

**PROOF OF EXECUTION BY SUBSCRIBING WITNESS
WITNESS SAW EXECUTION**

State of Colorado

County of _____

I, _____, hereby state under oath or affirmation, that I was duly sworn, and I attest, under penalty of perjury, that:

1. I was present and saw _____, principal, the same person described in and whose name is subscribed to the attached instrument, in his/her authorized capacity as a party thereto, sign and seal the said instrument, knowingly and willingly, and deliver the instrument to _____.
2. I subscribed my name to the attached instrument in attestation thereof, as a subscribing witness, in the presence and with the consent of the principal.
3. The description of the attached instrument is: _____

Subscribing Witness

On this day, _____, before me, _____, a notary public, personally appeared _____, personally known to me to be a subscribing witness to the instrument to which this certificate is attached, to wit:

[describe the instrument by dates and parties and state briefly to what it relates]

That said subscribing witness was lawfully sworn and examined by me, and his/her testimony was, by me, then and there reduced to writing, and was by said subscribing witness subscribed in my presence, and it appears from said testimony that said subscribing witness saw the person whose name is subscribed to said instrument, to wit, _____, sign, seal and deliver the same to _____, and said witness subscribed the said instrument in attestation thereof, in the presence and with the consent of the person so executing the same, to wit, the said _____.

Notary Signature (Seal)

My commission expires

**PROOF OF EXECUTION BY SUBSCRIBING WITNESS
ACKNOWLEDGMENT TO WITNESS**

State of Colorado

County of _____

I, _____, hereby state under oath or affirmation, that I was duly sworn, and I attest, under penalty of perjury, that:

1. I was not present and did not see _____, principal, the same person described in and whose name is subscribed to the attached instrument, in his/her authorized capacity as a party thereto, sign, seal and deliver the said instrument. The principal showed me the signed and sealed instrument, and I heard the principal acknowledge to me, that he/she signed and sealed the instrument, knowingly and willingly.
2. I subscribed my name to the attached instrument in attestation thereof, as a subscribing witness, in the presence and with the consent of the principal.
3. The description of the attached instrument is: _____

Subscribing Witness

On this day, _____, before me, _____, a notary public, personally appeared _____, personally known to me to be a subscribing witness to the instrument to which this certificate is attached, to wit:

[describe the instrument by dates and parties and state briefly to what it relates]

That said subscribing witness was lawfully sworn and examined by me, and his/her testimony was, by me, then and there reduced to writing, and was by said subscribing witness subscribed in my presence, and it appears from said testimony that said subscribing witness did not see the said _____, sign, seal and deliver said instrument to _____, but the said _____ showed said instrument to said subscribing witness and said that he/she signed and sealed it and that it was his/her free and voluntary act and deed, and that said witness subscribed said instrument in attestation thereof in the presence and with the consent of the person executing the same, to wit, the said _____.

Notary Signature (Seal)

My commission expires

Colorado Revised Statutes

38-30-136 - Subsequent proof of execution - proof or acknowledgment of copy.

(1) When any deed or instrument of writing has been executed and not acknowledged according to law at the time of the execution thereof, such deed or instrument of writing may at any subsequent time be acknowledged by the makers thereof in the manner provided in this article, or proof may be made of the execution thereof before any officer.

Such officer, when the fact is not within his own knowledge, shall ascertain from the testimony of at least one competent, credible witness, to be sworn and examined by him, that the person offering to prove the execution of such deed or writing is a subscribing witness thereto.

Thereupon such officer shall examine such subscribing witness upon oath or affirmation, and shall reduce his testimony to writing and require the witness to subscribe the same, endorsed upon or attached to such deed or other writing, and shall thereupon grant a certificate that such witness was personally known or was proved to him by the testimony of at least one witness (who shall be named in such certificate) to be a subscribing witness to the deed or instrument of writing to be proved, that such subscribing witness was lawfully sworn and examined by him, and that the testimony of the said officer was reduced to writing and by said subscribing witness subscribed in his presence.

(2) If by the testimony it appears that such witness saw the person, whose name is subscribed to such instrument of writing, sign, seal, and deliver the same or that such person afterwards acknowledged the same to the said witness to be his free and voluntary act or deed and that such witness subscribed the said deed or instrument of writing in attestation thereof, in the presence and with the consent of the person so executing the same, such proof if attested and the authority of the officer to take the same duly proved in the same manner as required in the case of acknowledgment, shall have the same force and effect as an acknowledgment of said deed or instrument of writing by the person executing the same, and duly certified.

