



Notice of Permanent Adoption

Colorado Department of State Notary Program Rules 8 CCR 1505-11

March 8, 2024

I. Adopted Rule Amendments

As authorized by Colorado Revised Uniform Law on Notarial Acts (RULONA)¹ and the State Administrative Procedure Act², the Colorado Department of State gives notice that the following amendments to the Notary Program Rules³ are adopted on a permanent basis.

The following rules were considered at the December 19, 2023, rulemaking hearing in accordance with the State Administrative Procedure Act⁴.

Please note the following formatting key:

Font effect	Meaning
Sentence case	Retained/modified current rule language
SMALL CAPS	New language
Strikethrough	Deletions
Shading	Revisions to preliminary draft rules after 12/19 rulemaking hearing
<i>[Italic blue font text]</i>	Annotations and publication notes

Current 8 CCR 1505-11 is amended as follows:

New Rule 2.4 requires a notary public to inform their customer, prior to performing a notarial act, of any service that is an additional charge to the notarial act and to provide a document that lists the fee charged for the notarial act an itemized invoice of each specific charge and informs of the consequences of failing to abide by the new requirements:

2.4 ITEMIZATION OF CHARGES

- 2.4.1 IF A NOTARY PUBLIC CHARGES FOR PERFORMING THE NOTARIAL ACT, OR CHARGES FOR ANY ADDITIONAL SERVICE PROVIDED AT THE TIME OF PERFORMING IN ADDITION TO THE NOTARIAL ACT, THE NOTARY PUBLIC MUST:

¹ Article 21 of Title 24, Part 5, C.R.S. (2023).

² Section 24-4-103(3)(a), C.R.S. (2023).

³ 8 CCR 1505-11.

⁴ Section 24-4-103(3)(a), C.R.S. (2023).

- (A) INFORM THE CUSTOMER, VERBALLY OR IN WRITING, OF THOSE CHARGES BEFORE PERFORMING THE NOTARIAL ACT; AND
- (B) PROVIDE TO THE CUSTOMER, EITHER BEFORE PERFORMING THE NOTARIAL ACT, OR AT THE TIME OF SIGNING, OR IMMEDIATELY THEREAFTER, A WRITTEN DOCUMENT THAT LISTS THE SPECIFIC FEE OR FEES CHARGED FOR ANY NOTARIAL ACTS PERFORMED BY THE NOTARY, OR A ZERO CHARGE IF NO FEE FOR THE NOTARIAL ACT IS BEING CHARGED, AS WELL AS ANY OTHER FEES THE NOTARY PUBLIC IS CHARGING AT THE SAME TIME. THIS LISTING OF FEES MAY BE INCLUDED IN AN CLOSING STATEMENT, ITEMIZED INVOICE, RECEIPT, TRANSACTION SUMMARY, OR ANY OTHER SIMILAR DOCUMENT THAT LISTS THE FEE CHARGED FOR THE NOTARIAL ACTS ~~EACH SPECIFIC CHARGE.~~

2.4.2 IF A NOTARY PUBLIC FAILS TO PROVIDE A DOCUMENT LISTED IN RULE 2.4.1(B) THAT ITEMIZES OR ~~PROVIDE A RECEIPT OF~~ THE AMOUNT OF THE SPECIFIC CHARGES FOR ANY NOTARIAL ACT, THE AMOUNT CHARGED FOR THOSE NOTARIAL ACTS ~~IS~~ WILL BE PRESUMED TO COVER SOLELY THE NOTARIAL ACT. ~~IF THAT AMOUNT EXCEEDS THE STATUTORY FEE LIMIT IN SECTION 24-21-529, C.R.S., THE INVOICE OR RECEIPT IS PRESUMPTIVE EVIDENCE OF A VIOLATION OF THE REVISED UNIFORM LAW ON NOTARIAL ACTS.~~

2.4.3 RULES 2.4.1 AND 2.4.2 DO NOT APPLY TO NOTARIAL ACTS PERFORMED BY AN EMPLOYEE OF A TITLE COMPANY AS PART OF SERVICES PROVIDED BY THE TITLE COMPANY IN CONJUNCTION WITH THE BUSINESS OF TITLE INSURANCE, AS DEFINED IN SECTION 10-11-102(3), C.R.S., OR CLOSING AND SETTLEMENT SERVICES, AS DEFINED IN SECTION 10-11-102(3.5), C.R.S., OR SETTLEMENT SERVICES, AS DEFINED IN SECTION 10-11-102(6.7), C.R.S.

