or witnessing of the subject record.



(c) The provisions of section 24-21-519 that relate to the security, inspection, copying, and retention and disposition of a notary public's journal apply equally to the security, inspection, copying, and retention and disposition of audio-video recordings allowed by this section.

(d) The failure of a notary public to perform a duty or meet a requirement specified in this subsection (9) does not invalidate a remote notarization performed by the notary public. A notary public is not liable to any person for damages claimed to arise from a failure to perform a duty or meet a requirement specified in subsection (9)(b) of this section.

(10) Regardless of the physical location of the remotely located individual at the time of the notarial act, the validity of a remote notarization performed by a notary in this state is governed by the laws of this state, including any rules adopted by the secretary of state pursuant to this part 5.

(11) To be eligible for approval by the secretary of state under section 24-21-527 (1)(h), a provider of a remote notarization system or storage system must:

(a) Certify to the secretary of state that the provider and the system comply with the requirements of this section and the rules adopted under section 24-21-527;

(b) Maintain a usual place of business in this state or, if a foreign entity, appoint and maintain a registered agent, in accordance with section 7-90-701 by filing a statement of foreign entity authority in accordance with section 7-90-803, with authority to accept service of process in connection with a civil action or other proceeding; and

(c) Not use, sell, or offer to sell to another person or transfer to another person for use or sale any personal information obtained under this section that identifies a remotely located individual, a witness to a remote notarization, or a person named in a record presented for remote notarization, except:

(I) As necessary to facilitate performance of a notarial act;

(II) To effect, administer, enforce, service, or process a record provided by or on behalf of the individual or the transaction of which the record is a part;

(III) In accordance with this part 5 and the rules adopted pursuant to this part 5 or other applicable federal, state, or local law, or to comply with a lawful subpoena or court order; or

(IV) In connection with a proposed or actual sale, merger, transfer, or exchange of all or a portion of a business or operating unit of the provider, if the personal information concerns only customers of the business or unit and the transferee agrees to comply with the restrictions set forth in this subsection (11).

(12) Subject to applicable law other than this article 21, if a record is privileged pursuant to section 13-90-107 (1)(b), the corresponding electronic record secured and stored by the remote notarization system as provided in this article 21 remains privileged.

#### **24-21-514.7. Interpreters - use in facilitation of notarial acts - limitations.**

(1) If a notarial officer and an individual for whom a notarial act is to be performed do not communicate in the same language, an interpreter who communicates in a language in common with both the notarial officer and the individual may be used to facilitate the notarial act. A notarial officer may rely on representations made by the interpreter on behalf of the individual for whom the notarial act is performed as factual. Any errors in interpretation are not attributable to the notarial officer, and the notarial officer is not liable in any disputes arising from such errors.

(2) An interpreter shall appear personally, as defined in section 24-21-506 (2), before the notarial officer. An interpreter appearing personally before the notarial officer shall be identified pursuant to section 24-21-507 or, if appearing personally by means of real-time audio-video communication, pursuant to section 24-21-514.5.

(3) (a) An interpreter shall not provide interpreter services when the interpreter has a disqualifying interest in the transaction. For the purposes of this subsection (3), an interpreter has a disqualifying interest in a transaction if:

(I) The interpreter or the interpreter's spouse, partner in a civil union, ancestor, descendent, or sibling is a party to or is named in the record that is to be notarized; or

(II) The interpreter or the interpreter's spouse or partner in a civil union may receive directly and as a proximate result of the notarization any advantage, right, title, interest, cash, or property. This subsection (3)(a)(II) does not apply to a reasonable fee received by the interpreter for providing interpreter services.

(b) A notarial act is voidable if interpreter services are provided in violation of this subsection (3) in relation to the notarial act.

(4) (a) If a notarial officer does not communicate in the same language as the individual executing the record with respect to which the notarial officer is performing a notarial act, the notarial officer is not liable in any legal action regarding a dispute that directly results from an error in interpretation.

(b) A party who files an action for damages based on a violation of this part 5 related to a notarial act that a notarial officer performed in accordance with this section has the burden of proof in establishing that the dispute is related to a cause other than the interpretation.

(5) Nothing in this section limits a notarial officer's authority to refuse to perform a notarial act as set forth in section 24-21-508.

