

NNA 2018
LAS VEGAS
THE SKY'S THE LIMIT



NATIONAL NOTARY ASSOCIATION



eNotary 101

Learning the Basics of This Emerging Technology

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You say you don't know "e"?

Electronic signatures and processes permeate our lives



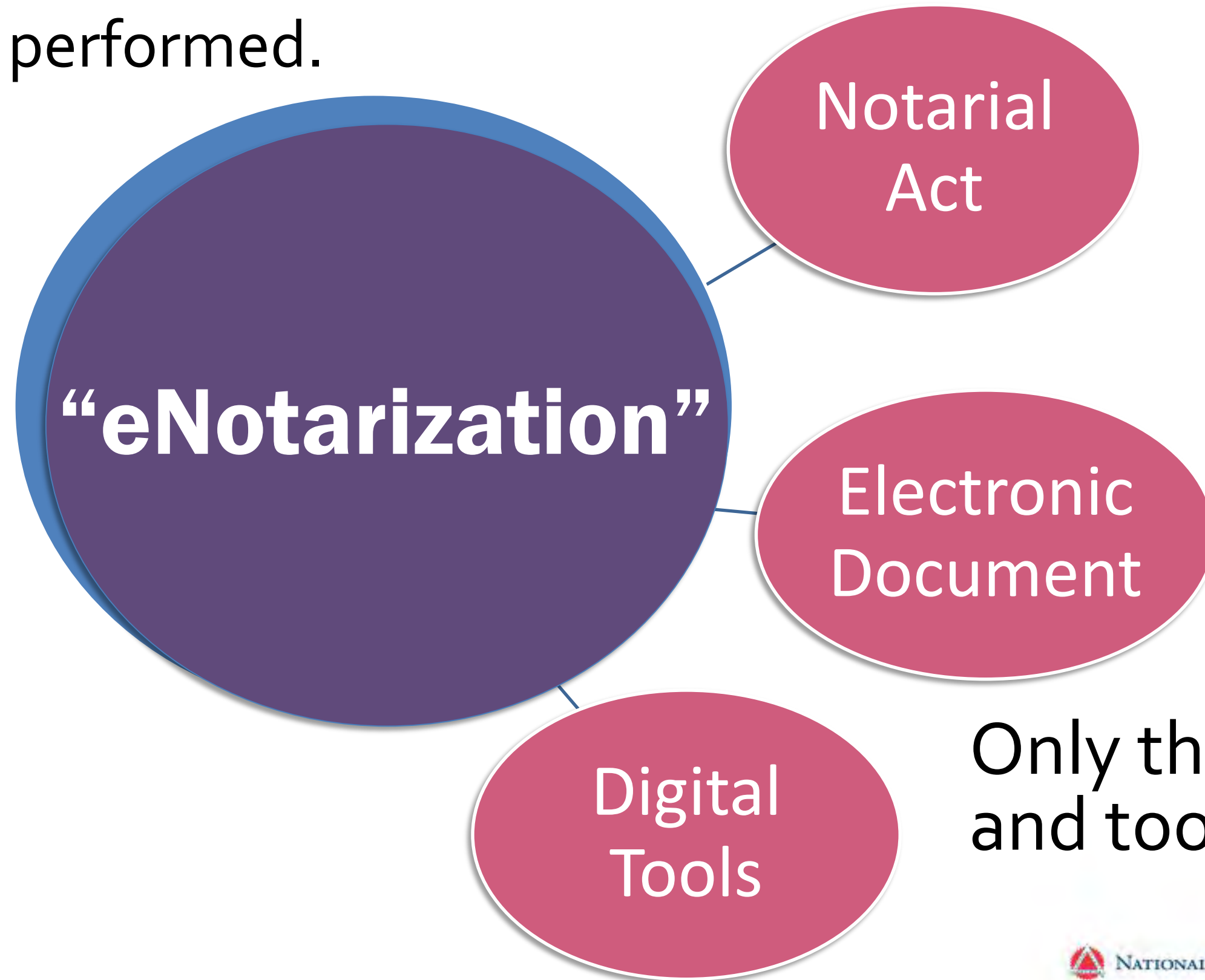
Internet of Things

eNotarization should be prominent...



