

Frequently Asked Questions

about the

Department of State's Electronic Notarization Program

What is the Pennsylvania Department of State's Electronic Notarization Program?

The Electronic Notarization Program permits qualified Pennsylvania notaries to perform notarial acts with respect to electronic records, using tamper-evident technologies. This program provides safeguards for consumers, recording offices and notaries alike.

What is electronic notarization (e-notarization)?

Electronic notarization (e-notarization) in its most basic and common form is the process of a commissioned notary affixing a digital signature or certificate (see **What is an electronic signature?**) to an electronic document, where the digital signature or certificate is generated by a complex mathematical formula (algorithms) involving coding and decoding (encryption) technology. The fundamental components of notarization, including personal appearance of the record signers before the notary, still apply. But rather than a paper document and a rubber stamp notary seal, the notary digitally places his or her identifying information to a document which exists as electronic data in a computer-readable form.

Note that current Pennsylvania law requires all notarial acts, even those performed electronically with respect to electronic records, to be done in the physical presence of the notary or other notarial officer. Remote online notarization (where personal appearance is made via audio-visual communication or technology) is not permitted or provided for under existing law.

The definitions in RULONA mirror those found in the Pennsylvania Uniform Electronic Transactions Act (UETA) and the federal Electronic Signatures in Global and National Commerce Act (ESIGN) for the relevant terms pertaining to electronic documents:

“Electronic” is defined as “relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or other similar capabilities.”

“Electronic signature” is “an electronic symbol, sound or process attached to or logically associated with a record and executed or adopted by an individual with the intent to sign the record.”

“Record” is defined as “information that is inscribed on a tangible medium or that is stored in an electronic or other medium and which is retrievable in perceivable form.”

“Sign” means “with present intent to authenticate or adopt a record:

- (1) to execute or adopt a tangible symbol; or
- (2) to attach to or logically associate with the record an electronic symbol, sound or process.”

“Signature” is defined as “a tangible symbol or an electronic signature which evidences the signing of a record.”

“Stamping device” is any of the following:

- (1) A physical device capable of affixing to or embossing on a tangible record an official stamp.

(2) An electronic device or process capable of attaching to or logically associating with an electronic record an official stamp.

What is an electronic document?

An electronic document exists as electronic data in a computer-readable form, rather than as words on a printed paper page. Some examples of electronic documents are word processing documents, e-mail messages, portable documents format (PDF) files, documents scanned into an image format, such as the software known as Adobe, and web pages. An electronic document, such as a mortgage agreement, has the same properties as a paper version, but is created and maintained electronically, usually via a computer program or a web site.

What is an electronic signature?

RULONA, UETA and E-SIGN define electronic signature as “an electronic sound, symbol or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.” An electronic signature in its most basic form is a representation of a person’s digitized image of his/her handwritten signature or symbol. It refers to any of several, not necessarily cryptographic (encoded), methods for identifying the originator of an electronic message. Electronic signatures include, but are not limited to, a facsimile transmission of handwritten signatures on a paper document; the typewritten name at the end of an e-mail; a user name and password which gain one access to a secure website; a digitalized signature made using an electronic signing pen; and even a “voice print” using biometric technology. An electronic signature is typically attached to an electronic document or transaction, and, because it is not encoded, can be copied or tampered with, making forgery easy.

The term “digital signature” is often used interchangeably with “electronic signature.” However, digital signatures or certificates are a result of a cryptographic (i.e. encoding and deciphering) operation. The technology behind digital signatures is an industry standard known as Public Key Infrastructure (PKI), a security framework or architecture which facilitates signed transactions by utilizing cryptography to ensure verifiable authenticity. The digital signature, essentially a complex coded message, cannot be copied, tampered or altered and is unique to both the document and the signer. The digital signature generally contains two complementary algorithms, one for signing and the other for verification, and the output of the signing process is also called a digital signature. The digital signature ensures that the signatory is in fact the originator of the message. Any changes made to the document after it was signed are in an indication to the receiver that the document may have been tampered with, thereby protecting against forgery.

What is an electronic notarization solution provider?