(6) In addition to complying with the requirements of section 24-21-515, the certificate of notarial act for a remote notarization that was performed using an interpreter must indicate that the notarial act was performed using an interpreter and include the name and credential or certification number, if any, of the interpreter.

**24-21-515. Certificate of notarial act.**

(1) A notarial act must be evidenced by a certificate. The certificate must:

(a) Be executed contemporaneously with the performance of the notarial act;

(b) Be signed and dated by the notarial officer and, if the notarial officer is a notary public, be signed in the same manner as on file with the secretary of state;

(c) Identify the county and state in which the notarial act is performed; and

(d) Contain the title of office of the notarial officer.

(e) Repealed.

(2) If a notarial act regarding a tangible record is performed by a notary public, an official stamp must be affixed to the certificate. If a notarial act is performed regarding a tangible record by a notarial officer other than a notary public and the certificate contains the information specified in subsections (1)(b), (1)(c), and (1)(d) of this section, an official stamp may be affixed to the certificate. If a notarial act regarding an electronic record is performed by a notarial officer and the certificate contains the information specified in subsections (1)(b), (1)(c), and (1)(d) of this section, an official stamp may be attached to or logically associated with the certificate.

(3) A certificate of a notarial act is sufficient if it meets the requirements of subsections (1) and (2) of this section and:

(a) Is in a short form set forth in section 24-21-516;

(b) Is in a form otherwise permitted by the law of this state;

(c) Is in a form permitted by the law applicable in the jurisdiction in which the notarial act was performed; or

(d) Sets forth actions of the notarial officer that are sufficient to meet the requirements of the notarial act as provided in sections 24-21-505, 24-21-506, and 24-21-507 and, if applicable, section 24-21-514.5 or law of this state other than this part 5.

(4) By executing a certificate of a notarial act, a notarial officer certifies that the officer has complied with the requirements and made the determinations specified in sections 24-21-504, 24-21-505, and 24-21-506 and, if applicable, section 24-21-514.5.

(5) A notarial officer shall not affix the officer's signature to, or logically associate it with, a certificate until the notarial act has been performed.

(6) If a notarial act is performed regarding a tangible record, a certificate must be part of, or securely attached to, the record. If a notarial act is performed regarding an electronic record, the certificate must be affixed to, or logically associated with, the electronic record. If the secretary of state has established standards pursuant to section 24-21-527 for attaching, affixing, or logically associating the certificate, the process must conform to the standards.

**24-21-516. Short form certificates.**

(1) The following short form certificates of notarial acts are sufficient for the purposes indicated, if completed with the information required by section 24-21-515 (1) and (2):

(a) For an acknowledgment in an individual capacity:

State of\_\_\_\_\_

County of\_\_\_\_\_

This record was acknowledged before me on\_\_\_\_\_(date) by \_\_\_\_\_(name(s) of individual(s))

\_\_\_\_\_

Signature of notarial officer

Stamp

(\_\_\_\_\_ (Title of office))

My commission expires: \_\_\_\_\_

(b) For an acknowledgment in a representative capacity:

State of\_\_\_\_\_

County of\_\_\_\_\_

This record was acknowledged before me on\_\_\_\_\_(date) by \_\_\_\_\_(name(s) of individual(s)) as (type of authority, such as officer or trustee) of (name of party on behalf of whom record was executed). This record was acknowledged before me on\_\_\_\_\_(date) by \_\_\_\_\_(name(s) of individual(s)) as (type of authority, such as officer or trustee) of (name of party on behalf of whom record was executed).

\_\_\_\_\_

Signature of notarial officer

Stamp

(\_\_\_\_\_ (Title of office))

My commission expires: \_\_\_\_\_

(c) For a verification on oath or affirmation:

State of\_\_\_\_\_

County of\_\_\_\_\_

Signed and sworn to (or affirmed) before me on\_\_\_\_\_(date) by \_\_\_\_\_(name(s) of individual(s) making statement)

\_\_\_\_\_

Signature of notarial officer

Stamp

(\_\_\_\_\_ (Title of office))

My commission expires: \_\_\_\_\_

(d) For witnessing or attesting a signature:

State of\_\_\_\_\_

County of\_\_\_\_\_

Signed before me on\_\_\_\_\_(date) by \_\_\_\_\_ (name(s) of individual(s))

\_\_\_\_\_

Signature of notarial officer

Stamp

(\_\_\_\_\_ (Title of office))

