

Best Practices
Electronic Signature Requirements
January 20, 2014

ALABAMA

None

ARIZONA

Recorders are only required to accept electronic signatures that they have the technology to support.

CONNECTICUT

The electronic signature has the same meaning as provided in §7-35bb of the Connecticut General Statutes.

Regulation Concerning Real Property Electronic Recording (Effective April 1, 2013)

Sec. 7-35ee-6. Electronic Signatures and Electronic Notarizations

(a) Documents containing electronic signatures or electronic notarizations shall conform to all applicable standards established by the Secretary of the State and to all applicable sections of the Connecticut General Statutes, including, but not limited to, chapter 15 of the Connecticut General Statutes and sections 3-94a to 3-95, inclusive, of the Connecticut General Statutes.

(b) A participating town clerk shall only be required to accept electronic documents containing electronic signatures or electronic notarizations that the clerk has the technology to support.

(c) A participating town clerk shall not be responsible for authenticating electronic signatures or electronic notarizations.

DELAWARE

Adopted the Delaware Uniform Real Property Electronic Recording Act.

FLORIDA

County recorders are only required to accept electronic signatures that they have the technology to support. County recorders have no responsibility to authenticate electronic signatures embedded within the body of the document.

County recorders have no responsibility for verifying or authenticating notary signatures and acknowledgments. Transactions filed pursuant to §695.27, F.S. must comply with §117.021, F.S., Electronic Notarization, in those instances when an electronic notarization is used.

KANSAS

While UETA and URPERA allow many types of electronic signatures, registers of deeds are only required to accept electronic signatures that they have the technology to support.

MICHIGAN

While MUETA and MURPERA ... allow many types of electronic signatures, registers of deeds are only required to accept electronic signatures that they have the technology to support. E-recordings shall comply with all federal and state authentication laws. Registers of deeds have no responsibility to authenticate electronic signatures embedded within the body of the document.

MISSISSIPPI

An electronic signature means an electronic sound, symbol or process attached to or logically associated with a document and executed or adopted by a person with the intent to sign the document.

NEW MEXICO

An electronic signature means an electronic sound, symbol or process attached to or logically associated with a document and executed or adopted by a person with the intent to sign the document.

NEW MEXICO ANNOTATED CODE

1.11.2.14 ELECTRONIC SIGNATURES AND NOTARY ACKNOWLEDGEMENT: A county clerk that accepts for recording electronically signed and notarized instruments utilizing digital signatures based on PKI encryption technology shall do so in accordance with rules promulgated by the secretary of state. For purposes of efficiency, participating county clerks are encouraged to utilize technology and to accept digital certificates from certification authorities compatible with the technology used and certificates accepted by other participating county clerks.

[1.11.2.14 NMAC - N, 9/15/2008]

NEW YORK

Electronic signatures used by a notary on an instrument affecting real property shall comply with section 291-i (c) of the Real Property Law, and shall be:

- (1) unique to the notary;
- (2) capable of independent verification;
- (3) under the notary's sole control;
- (4) attached to, or logically associated with, the electronic record in such a manner that it can be determined if any data contained in the electronic record has been changed subsequent to the electronic notarization; and
- (5) implemented in accordance with New York State law, rules and regulations and PRIA notary version 2.4.1, October 2007 standards.

(f) A recording officer is not required to verify or authenticate electronic signatures or notarizations on an instrument affecting real property.

NORTH CAROLINA

Notary acknowledgment/signature – The rules and regulations should facilitate and accommodate all models of electronic submission.

SOUTH CAROLINA

An electronic signature means an electronic sound, symbol or process attached to or logically associated with a document and executed or adopted by a person with the intent to sign the document.

Notarization. The MOU shall provide that electronic real property recordings shall comply with requirements for notarization pursuant to South Carolina statutes and rules adopted by the Secretary of State.

