

Topic: Electronic Notarization

Question by: Jeff Harvey

Jurisdiction: Idaho

Date: October 18, 2011

Jurisdiction	Questions				
	Has your state enacted specific legislation that allows for electronic notarization (other than UETA)?	Has your state developed or supported a particular system or service for electronic notarization?	If so, what are your state's experiences with electronic notarization?	When using a system for electronic notarization is it sufficient to provide the ability to allow for a notarial seal and signature?	Should an electronic notarization process provide for document integrity (making sure the cannot be altered after it is notarized) or is that the concern of the signer and other interested parties?
Manitoba					
Corporations Canada					
Alabama					
Alaska					
Arizona					
Arkansas					
California					
Colorado					
Connecticut					
Delaware					
District of Columbia					

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Florida					
Georgia					
Hawaii					
Idaho					
Illinois					
Indiana					
Iowa					

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Kansas	Kansas does currently offer Electronic Notarization.	It is not in Business Services currently but the responsibility is with the Secretary of State's office. Kathy Sach's was very involved in the establishment of Electronic Notary and said she would be more than happy to discuss it with you further. Her number is 785 296-3828.	I can tell you that she said we get very few requests for it in today's economy as many of our clients who would want to utilize the information have not invested in the upgrades or purchase for their equipment to properly read and track the electronic signature.		
Kentucky					
Louisiana	No	No	n/a	Unknown	Document integrity process should be provided.
Maine					
Maryland					
Massachusetts					

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Michigan	See below				
Minnesota					
Mississippi					
Missouri					
Montana					
Nebraska					
Nevada					
New Hampshire					
New Jersey					
New Mexico					
New York					

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North Carolina	Yes. The Electronic Notary Act	No. We created performance based standards that any eNotary solution provider must meet in order to be approved to provide electronic notary signatures and seals to North Carolina eNotaries.	The program is growing. We have approximately 1,000 eNotaries and electronic notarization is being used in both the private and public sectors. Approximately 40 counties are accepting electronic recordings. We have not had any legal issues or challenges to date and no instances of electronic notary misconduct.	We require both an electronic signature and an electronic seal with a very similar appearance to a traditional notary signature and seal.	Yes. We believe that the process must provide a certain level of document integrity so that the process and the resulting document will enjoy a high level of trust i.e. will be able to be relied upon within the judicial system. This is in keeping with the National Electronic Recording Standards adopted by the National Association of Secretaries of State in addition to the Revised Uniform Laws on Notarial Acts from NCCUSL.

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North Dakota	Earlier this year, the North Dakota legislature approved HB 1136, which was the adoption of the Uniform Notarial Act (with ND modifications), which includes provisions related to electronic notarization and the adoption of rules in 2013 to implement it at that time.	It will when the rules are adopted.	N/A	N/A	Yes
Ohio					
Oklahoma	Oklahoma does not provide for an Oklahoma commissioned electronic notary public. Currently, we have no plans to seek legislation to enable electronic notaries.				

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Oregon	Yes, we have an addition to our notary statute that enables electronic notarization guided by rulemaking by the Secretary of State.	No	n/a	If you mean the certificate should just have a graphic of each, no. Look to the NASS standards on this. UETA and E-SIGN specifically say seals are not required for valid notarizations. An electronic signature can mean nearly an infinity of things, so you have to be very careful to define what you want. There are a lot of issues here.	Again, look to the NASS standards, which say that there needs to be evidence of alteration, not prevention. There is a concern here for technology-neutral solutions, mandated by UETA and E-SIGN. Do not forget that electronically notarized documents may need to be authenticated by the notary administration, and so there are certain issues that arise. See below.
Pennsylvania					
Rhode Island					
South Carolina					
South Dakota					

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Tennessee					
Texas					
Utah	No new legislation	No	A few people (private companies) have thought about trying to get electronic notarizations off the ground, but to date, nobody has found enough people interested.	I'm not sure if I understand this question. If it is in reference to the electronic seal and signature, Utah law simply requires the name, commission number, and expiration date of the notary; the words "Notary Public" and "State of Utah".	The document integrity is not addressed in the notary statute, but the Uniform Electronic Transaction Act specifies the notarization "shall be logically associated with the signature or record." The phrase "logically associated" is not defined
Vermont					
Virginia					
Washington					
West Virginia					
Wisconsin					
Wyoming					

Additional comments:

Michigan:

From Michigan:

The State of Michigan has not developed a system for electronic notarization, other than the UETA; the applicable sections of the Michigan Notary Public Act are below.

Section 7 of the Michigan Notary Public Act, Act 238 of 2003, defines signature as “a person's written or printed name or electronic signature as that term is defined in the uniform electronic transactions act, 2000 PA 305, MCL 450.831 to 450.849, or the person's mark attached to or logically associated with a record including, but not limited to, a contract and executed or adopted by the person with the intent to sign the record.” Section 27(1) provides that a “notary public shall place his or her signature on every record upon which he or she performs a notarial act.” Finally, section 27(3) provides that “a notary public may use a stamp, seal, or electronic process that contains all of the information required by [the Act].

However, the stamp, seal, or electronic process shall not be used in a manner that renders anything illegible on the record being notarized. An embosser alone or any other method that cannot be reproduced shall not be used.”

You may find the following link useful:

<http://legislature.mi.gov/doc.aspx?mcl-Act-238-of-2003>

Julia Dale

Director, Corporation Division

2501 Woodlake Circle

Okemos, MI 48864-5955

(517) 241-6463

OREGON:

Jeff,

You may not be aware that there is a Notary Public Administrators section of NASS that has done a great deal of work on this over the years. They are probably your best source of information for the states. The document Leslie referred to should be very helpful background material. I point this out only because many folks in IACA are unaware of a similar group for notaries public. There are a few of us who are in both IACA and NPA, but not many.

I refer you, as well, to NASS's Electronic Notarization Standards for guidance on the subject. I'd be happy to chat with anybody who's interested about these standards and the development of electronic notarization since 1996. There are indeed significant events in recent years on this topic, and the subject is anything but settled. Also, the revised Uniform Law on Notarial Acts is the most accepted guidance on the subject of notarization in general and electronic notarization in particular. Anyone who is interested in the standard treatment of notary law should look to that document.

Finally, I encourage everyone to send the people in charge of notary administration to the NASS summer conference, or at least sign up on the listserv.

In my opinion, and with all due respect to other jurisdictions, I would say North Carolina leads the nation in the sophistication and extent of its electronic notarization program. It's well worth a visit to the website and to talk with Ozie. There are several other states that offer solutions as well, but I believe none has quite the mix of approved technologies as NC.

Please let me know if I can help with any questions.

Tom

Full text of email:

Good morning everyone,

I have started reviewing Idaho's legislation regarding notarys public. Clearly an important topic to consider is electronic notarization implementation and practices. The questions I have for you this morning are:

1. Has your state enacted specific legislation that allows for electronic notarization (other than UETA)?
2. Has your state developed or supported a particular system or service for electronic notarization?

3. If so, what are your state's experiences with electronic notarization?
4. When using a system for electronic notarization is it sufficient to provide the ability to allow for a notarial seal and signature?
5. Should an electronic notarization process provide for document integrity (making sure the cannot be altered after it is notarized) or is that the concern of the signer and other interested parties?

Any help or information you can provide is very much appreciated.

Jeff Harvey

UCC Supervisor

Secretary of State of Idaho

Phone: 208-332-2849

Fax: 208-334-2847

<http://www.sos.idaho.gov>

"The only man who never makes a mistake is the man who never does anything." ~ Theodore Roosevelt