...Notaries can be the
game-changers.

The same formalities of a notarial act are performed.



Only the medium and tools differ.

Where is eNotarization Legal?

Alabama	Illinois	Montana	Rhode Island
Alaska	Indiana	Nebraska	South Carolina
Arizona	Iowa	Nevada	South Dakota
Arkansas	Kansas	New Hampshire	Tennessee
California	Kentucky	New Jersey	Texas
Colorado	Louisiana	New Mexico	Utah
Connecticut	Maine	New York	Vermont
Delaware	Maryland	North Carolina	Virginia
Dist. of Columbia	Massachusetts	North Dakota	Washington
Florida	Michigan	Ohio	West Virginia
Georgia	Minnesota	Oklahoma	Wisconsin
Hawaii	Mississippi	Oregon	Wyoming
Idaho	Missouri	Pennsylvania	



Uniform Electronic Transactions Act (UETA)
Created 1999; adopted in 47 states and DC



Electronic Signatures in Global and National Commerce Act (ESIGN)
Created 2000; complements UETA



Uniform Real Property Electronic Recording Act (URPERA)
Created 2004; adopted in 30 states and DC

Year	00	01	02	03	04	05	06	07	08	09	10	11	12	13	14	15	16	17	18	19
Arizona	L																			
Arizona				R																
California					L															
Colorado					L, R															
Alaska						L														
Kansas							R													
North Carolina						L														
Minnesota								L												
Pennsylvania									R											
North Carolina										R										
Florida											L									
New Mexico												R								
Virginia												L								
Delaware													L							
Nevada														L						
Florida															R					
North Dakota																L				
New York																			R	
Arkansas																				R
Iowa																				L
Oregon																				L, R
Pennsylvania																				L
Virginia																				R
Washington																				R
West Virginia																				L, R
Montana																				L, R
Missouri																				L
Arkansas																				L
Idaho																				L
Nebraska																				L, R
Washington																				L
Indiana																				L