An electronic notarization solution provider is any person, company or organization that offers a tamper-evident technology that consists of, or includes, an electronic notarization component. In order to provide an electronic notary solution for use in this Commonwealth, the person or entity must apply to the Department for designation as an approved electronic notary solution provider. An approved solution provider must comply with the technical specifications of the rules and standards that govern electronic notarization processes and procedures in Pennsylvania. This means that the solution must: (a) allow a

person inspecting an electronic record to determine whether there has been any tampering with the integrity of a certificate of notarial act logically associated with a record or with the attachment or association of the notarial act with that electronic record; (b) ensure all of the notary public's identifying and commissioning information be made a part of, or a secure attachment to, the underlying notarized electronic record; (c) verify the authorization of the notary public to perform notarial acts with respect to electronic records by verifying the name, commission number and commission expiration date with the Department prior to authorizing use of the electronic notary solution, and (d) suspend the use of any electronic notarization solution for any notary public whose commission has been revoked or suspended by the Department.

What is electronic recording?

Electronic recording of documents is a combination of software and services that permits the paperless creation, authorization, validation and distribution of documents. Several levels of electronic recording are possible: Level 1 commonly permits faxed or emailed documents. Level 2 permits scanned images and partial index data to be submitted and recorded. Level 3 is fully electronic, where the document originators create, review, digitally sign and notarize the document (often through a computer web-based service), and then submit the document electronically to county offices, such as a recorder of deeds. The office that receives the documents then validates and distributes the submitted documents into its own recording database.

At the present time, electronic recording technology is most often used with real estate, banking and mortgage documents. All traditional recording requirements must be present, including the submission of a document that is signed and notarized. However, these traditional requirements can be met by the submission of a document image, electronic signatures and an electronic notarization.

How can I incorporate e-notarization into my notary practice?

You must take into consideration whether your notary practice includes the opportunity to notarize documents which will be electronically filed with an entity which is capable of receiving and recording such documents. You must also determine whether you and/or your employer have the hardware and necessary software to create, authorize, validate and distribute documents electronically. Approved electronic notarization solutions each have different processes, costs and business purposes. They may be designed for e-recording, contracting or use in the financial services sector. A notary should carefully review each solution to choose the best one(s) for the notary's practice.

In order to electronically notarize documents in Pennsylvania, you must participate in the Department of State's Electronic Notarization Program. To participate, you must be approved by the Department as an electronic notary and obtain an electronic notarization solution from an approved electronic notarization solution provider. (See **How do I become an electronic notary (eNotary) in Pennsylvania?**)

How do I become an electronic notary (eNotary) in Pennsylvania?

In order to become an electronic notary in Pennsylvania, you must first be a duly appointed and commissioned notary public in the Commonwealth of Pennsylvania and complete the

application to become an electronic notary, verifying that you have not had any finalized or pending criminal or disciplinary actions since being appointed and commissioned. The electronic notary application form is available from the Department upon request or on the Department's website at <https://www.dos.pa.gov/notaries> (link to Electronic Notarization). Upon approval by the Department of State, an email will be sent to your email of record. The email will authorize you to participate in the Department's Electronic Notarization Program until the end of your four-year commission as a notary public or until the expiration of your chosen electronic notarization solution, whichever comes first. The approval letter will also instruct you on how to log onto the Department of State's website to select an approved electronic notary solution provider(s). You may use only an eNotary solution from an approved electronic notary solution provider to notarize documents as part of the Electronic Notarization Program. Please contact each approved electronic notary solution provider for their fees to use their electronic notary solution. You can find more details on the process in "**Steps to Becoming an Electronic Notary in Pennsylvania**" at <https://www.dos.pa.gov/notaries> (link to Electronic Notarization).

What is the background behind the Electronic Notarization Program?

With the 1999 enactment of the Uniform Electronic Transactions Act (UETA)¹ and the 2000 enactment of the federal Electronic Signatures in Global and National Commerce Act (E-SIGN),² electronic documents and electronic signatures became as legally binding as paper documents and pen-and-ink signatures. Section 307 of the UETA,³ specifically permitted the use of a notary's electronic signature, where the notary is performing services relating to a notarization, acknowledgment, verification or statement under oath. Section 307 did not take effect, however, until the Secretary of the Commonwealth issued a notice that the provisions of section 307 no longer conflict with the requirements and procedures of the former Notary Public Law with regard to electronic notarization, acknowledgment and verification.