TEXAS

If a participating county clerk permits electronic filing that utilizes digital signature standards based on public-private key encryption technology, they shall be in accordance with the Government Code, Section 2054.060. For purposes of efficiency, participating county clerks are encouraged to utilize technology and to accept certificates from certification authorities compatible with the technology used and certificates accepted by other participating county clerks.

VIRGINIA

Virginia Real Property Electronic Recording Standard - Effective Date: May 1, 2007

1.3.5. Electronic Signature

“Electronic signature,” as defined in Uniform Electronic Transactions Act (§59.1-479 et seq.), means 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.

1.3.10. Electronic Notarization

“Electronic notarization” means an official act by a notary public in accordance with §47.1 et seq. and §55-118.3 of the Code of Virginia with respect to an electronic document.

2.4 Electronic Signature

The eRecording system shall accommodate electronic signatures pursuant to Virginia’s Uniform Electronic Transactions Act (§59.1-479 et seq.).

2.5 Electronic Notarization

The eRecording system shall accommodate electronic notarization of documents otherwise in accordance with Title 47.1 of the Code of Virginia.

The clerk's eRecording system shall provide for notarized electronic documents in a manner that complies with the following sections of the Code of Virginia: the electronic filing requirements (§17.1-258.4B), the Notary Public Law (§47.1 et seq.), the Real Property Electronic Recording Act (§55-142.11C), the Uniform Recognition of Acknowledgments Act (§55-118.1 et seq.), and the Uniform Electronic Transactions Act (§59.1-479 et seq.).

2.5.1 Standards for electronic notarization

Electronic notarial certificate requirements. When performing an electronic notarization, a notary public shall complete an electronic notarial certificate, which shall be attached to, or logically associated with, the document and shall be in a form that is independently verifiable and will be invalidated if the underlying document is improperly modified.

2.5.2 Personal appearance requirement.

A notary public shall not perform an electronic notarization if the principal does not appear in person before the notary public at the time of notarization, unless otherwise authorized by law to do so. [Source: § 55-118.3; §55-118.5; A Handbook for Virginia Notaries Public]

2.5.3 Electronic signature appropriate for the electronic notarization of land records

When performing an electronic notarization, the notary public shall use an electronic signature that is: (i) unique to the notary public, (ii) capable of independent verification, (iii) under the notary public's sole control, (iv) attached to, or logically associated with, the electronic document in such a manner that it can be determined if any data contained in the electronic document has been changed subsequent to the electronic notarization, and (v) otherwise in accordance with the Code of Virginia.

2.5.4 Liability, sanctions and remedies for improper electronic notarizations

The liability, sanctions and remedies for the improper performance electronic notarizations are the same as described and provided in §§ 47.1-1 (et. seq.) for the improper performance of non-electronic notarizations.

2.9.3 Notarization

The agreement will provide that electronic documents to be recorded among the land records shall comply with the requirements for notarization pursuant to Virginia's Electronic Filing requirements (§17.1-258.4B), Virginia's Notary Public Law (§47.1 et seq.), Virginia's Real Property Electronic Recording Act (§55-142.11C), and Virginia's Uniform Recognition of Acknowledgments Act (§55-118.1 et seq.).

WASHINGTON

An electronic signature means an electronic sound, symbol or process attached to or logically associated with a document and executed or adopted by a person with the intent to sign the document.

"Electronic notarization" means a notarial act performed in accordance with Chapter 42.44 RCW and Chapter 308-30 WAC by a notary public, appointed by the Washington State Department of Licensing, who provides notarial acts using electronic interface.

Electronic signatures. Recording officer are only required to accept electronic signatures that they have the technology to support. Recording officers have no responsibility to authenticate electronic signatures embedded within the body of the document.

... in the case of an electronic notarization, an impression of the official seal or stamp is not required. ...

Recording officers have no responsibility for verifying or authenticating notary signatures and acknowledgments.

WISCONSIN

Notarization of documents. An electronic document shall be notarized under the standards adopted in Chapter 137, Stats. The notary's commission date shall be contained on the document or the document shall be authenticated as required in Section 706.06, Stats.