My commission expires: \_\_\_\_\_

(e) For certifying a copy of a record:

State of\_\_\_\_\_

County of\_\_\_\_\_

I certify that this is a true and correct copy of a record in the possession of \_\_\_\_\_

\_\_\_\_\_

Signature of notarial officer

Stamp

(\_\_\_\_\_ (Title of office))

My commission expires: \_\_\_\_\_

**24-21-517. Official stamp.**

(1) The official stamp of a notary public must:

(a) Be rectangular and contain only the outline of the seal and the following information printed within the outline of the seal:

(I) The notary public's name, as it appears on the notary's certificate of commission;

(II) The notary's identification number;

(III) The notary's commission expiration date;

(IV) The words "state of Colorado"; and

(V) The words "notary public"; and

(b) Be capable of being copied together with the record to which it is affixed or attached or with which it is logically associated.

(2) A notary public shall not provide, keep, or use a seal embosser.

**24-21-518. Stamping device.**

(1) A notary public is responsible for the security of the notary public's stamping device and may not allow another individual to use the device to perform a notarial act. On resignation from, or the revocation or expiration of, the notary public's commission, or on the expiration of the date set forth in the stamping device, if any, the notary public shall disable the stamping device by destroying, defacing, damaging, erasing, or securing it against use in a manner that renders it unusable. On the death or adjudication of incompetency of a notary public, the notary public's personal representative or guardian or any other person knowingly in possession of the stamping device shall render it unusable by destroying, defacing, damaging, erasing, or securing it against use in a manner that renders it unusable.

(2) If a notary public's stamping device is lost or stolen, the notary public or the notary public's personal representative or guardian shall notify the secretary of state in writing within thirty days after discovering that the device is lost or stolen.

**24-21-519. Journal.**

(1) A notary public shall maintain a journal in which the notary public chronicles all notarial acts that the notary public performs. The notary public shall retain the journal for ten years after the performance of the last notarial act chronicled in the journal.

(2) (a) A journal may be created on a tangible medium or in an electronic format. If a journal is maintained on a tangible medium, it must be a permanent, bound register with numbered pages. If a journal is maintained in an electronic format, it must be in a permanent, tamper-evident electronic format complying with the rules of the secretary of state.

(b) A notary public who performs a remote notarization shall maintain a journal in an electronic format with regard to each remote notarization.

(3) An entry in a journal must be made contemporaneously with performance of a notarial act and contain the following information:

(a) The date and time of the notarial act;

(b) A description of the record, if any, and type of notarial act;

(c) The full name and address of each individual for whom the notarial act is performed;

- (d) The signature or electronic signature of each individual for whom the notarial act is performed;
- (e) If identity of the individual is based on personal knowledge, a statement to that effect;
- (f) If identity of the individual is based on satisfactory evidence, a brief description of the method of identification and the type of identification credential presented, if any;
- (g) The full name and address of any interpreter who provided interpreter services to facilitate the notarial act;
- (h) The certification or credential number of any interpreter who provided interpreter services to facilitate the notarial act; and
- (i) The fee, if any, charged by the notary public.

(4) A notary public is responsible for the security of the notary public's journal. A notary public shall keep the journal in a secure area under the exclusive control of the notary, and shall not allow any other notary to use the journal.

(5) Upon written request of any member of the public, which request must include the name of the parties, the type of document, and the month and year in which a record was notarized, a notary public may supply a certified copy of the line item representing the requested transaction. A notary public may charge the fee allowed in section 24-21-529 for each certified copy of a line item, and shall record the transaction in the notary's journal.

(6) The secretary of state may audit or inspect a notary public's journal without restriction. A notary public shall surrender the notary's journal to the secretary of state upon receiving a written request.

(7) A certified peace officer, as defined in section 16-2.5-102, acting in the course of an official investigation may inspect a notary public's journal without restriction.

(8) If a notary public's journal is lost or stolen, the notary public shall notify the secretary of state in writing within thirty days after discovering that the journal is lost or stolen.

(9) On resignation from, or the revocation or expiration of, a notary public's commission, the notary public shall retain the notary public's journal in accordance with subsection (1) of this section and inform the secretary of state where the journal is located.

(10) (a) Instead of retaining a journal as provided in subsections (1) and (9) of this section, a current or former notary public may:

- (I) Transmit the journal to the state archives established pursuant to part 1 of article 80 of this title 24; or
- (II) Leave the journal with the notary's firm or employer in the regular course of business.

