

## State of Rhode Island Electronic Notarization Standards

The purpose of these standards is to establish guidelines to define the duties and responsibilities for notaries public electing to perform electronic notarial acts.

### Definitions

1. *"Commissioning agency"* means the Rhode Island office of the Secretary of State.
2. *"Commissioning officer"* means the Governor of the state of Rhode Island.
3. *"Electronic"* means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.
4. *"Electronic signature"* means 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 electronic record or record.
5. *"Electronic record"* means a record created, generated, sent, communicated, received, or stored by electronic means.
6. *"Electronic Notarial Act and Notarization"* means a notarial act or notarization, by a Rhode Island notary public who has registered to perform electronic notarial acts, on or involving an electronic record and using electronic means authorized by the Commissioning Agency and the Commissioning Officer or the laws of the jurisdiction of appointment.
7. *"Electronic notarial certificate"* means the portion of a notarized electronic record that is completed by the notary public, bears the notary public's electronic signature and/or official electronic seal, official title, commission number, commission expiration date, any required information concerning the date and place of the electronic notarization, and states the facts attested to or certified by the notary public in a particular electronic notarization.
8. *"Electronic notary stamp"* and *"official electronic stamp"* mean information within a notarized electronic record that includes the notary public's name, jurisdiction of appointment, and generally corresponds to data in notary public stamps used on paper documents.
9. *"Electronically enabled notary public"* means a registered notary public who has the capability of performing electronic notarial acts in conformance with these standards.
10. *"Non-repudiation"* means the inability of the signer of an electronic record to deny their electronic signature without factual basis.
11. *"Notary electronic signature"* means those forms of electronic signature that comply with these standards as an acceptable means for an electronic notary to affix the notary's official signature to an electronic record that is being notarized.
12. *"Notary public"* means an individual commissioned or appointed to perform a notarial act by the Commissioning Officer and the Commissioning Agency.

13. *“Physical appearance”* and *“appears before the notary”* mean that the principal and the notary public are physically close enough to see, hear, communicate with, and give identification credentials to each other without reliance on electronic devices such as telephones, computers, video cameras or facsimile machines.
14. *“Registration”* and *“register”* means registration with the Commissioning Agency in compliance with these Standards.
15. *“Tamper-evident”* means that any changes to an electronic record shall display evidence of the change.
16. *“Unique to the Notary Public”* and *“under the sole control”* mean, with respect to an electronic notarization, that the signing device used to affix the electronic signature of the Notary Public and to render the official electronic seal information tamper-evident shall be accessible by and attributable solely to the Notary Public to the exclusion of all other persons and entities for the necessary period of time that such device is engaged and operating to effectuate the authorized electronic notarization.

## **Standards and Procedures**

### **In performing electronic notarial acts, an electronic notary shall continue to adhere to all rules governing paper-based notarial acts.**

#### **Physical Appearance Requirement**

1. A notary public shall not perform an electronic notarization if the document signer does not appear in person before the notary public at the time of the electronic notarization.

*Under no circumstance should a notary public base identification upon familiarity with a signer’s electronic signature or an electronic verification process that authenticates the signer’s electronic signature when the signer is not in the physical presence of the notary public.*

2. The methods for identifying document signers for an electronic notarization are the same as the methods required for a paper-based notarization ([RIGL § 42-30.1-6](#)).

#### **Registration Requirements**

1. The Commissioning Agency requires that a notary public register the capability to notarize electronically before performing any electronic notarial act. Such registration shall be with the Commissioning Agency every time a notary public adopts a new or additional technology with which to perform electronic notarial acts.
2. The Commissioning Agency requires a notary public who registers the capability of performing electronic notarial acts to provide the following information: **a)** the applicant’s name as currently commissioned, complete mailing address, and commission expiration date; **b)** the electronic technology or technologies to be used in attaching or logically associating an electronic notarial signature, stamp and certificate to an electronic record; **c)** an exemplar of the notary’s electronic signature and official electronic stamp; **d)** any necessary instructions or

techniques supplied by the vendor that allow the notary's electronic signature and official electronic stamp to be read. The viewer/reader shall be free and readily available so as to enable all parties relying on the electronically notarized record or document to view the electronic notary signature and the electronic notary stamp without incurring any cost; **e)** the capability/solution shall comply with the laws, policies, rules and standards that govern Rhode Island notaries; and **f)** a notary public registered as an electronic notary shall notify the Commissioning Agency within five (5) days of changes, modifications or updates to information previously submitted relative to their capability/solution.

