

◆ACCOUNTS RECEIVABLE SOLUTIONS LLC◆

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June 21, 2023

Jena M. Griswold, Secretary of State
Christopher P. Beall, Deputy Secretary of State
1700 Broadway, Suite 550 Denver, CO 80290

Re: Notice of Proposed Rulemaking, 8 CCR 1505-11

To Ms. Griswold and Mr. Beall, Greetings

I have reviewed the proposed changes to the Notary Program Rules, specifically addressed in 8 CCR 1505-11. As pertains to Rule changes/amendments to Rule 2.3 Communication, although I feel this rule change would make it easier for notaries to perform a notarial act for an individual who does not speak English, I do have some reservations on this matter. One, if I don't understand the person who I am requiring to swear to me that everything they state is true, and must use an interpreter I am then relying on a third party to not only translate what I am saying so that an individual can swear they understand and are asserting they are truthful, but also that same third party is translating back to me in English that the individual understands and is swearing to an oath given. I have no control, or real confidence that what is being said is accurate. I am relying on a third party to be honest, while I am taking full responsibility for the accuracy of statements made and understood by the individual I am performing the notarial act for. This makes me very nervous. While I could possibly have the translator acknowledge that what I am saying is accurate and has been translated so, and I could possibly take a nod from the individual as an assertion that they understand and are in agreement, the potential for fraud, in the translation, especially in regard to real estate transactions, quit claim deeds, transferring or conveying documents from one party to another is enormous. I do not feel comfortable taking "the heat" so to speak for any translation to an individual where I am not certain of what has been said. I would think the Secretary of State, in formulating these revisions to the original rule, which forbids a translator from communicating with an individual instead of direct communication with that person, would put in some safeguards to protect the notary and put additional responsibilities on the translator to ensure the accuracy of what is being said and sworn to. A notary simply cannot perform a notarial act "blindly". None of our training allows for this, yet accepting the word of a translator is supposed to absolve a notary of all errors regarding the translation to an individual and vice versa? Cui bono then? Who benefits from this rule being changed? We give translators more work, we make it easier for foreign nationals to participate in notary acts, while at the same time we are at risk because there are no protections in place if we can't understand what is being translated. I am leery of supporting this rule change without those protections written in for notaries, and I feel this rule change needs much more review before just jumping in and allowing translators to represent myself or my notarial client.

Two, 2.3.4, disqualifying interest. Again if you don't know what is being translated after you as the notary speak, or your client speaks, with any accuracy, why would you strike the

disqualifying interest rule? No party should benefit from a notarial act financially that is also the translator. This to me is a clear conflict of interest. The translator, along with the notary should have no financial interest in the transaction, period. You should be as strict with the translator “conflicts of interest” as you are with a notary.

Three. Rule 5.2.7 Fees. I have no problem with raising the fees, only with limits on the fees. Notaries should be able to charge whatever the market will bear. We drive hundreds of miles a year to perform notarial acts, we pay for travel time, fuel, maintenance on vehicles, time lost waiting on people to meet us or canceling and starting over, travel meals, sometimes travel accommodations, all without being reimbursed for any of it, unless you work as an employee for a company who pays you a wage for this work and who reimburses your costs. Many notaries are self employed and have this service in addition to other services they provide, so in most cases all costs are absorbed in the company’s small business costs and income from notary work is minimal. Now, it would be very nice to affect my bottom line with an income line from Notary work that covers my actual costs of being a Notary!

Four. Rule 5.3.3. While I understand that criteria and standards for remote notarization system providers must be robust, those same standards and criteria are already in place to certify a system provider and asking that provider to recertify annually is redundant and costly. If the remote notary’s commission is good for four years, then they should not have to re-verify each and every time they want to perform a remote notary act. If you are trying to streamline the process and make it easier for notaries to do their job (i.e., allowing translators) then why make it harder with more rules on the remote notary and the provider when you could simply ask for an annual statement that all is in place and working correctly according to protocols. This should be a simple, one page affidavit provided by the provider addressing the standards you have set and that they have been complied with. If you are going to make your notaries and providers go through training to get certified in their various fields, trust them to do the job you certified them for in the first place. As far as paying an annual fee to be a provider, it is not fair to make a provider pay an annual fee when a notary pays a fee every four years. Since the provider is, in fact bringing more revenue to the Secretary of State by giving remote notaries a place to conduct their work, perhaps the State should pay the provider’s a fee or a refund for their costs of running a website or platform to perform this work and maybe this would result in lower fees for the remote notary as well in conducting business as these annual fees to subscribe to a platform can run in excess of \$65/year for one platform subscription.

From a small business, individual notary standpoint, these costs directly affect my bottom line. Adding additional restraints to the provider will result in increasing costs to me at some point, so please bear this in mind when affecting rule changes for providers that may increase their overall costs of operation in order to maintain compliance with State regulations.

Thank you for allowing me to make a comment on the proposed changes to the Notary Rules.

Sincerely,

Donna S. Fasi, President
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Fasi Research