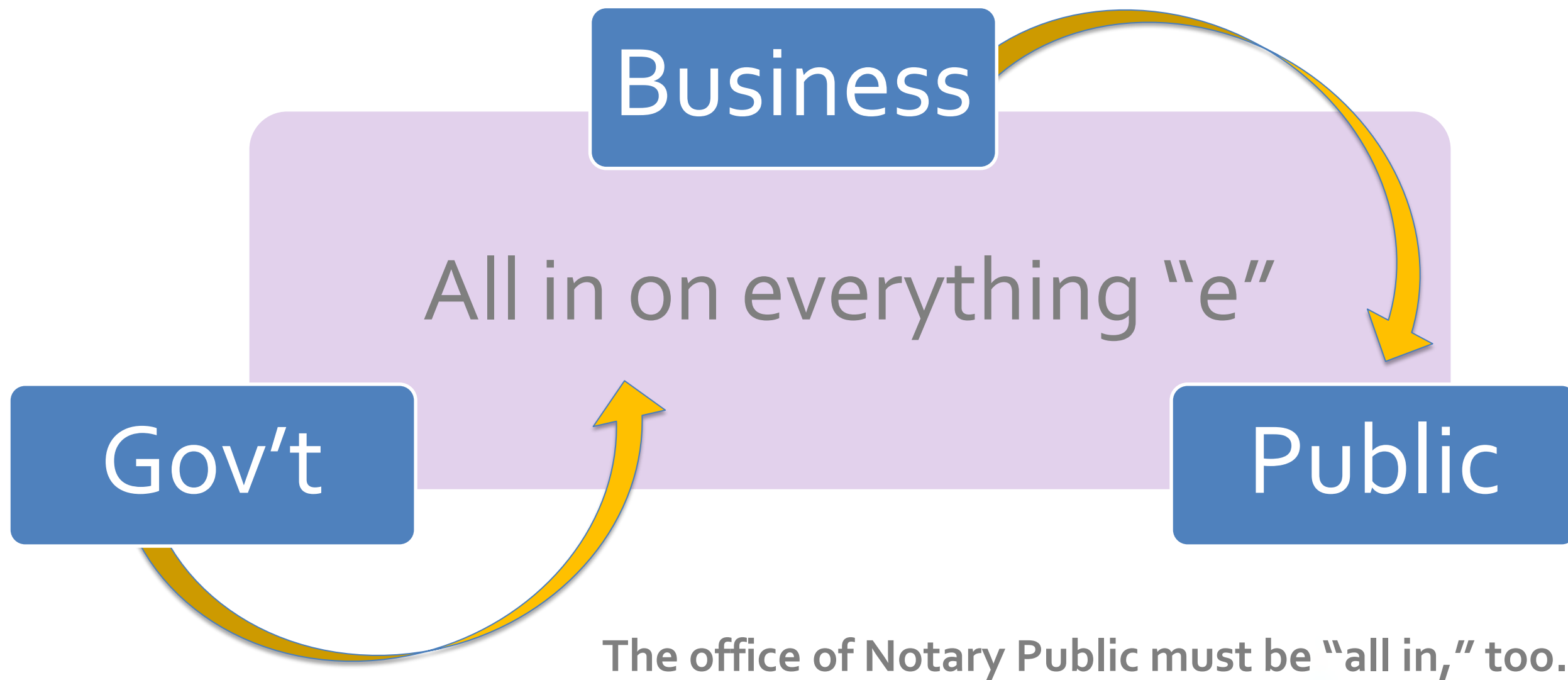
Additional eNotarization Laws & Regulations

Details not found in UETA, ESIGN, URPERA, such as:

- Registration, notification or additional eNotary commission
- eSignature, seal standards
- Technology standards
- Recordkeeping

More legislative activity in past 5 years

What's driving this emerging interest in eNotarization?



Traditional and eNotary

Nothing Lost in Translation - Part 1

Traditional Notary Paper documents, ink signature(s), ink stamp or embosser	eNotary Electronic documents, electronic signature, seal
Meets statutory qualifications for commission	✓
Functions under a traditional (paper) Notary Public commission or appointment	Only a few states require an additional eNotary commission or appointment
Duty to act ethically, impartially, and without bias	✓
Authenticates notarial acts with official signature, title and seal (if required) on notarial certificate	✓ Same certificate language that is used for paper acts
Duty to control custody, security of official signature, seal and journal	✓
All other commission responsibilities of a traditional Notary Public	✓

Nothing Lost in Translation - Part 2

Notarization Steps	Means and Manner	
	Traditional Notarization	Electronic Notarization
Signer's appearance	Physically present	Same
Document scan	Flip through paper sheets/pages	Scroll through on-screen
Comprehension, willingness assessment	Observing, conversing with the signer throughout the notarization	Same
Signer identification	Personal knowledge or satisfactory evidence <i>(ID docs; credible witness where allowed)</i>	Same
Signature event	Person signs in ink before the Notary, or acknowledges a previous signature	Same, except that person signs, or signed previously, with an electronic signature

Nothing Lost in Translation – More

Notarization Steps	Means and Manner	
	Traditional Notarization	Electronic Notarization
Verbal ceremony	“Do you acknowledge...” “Do you swear or affirm...”	Same
Complete the notarial certificate	Write information in ink	Type/enter information using an attached or onscreen keyboard
Sign/seal the certificate	Official signature in ink, ink-stamped seal imprint	Attach or logically associate electronic signature, seal
Journal entry	Bound journal	Electronic journal; recording of session for remote