Revisions to the Notary Public Law, effective July 1, 2003, provided for electronic notarization by adding provisions for the execution and registration of a notary's electronic signature, as well as the requirement that notary education programs preapproved by the Secretary have a core curriculum which includes electronic notarization.

As part of the Secretary's oversight of the notaries public in the Commonwealth of Pennsylvania, the Department of State launched Phase I of the Electronic Notarization Initiative in conjunction with notice that the provisions of section 307 of the Uniform Electronic Transactions Act no longer conflicted with the requirements and procedures of the Notary Public Law. That notice was published in the Pennsylvania Bulletin on December 31, 2005, at 35 Pa.B. 7068. (You may access the Pennsylvania Bulletin website at <http://www.pabulletin.com>). From January 30, 2006 through June 30, 2010, the

¹ 73 P.S. §§2260.101-2260.5101, effective January 15, 2000 (with the exception of section 307).

² 15 U.S.C. §§ 7001-7006, effective October 1, 2000.

³ Section 307 of the UETA, 73 P.S. §2260.307, provides in full:

Notarization and Acknowledgment

If a law requires a signature or record to be notarized, acknowledged, verified or made under oath, the requirement is satisfied if the electronic signature of the person authorized to perform those services, together with all other information required to be included by other applicable law, is attached to or logically associated with the signature or record.

Department partnered with the National Notary Association to provide digital certificates to approved e-notaries. In order to make more electronic notarization alternatives available to approved e-notaries, a second notice was published on April 17, 2010 at 40 Pa.B. 2065. This notice announced the availability of electronic notarization solution provider applications to any person, company or organization that offers a system or process that consists of, or includes, an electronic notarization component. The Department began approving electronic notarization solution providers in June 2010.

After the enactment of RULONA and repeal of the Notary Public Law, the Department further streamlined the Electronic Notarization Program to eliminate the in-person identification of the eNotary and the 45-day period for selection of technology. Notaries may notify the Department that they will be performing notarial acts electronically at any time during their commissions. Those notaries who have notified the Department that they will be performing notarial acts with respect to electronic records may select approved electronic notarization technologies at any time during their commission.

Is additional notary education required to become an electronic notary?

There is no additional notary education required to become an electronic notary under the Electronic Notarization Program. Under RULONA, all notaries public must complete a basic education or continuing education course of at least three hours approved by the Department. The basic education course must cover the statutes, regulations, procedures and ethics relevant to notarial acts, with a core curriculum including the duties and responsibilities of the office of notary public and electronic notarization. Additional continuing notary education classes with content that includes electronic notarization may become available. Please see the list of approved notary education courses and providers on the Department of State website at <https://www.dos.pa.gov/notaries> (link to Education Providers)

Is additional bonding required to become an electronic notary?

No. The only bond requirement at the present time is the \$10,000 bond required for your notary commission.

Is errors and omissions (E&O) insurance needed if I electronically notarize?

As with paper notarization, it is solely at the notary public's discretion whether to obtain errors and omissions insurance. The Department recommends, if you are insured, that you check with the issuer of your E&O insurance to verify that your coverage includes electronic notarization.

What fees may I charge for electronic notarization?

A notary public may charge fees in accordance with the existing fees established by the Department of State. See fee information at <https://www.dos.pa.gov/notaries> (link to General Information and Equipment). The fees fixed by the Department are for notarial services regardless of whether the services occur in the traditional pen and paper manner or electronically. As always, the notary public may waive the right to charge a fee and/or may charge reasonable clerical or administrative fees for services provided in addition to the notarization of a document.

Must I keep a notary journal of my electronic notarization acts?

Yes. The fundamental principles and processes of notarization remain the same regardless of the technology used to notarize. A notary public must maintain a journal in which the notary public records in chronological order all notarial acts that the notary public performs. A journal may be created on a tangible medium or in an electronic format. An eNotary may maintain a separate journal for tangible records and for electronic records. If the journal is maintained in an electronic format, it must be in a tamper-evident electronic format complying with the regulations of the Department.

How does e-notarization differ from my current pen and paper notarization?