(b) If notary public acts pursuant to subsection (10)(a) of this section, the notary public is no longer subject to subsection (5) of this section and shall notify the secretary of state in writing whether the notary has transmitted the journal to the state archives or the firm or employer, including the contact information for the firm or employer if the notary leaves the journal with the notary's firm or employer.

(c) Instead of maintaining a journal as required by subsection (1) of this section, a notary public may maintain the original or a copy, including an electronic record, of a document that contains the information otherwise required to be entered in the notary's journal if the notary's firm or employer retains the original, copy, or electronic record in the regular course of business.

(11) On the death or adjudication of incompetency of a current or former notary public, the notary public's personal representative or guardian or any other person knowingly in possession of the journal shall transmit it to the state archives established pursuant to part 1 of article 80 of this title 24. The person shall notify the secretary of state in writing when the person transmits the journal to the state archives.

**24-21-520. Notification regarding performance of notarial act on electronic record - selection of technology.**

(1) A notary public may select one or more tamper-evident technologies to perform notarial acts with respect to electronic records. A person may not require a notary public to perform a notarial act with respect to an electronic record with a technology that the notary public has not selected.

(2) Before a notary public performs the notary public's initial notarial act with respect to an electronic record, a notary public shall notify the secretary of state that the notary public will be performing notarial acts with respect to electronic records and identify the technology the notary public intends to use. If the secretary of state has established standards for approval of technology pursuant to section 24-21-527, the technology must conform to the standards. If the technology conforms to the standards, the secretary of state shall approve the use of the technology.

(3) In every instance, the electronic signature of a notary public must contain or be accompanied by the following elements, all of which must be immediately perceptible and reproducible in the electronic record to which the notary's electronic signature is attached: The notary's name, as it appears on the notary's certificate of commission; the notary's identification number; 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 must conform to any standards promulgated by the secretary of state.

**24-21-521. Commission as notary public - qualifications - no immunity or benefit.**

(1) An individual qualified under subsection (3) of this section may apply to the secretary of state for a commission as a notary public. The applicant shall comply with and provide the information required by rules established by the secretary of state and pay any application fee. In accordance with section 24-21-111 (1), the secretary of state may require, at the secretary of state's discretion, the application required by this section, and any renewal of the application, to be made by electronic means designated by the secretary of state.

(2) In accordance with section 42-1-211, the department of state and the department of revenue shall allow for the exchange of information and data collected by the systems used by the departments to collect information on legal names and signatures of all applicants for driver's licenses or state identification cards.

(3) An applicant for a commission as a notary public must:

- (a) Be at least eighteen years of age;
- (b) Be a citizen or permanent legal resident of the United States or otherwise lawfully present in the United States;
- (c) Be a resident of or have a place of employment or practice in this state;
- (d) Be able to read and write English;
- (e) Not be disqualified to receive a commission under section 24-21-523; and
- (f) Have passed the examination required under section 24-21-522 (1).

(4) The secretary of state shall verify the lawful presence in the United States of each applicant by:

- (a) Accepting one of the following documents from the applicant:
  - (I) A United States military card or a military dependent's identification card;
  - (II) A United States Coast Guard Merchant Mariner card;
  - (III) A Native American tribal document;
  - (IV) A valid Colorado driver's license or a Colorado identification card issued pursuant to article 2 of title 42, unless the applicant holds a license or card issued pursuant to part 5 of

article 2 of title 42;

(V) A valid driver's license or identification card issued by another state, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States that is compliant with the federal "REAL ID Act", as amended;

(VI) A valid United States passport;

(VII) A valid United States permanent resident card; or

(VIII) Any other valid type of identification that requires proof of lawful presence in the United States to obtain; and

(b) Executing an affidavit stating that the applicant is:

(I) A United States citizen or legal permanent resident; or

(II) Otherwise lawfully present in the United States pursuant to federal law.

(5) Before issuance of a commission as a notary public, an applicant for the commission shall take the following affirmation in the presence of a person qualified to administer an affirmation in this state:

I, (name of applicant) , solemnly affirm, under the penalty of perjury in the second degree, as defined in section 18-8-503, Colorado Revised Statutes, that I have carefully read the notary law of this state, and, if appointed and commissioned as a notary public, I will faithfully perform, to the best of my ability, all notarial acts in conformance with the law.