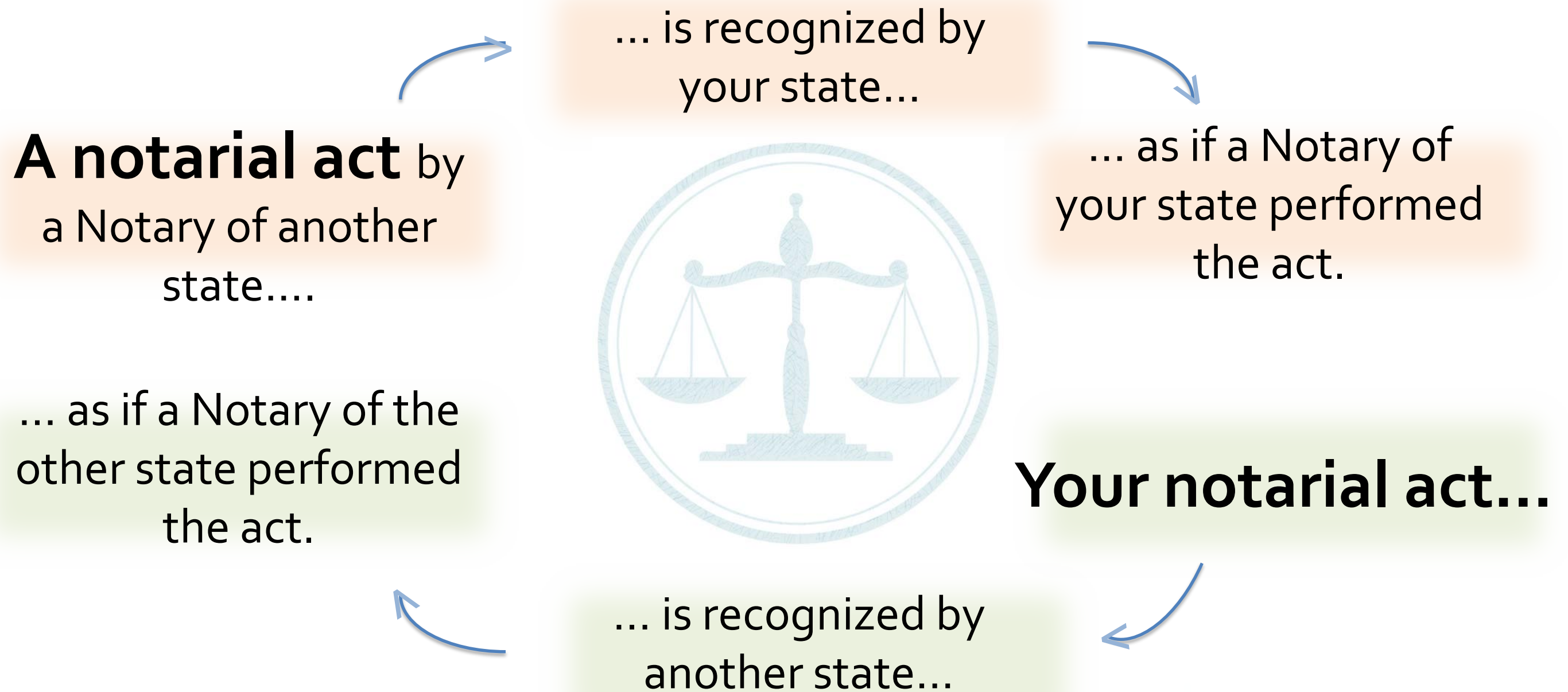
The Effects of Notarization



Assurances vital to relying parties:

- Notary as independent witness to the signer's comprehension, willingness and act of executing the document.
- Certificate as prima facie evidence that the signer has the identity claimed, and executed the document, on the date and at the location stated.