3. Upon successful completion of all registration requirements, the Commissioning Agency will email to the notary's email address on file an approval letter that confirms the commission to act as an electronic notary.
4. A notary public shall notify the Commissioning Agency in writing, by way of mail, in-person delivery or email, within five (5) business days of a change of their email address.

#### Form and Manner of Performing the Electronic Notarial Act

1. When performing an electronic notarization, a notary public shall complete an electronic notarial certificate and attach or logically associate the notary's electronic signature and stamp to that certificate in a tamper-evident manner. Evidence of tampering pursuant to this standard may be used to determine whether the notarial act is valid or invalid.
2. The notary public's electronic signature is deemed to be reliable if the following requirements are met: a) it is unique to the notary public, b) it is capable of independent verification, c) it is retained under the notary public's sole control, and d) it is attached to or logically associated with the electronic record in a tamper-evident manner. Evidence of tampering pursuant to this standard may be used to determine whether the notarial act is valid or invalid.
3. The notary public's official electronic stamp is deemed to be reliable if the following requirements are met: a) it is unique to the notary public, b) it is capable of independent verification, c) it is retained under the notary public's sole control, and d) it is attached to or logically associated with the electronic record in a tamper-evident manner. Evidence of tampering pursuant to this standard may be used to determine whether the notarial act is valid or invalid.
4. The notary public's electronic signature in combination with the electronic notary stamp shall be used only for the purpose of performing electronic notarial acts.
5. The liability, sanctions, and remedies for the improper performance of electronic notarial acts are the same as described and provided by law for the improper performance of paper-based notarial acts. ([RIGL § 42-30.1](#))

*The notary public's electronic signature and stamp shall be used only for the purpose of performing electronic notarial acts. Performing an electronic notarization without registering with the Commissioning Agency shall invalidate the notarization as registration is required prior to performing electronic notarial acts.*

## Fees

1. A notary public may charge a fee not to exceed \$5 (five dollars) per document/notarization; travel fees shall be equal to or less than the Internal Revenue Service's standard mileage rate. All fees shall be posted in a conspicuous place in the notary's place of business and provided upon request, fees shall be disclosed to any person utilizing the services of the notary.

*Federal mileage rates are dictated by the Internal Revenue Service (IRS)*

<https://www.irs.gov/tax-professionals/standard-mileage-rates>

## Security Requirements

1. The notary public shall not disclose any access information used to affix the electronic notary's signature and stamp except when requested by law enforcement, the courts, and with reasonable precautions, electronic record preparation and transmission vendors.

## Requirements for Authenticating the Notarial Act

1. Electronic notarial acts need to fulfill certain basic requirements to ensure non-repudiation and the capability of being authenticated by the Rhode Island Department of State for purposes of issuing Apostilles and Certificates of Authentication. They are as follows: a) the fact of the notarial act, including the notary's identity, signature, and commission status, shall be verifiable by the Rhode Island Department of State and b) the notarized electronic record will be rendered ineligible for authentication by the Rhode Island Department of State if it is improperly modified after the time of notarization, including any unauthorized alterations to the document content, the electronic notarial certificate, the notary public's electronic signature, and/or the notary public's official electronic stamp.

## Requirements for Issuance of Electronic Apostilles and Certificates of Authentication (Appointment)

1. Electronic Apostilles need to fulfill certain basic requirements to ensure non-repudiation: a) the fact of the issuance of the Apostille by the Rhode Island Department of State shall be independently verifiable and b) the Apostille shall be invalidated if the underlying document is improperly modified as when, for example, a person attempts to remove the Apostille from the public document.
2. Electronic certificates of Authentication (or Appointment) need to fulfill certain basic requirements to ensure non-repudiation: a) the fact of the issuance of the Certificate by the Rhode Island Department of State shall be independently verifiable and b) the Certificate shall be invalidated if the underlying document is improperly modified as when, for example, a person attempts to remove the Certificate from the public document.