(Signature of applicant)

Subscribed and affirmed before me this day of \_\_\_\_\_, 20\_\_\_\_.

(Official signature and seal of person qualified to administer affirmation)

(6) On compliance with this section, the secretary of state shall issue a commission as a notary public to an applicant for a term of four years, unless revoked in accordance with section 24-21-523. An applicant who has been denied appointment and commission may appeal the decision in accordance with article 4 of this title 24.

(7) A commission to act as a notary public authorizes the notary public to perform notarial acts. The commission does not provide the notary public any immunity or benefit conferred by law of this state on public officials or employees.

#### **24-21-522. Examination of notary public.**

(1) An applicant for a commission as a notary public who does not hold a commission in this state must pass an examination administered by the secretary of state or an entity approved by the secretary of state. The examination must be based on the course of study described in subsection (2) of this section.

(2) The secretary of state or an entity approved by the secretary of state shall offer regularly a course of study to applicants who do not hold commissions as notaries public in this state. The course must cover the laws, rules, procedures, and ethics relevant to notarial acts. The office of the secretary of state may enter into a contract with a private contractor or contractors to conduct notary training programs. The contractor or contractors may charge a fee for any such training program.



**24-21-523. Grounds to deny, refuse to renew, revoke, suspend, or condition commission of notary public.**

(1) The secretary of state may deny, refuse to renew, revoke, suspend, or impose a condition on a commission as notary public for:

- (a) Failure to comply with this part 5;
- (b) A substantial and material misstatement or omission of fact in the application for a commission as a notary public submitted to the secretary of state;
- (c) Notwithstanding section 24-5-101, a conviction of the applicant or notary public of any felony or, in the prior five years, a misdemeanor involving dishonesty;
- (d) A finding against, or admission of liability by, the applicant or notary public in any legal proceeding or disciplinary action based on the applicant's or notary public's fraud, dishonesty, or deceit;
- (e) Failure by the notary public to discharge any duty required of a notary public, whether by this part 5, rules of the secretary of state, or any federal or state law;
- (f) Use of false or misleading advertising or representation by the notary public representing that the notary has a duty, right, or privilege that the notary does not have;
- (g) Violation by the notary public of a rule of the secretary of state regarding a notary public;
- (h) Denial, refusal to renew, revocation, suspension, or conditioning of a notary public commission in another state;
- (i) A finding by a court of this state that the applicant or notary public has engaged in the unauthorized practice of law;
- (j) Failure to comply with any term of suspension or condition imposed on the commission of a notary public under this section; or
- (k) Performance of any notarial act while not currently commissioned by the secretary of state.

(2) Whenever the secretary of state or the secretary of state's designee believes that a violation of this part 5 has occurred, the secretary of state or the secretary of state's designee may investigate the violation. The secretary of state or the secretary of state's designee may also investigate possible violations of this part 5 upon a signed complaint from any person. However, this section does not authorize the secretary of state or the secretary of state's designee to investigate a potential violation concerning an action taken by an interpreter during a notarial act.

(3) If the secretary of state denies, refuses to renew, revokes, suspends, or imposes conditions on a commission as a notary public, the applicant or notary public is entitled to timely notice and hearing in accordance with the "State Administrative Procedure Act", article 4 of this title 24.

(4) When a complaint or investigation results in a finding of misconduct that, in the secretary of state's discretion, does not warrant initiation of a disciplinary proceeding, the secretary of state may take nondisciplinary action. For the purposes of this subsection (4), nondisciplinary action includes the issuance of a letter of admonition, which may be placed in the notary public's file.

(5) The authority of the secretary of state to deny, refuse to renew, suspend, revoke, or impose conditions on a commission as a notary public does not prevent a person from seeking and obtaining other criminal or civil remedies provided by law.

(6) A person whose notary commission has been revoked pursuant to this part 5 may not apply for or receive a commission and appointment as a notary.

**24-21-524. Database of notaries public.**

(1) The secretary of state shall maintain an electronic database of notaries public:

- (a) Through which a person may verify the authority of a notary public to perform notarial acts; and
- (b) Which indicates whether a notary public has notified the secretary of state that the notary public will be performing notarial acts on electronic records.