Only the technology of the document changes with e-notarization. The notarization process remains the same. The five major components for valid paper and ink notarizations also apply to e-notarizations:

- **Personal appearance** - Under RULONA, the individual making the statement or executing the signature must appear personally before the notary public. This means that the customer must be physically present before the eNotary as well. This requirement permits the eNotary to observe and interact with the signer.
- **Identification** - Under RULONA, the notary public must have personal knowledge or satisfactory evidence of the identity of an individual appearing before the notary. The eNotary may rely on a passport, driver's license or government-issued nondriver identification card, which is current and unexpired, or another form of government identification issued to the individual, which: is current; contains the signature or a photograph of the individual; and is satisfactory to the eNotary, or the verification on oath or affirmation of a credible witness. The identification card and/or the credible witness must be physically present before the eNotary. The eNotary may refuse to perform an electronic notarial act if she is not satisfied that the individual's signature on the record or statement substantially conforms to the signature on the form of identification used to determine the identity of the individual; or if the eNotary is not satisfied that the physical appearance of the individual signing the record or statement substantially conforms to the photograph on the identification.
- **Acknowledgment or statement by signer** - By signing in the physical presence of the eNotary, customers assert that they are authorized to sign the document or give the statement and that they are signing or stating of their own volition.
- **Lack of duress** - The physical presence of a third party (the eNotary) helps ensure that a signer is not being coerced into signing by emotional or physical threats. The eNotary may refuse to perform an electronic notarial act if he is not satisfied that the individual's signature is knowingly and voluntarily made.
- **Awareness** - Interaction with the signer permits the eNotary to detect whether mental impairment, other infirmity or controlled or alcoholic substances may have affected a person's judgment and his/her decision to sign. The eNotary may refuse to perform an electronic notarial act if he is not satisfied that the individual executing the record is competent or has the capacity to execute the record.

I have downloaded my Electronic Notarization Solution—now what?

The electronic notary solutions will vary in whether they will be installed on the eNotary's computer, used by the eNotary via the web or exported and placed on a portable USB drive. All electronic notary solutions are password-protected so that only the eNotary may use it. The signers of an electronic document must personally appear before the eNotary, who will have the document on his or her computer. The signers must be properly identified by the eNotary. The eNotary must ensure that the correct language is used for the notarial act that is performed, e.g. acknowledgment, verification on oath or affirmation or other appropriate language.

All requirements of notarial certificates under RULONA apply. The certificate must:

- (1) be executed contemporaneously with the performance of the notarial act;
- (2) be signed and dated by the notary;
- (3) identify the county and State in which the notarial act is performed; and
- (4) contain the title "notary public."

The certificate must be affixed to or logically associated with the electronic record and the notary must execute the notary public's electronic signature in a manner which attributes the signature to the notary public identified in the commission.

Finally, the eNotary's official stamp may be attached to or logically associated with the certificate. It may be the stamp information in text form or an electronic image attached to or logically associated with an electronic record.

This information can be displayed in different and customized ways, depending on the software manufacturer and the document preparation software used. The signatures of the signers and the notary may be made by any of the means described in **What is an electronic signature?** The electronic notarization solutions will vary in how they prompt the eNotary to complete the notarization process with the software program being used. The document may then be forwarded electronically to its next destination or to an end user, such as a recorder of deeds.

How do I renew my electronic notary approval?

After expiration of your initial approval (which will expire at the end of your four-year commission or when the electronic notarization solution expires, whichever is sooner), an approved eNotary who wishes to continue to electronically notarize must renew that approval with the Department of State and obtain or renew an approved solution from an approved electronic notary solution provider. All current fees will apply (cost of the electronic notary solution). An approved eNotary need only apply when the electronic notarization solution is coming to an end or when the underlying commission comes to an end. The same form which was used for initial application for electronic notary approval should be used for renewal (note that the notary should check the appropriate "renewal of approval" box at the top of the form). The application is available at <https://www.dos.pa.gov/notaries> (link to Electronic Notarization). Please see **How do I become an electronic notary (eNotary) in Pennsylvania?**

Questions about the Electronic Notarization Program may be directed to the Bureau of Elections and Notaries, Department of State, 210 North Office Building, Harrisburg, Pennsylvania 17120. Tel: (717) 787-5280. Email: ST-NOTARIES@pa.gov.

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