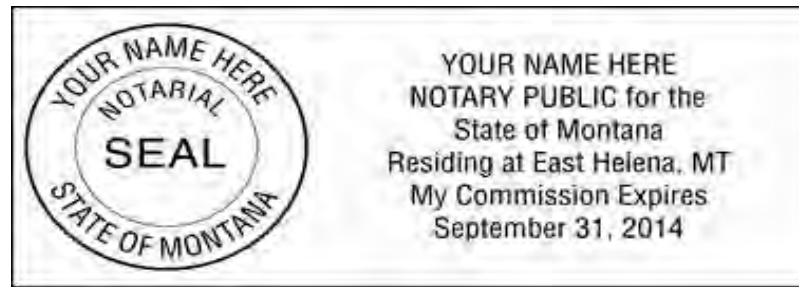
The assurance of **recognition** across state lines:



The means and manner of notarization are immaterial

Terminology: Then & Now

Official stamp or seal
Official stamp



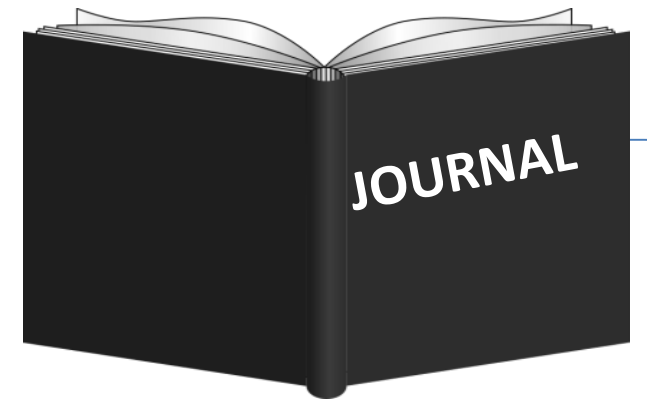
Wet-ink signature
A stylized, handwritten signature in purple ink that reads "Elvis Presley".

**Any tangible symbol;
or electronic sound,
symbol, process**

Ink-stamp
**Stamping
device**



Signer appearance - physical
Physical or remote



Paper, bound
Paper or electronic

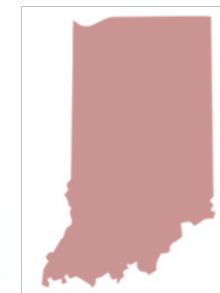
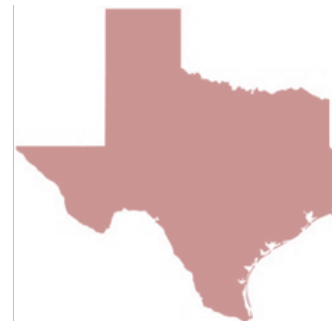
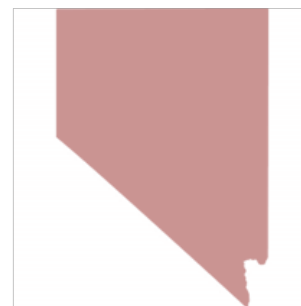
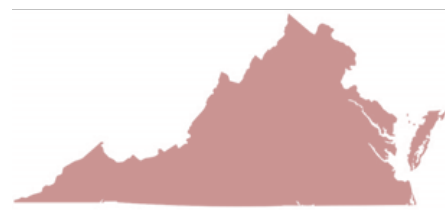
Document
Record
*(paper or
electronic)*



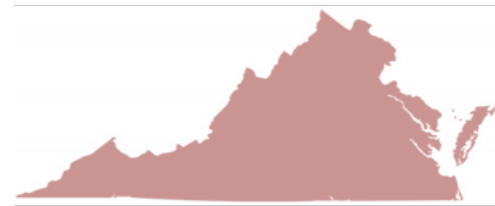
Remote Notarization



Performance of a notarial act when the signer is not physically present, but personally appears by live, real-time audio/video technology.