**24-21-525. Prohibited acts.**

(1) A commission as a notary public does not authorize an individual to:

- (a) Assist persons in drafting legal records, give legal advice, or otherwise practice law;
- (b) Act as an immigration consultant or an expert on immigration matters;
- (c) Represent a person in a judicial or administrative proceeding relating to immigration to the United States, United States citizenship, or related matters; or
- (d) Receive compensation for performing any of the activities listed in this subsection (1).

(2) A notary public shall not engage in false or deceptive advertising.

(3) A notary public, other than an attorney licensed to practice law in this state, shall not use the term "notario" or "notario publico".

(4) A notary public, other than an attorney licensed to practice law in this state, shall not advertise or represent that the notary public may assist persons in drafting legal records, give legal advice, or otherwise practice law. If a notary public who is not an attorney licensed to practice law in this state in any manner advertises or represents that the notary public offers notarial services, whether orally or in a record, including broadcast media, print media, and the internet, the notary public shall include the following statement, or an alternate statement authorized or required by the secretary of state, in the advertisement or representation, prominently and in each language used in the advertisement or representation: "I am not an attorney licensed to practice law in the state of Colorado and I may not give legal advice or accept fees for legal advice. I am not an immigration consultant, nor am I an expert on immigration matters. If you suspect fraud, you may contact the Colorado attorney general's office or the Colorado supreme court." If the form of advertisement or representation is not broadcast media, print media, or the internet and does not permit inclusion of the statement required by this subsection (4) because of size, it must be displayed prominently or provided at the place of performance of the notarial act before the notarial act is performed.

(5) A notary public, other than an attorney licensed to practice law in this state, shall not engage in conduct that constitutes a deceptive trade practice pursuant to section 6-1-727.

(6) Except as otherwise allowed by law, a notary public shall not withhold access to or possession of an original record provided by a person that seeks performance of a notarial act by the notary public.

(7) A notary public shall not perform any notarial act with respect to a record that is blank or that contains unfilled blanks in its text.

**24-21-526. Validity of notarial acts.**

Except as otherwise provided in section 24-21-504(2), the failure of a notarial officer to perform a duty or meet a requirement specified in this part 5 does not invalidate a notarial act performed by the notarial officer. The validity of a notarial act under this part 5 does not prevent an aggrieved person from seeking to invalidate the record or transaction that is the subject of the notarial act or from seeking other remedies based on law of this state other than this part 5 or law of the United States. This section does not validate a purported notarial act performed by an individual who does not have the authority to perform notarial acts.

**24-21-527. Rules - definitions.**

(1) The secretary of state may adopt rules to implement this part 5 in accordance with article 4 of this title 24. Rules adopted regarding the performance of notarial acts with respect to electronic records may not require, or accord greater legal status or effect to, the implementation or application of a specific technology or technical specification. The rules may:

- (a) Prescribe the manner of performing notarial acts regarding tangible and electronic records;
- (b) Include provisions to ensure that any change to or tampering with a record bearing a certificate of a notarial act is self-evident;
- (c) Include provisions to ensure integrity in the creation, transmittal, storage, or authentication of electronic records or signatures;

- (d) Prescribe the process of granting, renewing, conditioning, denying, suspending, or revoking a notary public commission and assuring the trustworthiness of an individual holding a commission as notary public, including rules for use of the electronic filing system;
- (e) Include provisions to prevent fraud or mistake in the performance of notarial acts;
- (f) Provide for the administration of the examination under section 24-21-522 (1) and the course of study under section 24-21-522 (2);
- (g) Prescribe the manner of performing notarial acts using audio-video communication technology, including provisions to ensure the security, integrity, and accessibility of records relating to those acts; and
- (h) Prescribe requirements for the approval and use of remote notarization systems and storage systems.

(2) In adopting, amending, or repealing rules about notarial acts with respect to electronic records, the secretary of state shall consider, so far as is consistent with this part 5:

- (a) The most recent standards regarding electronic records promulgated by national bodies, such as the National Association of Secretaries of State;
- (b) Standards, practices, and customs of other jurisdictions that substantially enact this part 5; and
- (c) The views of governmental officials and entities and other interested persons.

(3) (a) As used in this subsection (3):

(I) "Interim period" means the period beginning on March 30, 2020, and ending on December 31, 2020.

(II) "Temporary rule" means rule 5 of the notary program rules as adopted by the secretary of state effective March 30, 2020, and published at 8 CCR 1505-11, and any analogous successor emergency rule of the notary program that authorizes remote notarizations.

