



representing the Colorado title insurance industry

The Honorable Jena Griswold
Secretary of State
State of Colorado
1700 Broadway, Suite 200
Denver, CO 80290

**Re: Comments in Response to Notary Program Proposed Rule 2.3 –
Communication/Translation Services**

Dear Ms. Griswold:

On behalf of the Land Title Association of Colorado (LTAC), I submit to you LTAC's comments to the amendments proposed to Rule 2.3 of 8 CCR 1505-11 regarding interpreters for deaf, hard of hearing, or deafblind individuals.

While LTAC appreciates the proposed changes to allow interpreters for individuals who are deaf, hard of hearing or deafblind, the proposed rule ignores any allowance for the use of an interpreter or translation services for notarial acts for non-English speaking individuals. As you may recall, LTAC has raised this concern with you via previous rule comments submitted in November 2020 and correspondence to your office in January 2022. A summary of those concerns, which are still relevant today, are listed below:

- To date, LTAC is not aware of any instances of fraud stemming from the use of a translator chosen by a non-English speaking party to a real estate transaction. Prior to the implementation of Rule 2.3.2, LTAC was unaware of any instance in which use of a translator to perform a notarization yielded a fraudulent act upon either a seller or buyer. However, since the implementation of the Rule, there are a multitude of examples in which Colorado consumers have been left without access to standard notary services. This proposed amendment continues to deprive non-English speaking consumers of necessary notary services in the name of fraud prevention. Permanently adopting Rule 2.3 will perpetuate the unnecessary consumer harm to non-English speaking consumers.

- This Amendment continues to put the non-English speaking Colorado consumer in the untenable position of seeking out a title company which employs a notary public who speaks their language and dialect; this limits consumer choice, as there may be only one or two, if any, title companies that can currently accommodate certain less-common languages. Many, if not most, times the consumer has a trusted friend or family member who is willing to provide the translation for them at no cost. This Rule deprives the consumer of the opportunity to rely upon a trusted party to translate and does not even permit the non-English speaking person the opportunity to hire an interpreter or translator. The notary public and the party who is reasonably desiring to have access to notarial services ***must*** speak the same language. Colorado is diverse state which includes individuals and communities which speak numerous languages. Th proposed Rules adds an unnecessary and discriminatory burden and prohibition to all non-English speaking consumers to address a nonexistent problem.
- The rule puts title companies in the untenable position of having to hire individuals who speak multiple, less-common, languages, in the off-chance that they may be able to service a future customer that speaks the same language as the employee. If there is no “match” for such language need, the current rule mandates that a title company turn away that customer for a real estate closing, depriving that customer from participating in a standard signing.

In addition to these previously submitted comments, we offer the following to support our continued concerns:

- The risk of notaries working in tandem with a qualified translator in committing fraud for validating a person’s identity when executing legal documents is extremely low or non-existent. An interpreter or translator is nothing more than an extension of the notary public and what they are required to perform for identity validation and capacity (or prohibited from doing) under RULONA and the rules established by the Colorado Secretary of State applicable to a notary public.
- One of the key coverages in all title insurance policies is coverage against fraud or misrepresentation in the execution of the documents between willing buyer to willing seller. If in the exceedingly rare circumstance, ***fraud occurs stemming from a notarial act*** and the transaction was found to be null and void, title insurance affirmatively protects a buyer and their lender from that illegal activity.
- By allowing an exception to the translation prohibition for consumers that are deaf, hard of hearing, or deafblind, the Secretary of State has weighed the benefit of enhanced fraud protection against the harm caused by curtailing notary services for consumers for whom translation services are particularly necessary; the SOS has found that it is more important to protect consumer access to notary services through the use of a translator. We are hopeful that the Secretary of State will do the same for all consumers who are non-English speaking, so that those consumers will also receive

critical access to notary services, which in turn, provide consumers access to real estate, estate planning, and business transactions that would otherwise be unavailable to them.

Based on the foregoing, we request that the proposed Rule 2.3 be amended to reflect the authorization of interpreters and translators to assist the notary in effecting a notarial act. A continued refusal to address non-English speaking parties seeking notarial services, leaves this community at risk of being left underserved as a result of this Rule's prohibition against translators for transactions requiring notary services.

Respectfully,

Michael R. Lucero

President

Land Title Association of Colorado