Remote Notarization Similarities



Virginia

Since 2011



Montana

Since 2015



Nevada

Since 2017-eff 7/18



Texas

Since 2017-eff 7/18



Indiana

Enacted 2018-eff 7/19

- Personal appearance is physical, or by (live, real-time) audio-video communications technology.
- Notary must be physically located in commissioning state; signer may be located anywhere.
- Electronic notarization of electronic records (MT allows it for tangible records).
- Commissioning official knows who is remotely notarizing and their chosen technology (separate commission, or notification/registration requirement).
- Signer ID methods — personal knowledge, credible witness, and/or technological tools such as a high-assurance digital certificate, knowledge-based authentication and credential analysis.
- Notarial certificate indicates the act was performed remotely (not VA or MT).

Remote Notarization Interest



- Multiple states considered bills with remote notarization provisions during the most recent legislative season
 - CA, CO, DC, FL, IN, KY, LA, MI, MN, MO, NE, OH, OK, PA, SD, TN
- Enacted remote notarization: IN
- Influential policymakers and stakeholders created standards for remote notarization
 - Uniform Law Commission, National Notary Association, Mortgage Bankers Association & American Land Title Association, National Association of Secretaries of State



Standards

eNotarization — Practical Matters

How do I qualify to eNotarize?

How to I obtain my eNotarization tools?

What are the steps in a typical eNotarization?

Resources to learn more

General, eNotarization Entry Levels

Low

- UETA, URPERA as legal authority
- Signature — any electronic sound, symbol, process
- Seal — minimal specifications
- No additional commission
- Training not required
- No registration, notification to commissioning officer
- No technology standards

Medium

- Specific authorization to eNotarize in Notary statutes and/or rules
- Specified electronic signature, seal attributes
- Must register with or notify commissioning officer of intent, chosen technology
- Training — likely
- Additional standards of practice such as journal requirements — likely
- eNotarization technology or provider must conform to commissioning officer's standards, if any

High

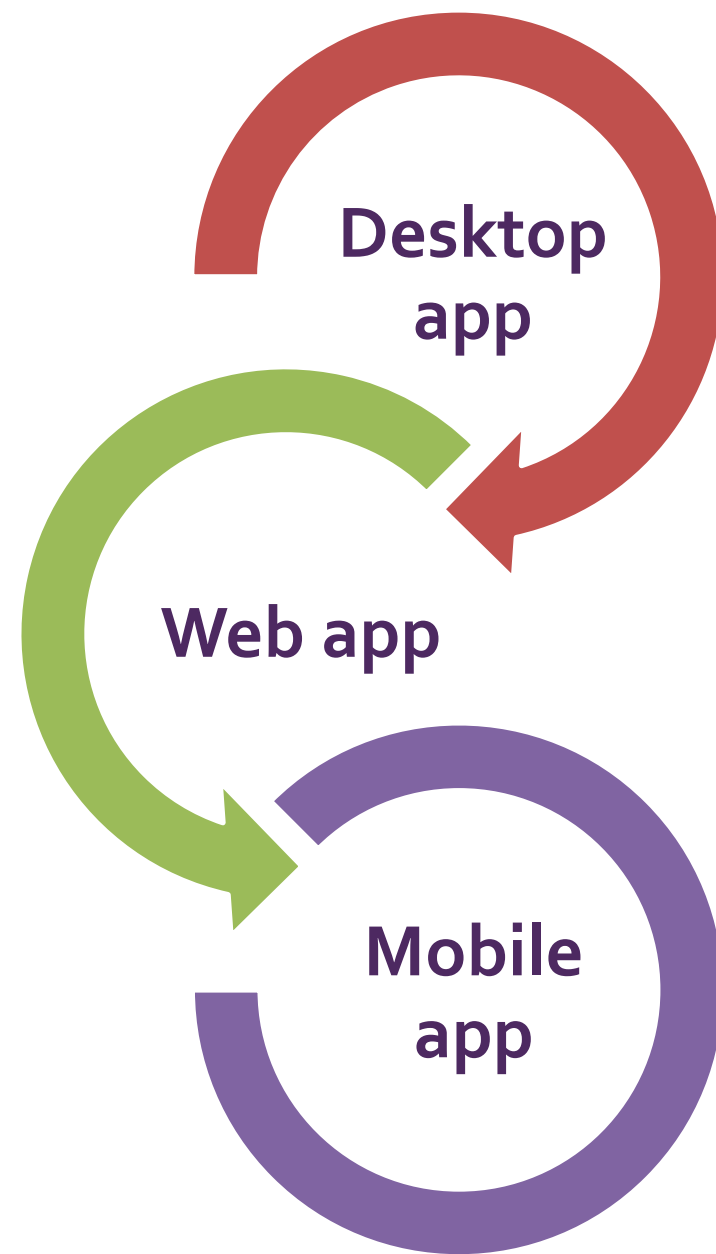
- Specific authorization to eNotarize in Notary statutes and/or rules
- Extensive statutes and administrative rules
- Specified electronic, seal attributes
- Notary must choose technology from commissioning officer's approved list
- Additional commission required
- Training required
- Detailed standards of practice