(b) and (c) Repealed.

(d) A notarial act performed during the interim period with respect to a remotely located individual that complied with the temporary rule is not invalid due to the lack of express statutory authority for the notarial act.

(e) and (f) Repealed.

#### **24-21-528. Disposition of fees.**

(1) The secretary of state shall collect all fees pursuant to this article 21 in the manner required by section 24-21-104 (3) and shall transmit them to the state treasurer, who shall credit them to the department of state cash fund created in section 24- 21-104 (3)(b).

(2) The general assembly shall make annual appropriations from the department of state cash fund for expenditures of the secretary of state incurred in the performance of the secretary of state's duties under this part 5.

#### **24-21-529. Notary's fees.**

(1) Except as specified in subsection (2) of this section, the fees of a notary public may be, but must not exceed, fifteen dollars for each document attested by a person before a notary, except as otherwise provided by law. The fee for each such document must include all duties and functions required to complete the notarial act in accordance with this part 5.

(2) In lieu of the fee authorized in subsection (1) of this section, a notary public may charge a fee, not to exceed twenty-five dollars, for the notary's electronic signature.

**24-21-530. Change of name or address.**

A notary public shall notify the secretary of state within thirty days after he or she changes his or her name, business address, or residential address. In the case of a name change, the notary public shall include a sample of the notary's handwritten official signature on the notice. Pursuant to section 24-21-104 (3), the secretary of state shall determine the amount of, and collect, the fee, payable to the secretary of state, for recording notice of change of name or address.

**24-21-531. Official misconduct by a notary public - liability of notary or surety.**

- (1) A notary public who knowingly and willfully violates the duties imposed by this part 5 commits official misconduct and is guilty of a petty offense.
- (2) A notary public and the surety or sureties on his or her bond are liable to the persons involved for all damages proximately caused by the notary's official misconduct.
- (3) Nothing in this part 5 shall be construed to deny a notary public the right to obtain a surety bond or insurance on a voluntary basis to provide coverage for liability.

**24-21-532. Willful impersonation.**

A person who acts as, or otherwise willfully impersonates, a notary public while not lawfully appointed and commissioned to perform notarial acts commits a petty offense and shall be punished as specified in section 18-1.3-503.

**24-21-533. Wrongful possession of journal or seal.** A person who unlawfully possesses and uses a notary's journal, an official seal, a notary's electronic signature, or any papers, copies, or electronic records relating to notarial acts commits a petty offense and shall be punished as specified in section 18-1.3-503.

**24-21-534. Certification restrictions.**

- (1) The secretary of state may issue certificates or apostilles attesting to the authenticity of a notarial act performed by a commissioned notary public.
- (2) The secretary of state shall not certify a signature of a notary public on:
  - (a) A record that is not properly notarized in accordance with the requirements of this part 5;
  - (b) A record:
    - (I) Regarding allegiance to a government or jurisdiction;
    - (II) Relating to the relinquishment or renunciation of citizenship, sovereignty, in itinere status or world service authority; or
    - (III) Setting forth or implying for the bearer a claim of immunity from the law of this state or federal law.

**24-21-535. Notary public commission in effect.**

A commission as a notary public in effect on July 1, 2018, continues until its date of expiration. A notary public who applies to renew a commission as a notary public on or after July 1, 2018, is subject to and shall comply with this part 5. A notary public, in performing notarial acts after July 1, 2018, shall comply with this part 5.

**24-21-536. Saving clause.** This part 5 does not affect the validity or effect of a notarial act performed before July 1, 2018.

**24-21-537. Uniformity of application and construction.** In applying and construing this part 5, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

**24-21-538. Relation to "Electronic Signatures in Global and National Commerce Act".**

This part 5 modifies, limits, and supersedes the "Electronic Signatures in Global and National Commerce Act", 15 U.S.C. sec. 7001 et seq., but does not modify, limit, or supersede section 101 (c) of that act, 15 U.S.C. sec. 7001 (c), or authorize electronic delivery of any of the notices described in section 103 (b) of that act, 15 U.S.C. sec. 7003 (b).

**24-21-539. Effective date.** This part 5 takes effect on July 1, 2018.

**24-21-540. Repeal of part.** This part 5 is repealed, effective September 1, 2032. Before its repeal, this part 5 is scheduled for review in accordance with section 24-34-104.