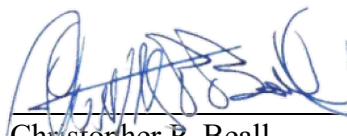
II. Basis, Purpose, and Specific Statutory Authority

A Statement of Basis, Purpose, and Specific Statutory Authority follows this notice and is incorporated by reference.

III. Effective Date of Adopted Rules

The rules will become permanently effective twenty days after publication in the Colorado Register.⁵

Dated this 8th day of March 2024,



Christopher P. Beall
Deputy Secretary of State

For

Jena Griswold
Colorado Secretary of State

⁵ Section 24-4-103(5), C.R.S. (2023).



Statement of Basis, Purpose, and Specific Statutory Authority

Colorado Department of State Notary Program Rules 8 CCR 1505-11

March 8, 2024

I. Basis and Purpose

This statement explains amendments to the Colorado Department of State Notary Program Rules. The purpose of the changes is to ensure the uniform and proper administration, implementation, and enforcement of the Colorado Revised Uniform Law on Notarial Acts (RULONA)¹. Specifically, the changes include:

- New Rule 2.4 requires a notary public to both (1) inform a customer, before performing a notarial act, of any service that is an additional charge to the notarial act and (2) provide a written document that lists the specific fee or fees charged for any notarial acts performed. If a notary public fails to provide a document listed in Rule 2.4.1(b) that itemizes the amount of the specific charge, the amount charged is presumed to exceed the statutory fee limit in section 24-21-529, C.R.S.
- New Rule 2.4.3 lists an exception given to an employee of a title company for notarial acts performed as part of services provided by that title company.

These rule changes were proposed and are being permanently adopted here because the Department has received various complaints related to whether a notary public has charged more than the statutorily authorized amount for a notarial act. To address the ambiguity in the practices of some notaries public, these rules now require itemized disclosure of the fees being charged so that there is clarity around how much is being charged for which services.

The Secretary received testimony and comments on the proposed rule during the rulemaking process that raised concerns related to the feasibility of the initial proposed draft of rule changes. The final version of these new rules adopted here responds to those concerns by clarifying when and in what form the disclosure of fees for notarial acts must take. In addition, the final version here provides an exception to the disclosure requirement for notaries public who are employees – that is, traditional, on-staff, hourly or salaried employees – of title companies because those title

¹ Article 21, Title 24 of the Colorado Revised Statutes.

companies already provide disclosures of their fees for the notarial services that their employees perform, and those employees – because they are employees – do not charge separately for the notarial acts that they perform. This exception, however, does not apply to notaries public who are independent contractors hired by title companies as signing agents, or others who are not on-staff employees of title companies. For those non-employee notaries public, the requirement of providing disclosure of the specific itemized fees for any notarial act remains in place.

Other changes to rules not specifically listed are non-substantive and necessary for consistency with Department rulemaking format and style. Cross-references in rules are also corrected or updated.

Written comments received during the formal rulemaking are available online at: https://www.coloradosos.gov/pubs/rule_making/hearings/2023/NotaryRulesHearing20231219.html. All comments are incorporated into the official rulemaking record.

II. Rulemaking Authority

The statutory authority is as follows:

- Section 24-21-527(1), C.R.S., (2023), which authorizes the Secretary of State to “adopt rules to implement this part 5 [the Revised Uniform Law on Notarial Acts] in accordance with article 4 of this title 24 [the State Administrative Procedure Act].”
- Section 24-21-527(1)(a), C.R.S., (2023), which authorizes the Secretary of State to “[p]rescribe the manner of performing notarial acts regarding tangible and electronic records[.]”
- Section 24-21-527(1)(d), C.R.S., (2023), which authorizes the Secretary of State to “[p]rescribe 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...”
- Section 24-21-527(1)(e), C.R.S., (2023), which authorizes the Secretary of State to “[i]nclude provisions [in rules] to prevent fraud or mistake in the performance of notarial acts[.]”