eNotarization — Basic Tools



- Device(s) — PC, laptop, tablet, phone.
- Web connectivity — secured (VPN).
- Notary eSignature, seal — stored on PC/laptop hard drive, thumb drive, cloud or vendor server.
- Journal — bound book or electronic depending on requirements. Electronic might be a simple electronic ledger, dedicated journal solution, or journal integrated into an eNotarization solution.

eNotarization — Technology Solutions



- Everything you need in one place:
 - eNotarization platform
 - Notary eSignature, seal
 - Electronic journal
 - Remote notarization platform
- Technologies can be:
 - Desktop apps (download to desktop)
 - Web apps (access online, log in)
 - Mobile apps (download app to phone)

Need Help Choosing Tools?

Review:

- Your state's statutes and rules for all requirements

Research:

- Your commissioning officer's recommendations or approved providers
- Other states' approved provider lists
- Notary association recommendations

Ask:

- Other eNotaries

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eNotarization — Notary's Fees

All statutory and rule requirements for charging fees apply to eNotary fees, too!

PLUS:



IF: Law/rules are silent on eNotary fees — charge no more than the maximum allowed for paper acts.

IF: Law/rules provide a maximum for eNotary fees, charge up to that fee. Fees are generally higher due to technology costs.



eNotarization – Typical Steps

- 1** Signer personally appears — Physical if an electronic notarization; by audio/video communication if a remote notarization
- 2** Initialize eNotarization platform — Ensure a secure web connection. Access technology app on PC desktop, browse to web app or activate mobile app
- 3** Display document onscreen — Retrieve document from source (email, thumb drive, cloud, eNotarization platform server)
- 4** Scan the document — Scroll through the document onscreen to ensure completeness, note the named signers, check notarial certificate, and observe all info needed for journal entry
- 5** Identify the signer — Signer physically present — same methods as for paper-based notarization. If remote, use ID methods prescribed by statute and rule. Remote notarization technologies typically include a compliant ID process.

eNotarization – Typical Steps

- 6** Document execution, verbal ceremony
Witness signer's electronic signature or take acknowledgment of previously signed document. Signer might type signature or use stylus, mouse, finger, etc., depending on the technology being used. Administer verbal ceremony for oath/affirmation (verification) or acknowledgment. Unnecessary for signature witnessing.
- 7** Complete the notarial certificate
Onscreen, enter required information to accurately complete the notarial certificate. Attach or logically associate official Notary signature and seal.
- 8** Create a record
Most all eNotarization and remote notarization solutions automatically create a journal record.
- 9** Distribute copies
Typically, eNotarization systems enable distribution of signed/notarized document copies.
- 10** End the session – log out, close application, etc.

Recap



- Parties who rely on Notaries are all in on everything “e” — Notaries must be all in, too.
- A Notary is a Notary is a Notary... the same fundamental duties are performed and the same assurances are produced, whether the notarization is traditional or electronic.
- You’re not in this alone! Use all the resources available to you to go boldly into the “e” world.



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Thank you!

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