(3) When any such deed or instrument of writing has been executed and recorded without due proof, attestation or acknowledgment as required by law, a certified copy from such record may be proved or acknowledged in the same manner and with like effect as the original thereof. No person shall be permitted to use such certified copy so proved as evidence except upon satisfactory proof that the original thereof has been lost or destroyed or is beyond his power to produce.

Delivery

Proper delivery of a deed from the grantor to the grantee is an essential element of its effectiveness. In addition, the grantor must make some statement or perform some act that implies his or her intention to transfer title. It is insufficient for a grantor to have the mere intention to transfer title, in the absence of further conduct that consummates the purpose.

There is no particular prescribed act, method, or ceremony required for delivery, and it is unnecessary that express words be employed or used in a specified manner. The deed need not be physically delivered to the grantee. It is sufficient to mail it to the grantee. Delivery of the deed by the attorney who has written the instrument for the grantor is also adequate. Unless otherwise provided by statute, a deed becomes effective upon its delivery date. The mere fact that the grantee has physical possession of the deed does not constitute delivery unless it was so intended by the grantor.

Acceptance

A deed must be accepted by the grantee in order for proper transfer of title to land to be accomplished. There are no fixed principles regarding what acts are sufficient to effect acceptance, since the issue is largely dependent upon the party's intent.

Acceptance of a deed need not be made by express words or in writing, absent a contrary statutory provision. A deed is ordinarily accepted when the grantee retains it or obtains a mortgage on the property at issue.

Recording

Legal policy mandates that a deed to real property be a matter of public record; therefore, subsequent to delivery and acceptance, a deed must be properly recorded.

The recording process begins when the deed is presented to the clerk's or recorder's office in the county where the property is located. The entire instrument is duplicated, ordinarily by photocopying. The copy is inserted into the current book of official records, which consists exclusively of copies of documents that are maintained and labeled in numerical order.

A properly recorded deed provides constructive notice of its contents, which means that all parties concerned are considered to have notice of the deed whether or not they actually saw it. A majority of jurisdictions place the burden upon home buyers to investigate any suspicious facts concerning the property of which they have actual or constructive notice. If, for example, there is a reference to the property for sale in the records to other deeds, the purchaser might be required to determine whether such instruments give rights in the property to other individuals.

A map referred to in a recorded deed that describes the property conveyed becomes part of the document for identification purposes.

The original copy of a deed is returned to the owner once it has been duplicated, recorded, and filed in the office of the recorder.

NNA Notary Home Study Course, Chapter 11: Proofs of Execution

Certificate for Proof of Execution

State of Colorado

County of _____

On this day, _____, before me, _____, a notary public, personally appeared _____, (subscribing witness) personally known to me (or proved to me on the oath of _____) to be the person whose name is subscribed as a witness to the foregoing instrument, and who, after being duly sworn or affirmed by me, stated under oath or affirmation that he/she saw _____ (principal), the person who executed the foregoing instrument, subscribe the same (or acknowledge in his/her presence having executed the same) for the purposes and considerations therein expressed, and that said witness signed the same instrument as a witness, in the presence and with the consent of the principal signer.

Notary Signature

Notary Seal

Do you solemnly swear or affirm that you saw _____ (principal) sign his/her name on this document?
Do you solemnly swear or affirm that you heard _____ (principal) say that he/she knowingly and willingly signed his/her name on this document?

Law Depot: Certificate of Proof of Execution by a Subscribing Witness

State of Colorado

County of _____

On the _____ day of _____, before me, the undersigned, personally appeared _____, of address _____, the subscribing witness to the foregoing instrument, with whom I am personally acquainted, who, being by me duly sworn, did depose and say:

that he/she resides at the above stated address;
that he/she knows _____ to be the individual described in and who executed the foregoing instrument;
that said subscribing witness was present and saw said _____ execute same; and
that said witness at the same time subscribed his/her name as a witness thereto.

Subscribed and sworn to, or affirmed, before me by _____ on this date _____.

Notary Seal
Notary Public

Cowdery's Form Book, Legal and Commercial, 1918

Form 101

Colorado Proof of Execution of Instrument by Subscribing Witness Where Witness is Known to Officer

State of Colorado

County of _____

On this day, _____, before me, _____, a notary public, personally appeared _____, personally known to me to be a subscribing witness to the instrument to which this certificate is attached, to wit:

[describe the instrument by dates and parties and state briefly to what it relates]

That said subscribing witness was lawfully sworn and examined by me, and his/her testimony was, by me, then and there reduced to writing, and was by said subscribing witness subscribed in my presence, and it appears from said testimony that said subscribing witness saw the person whose name is subscribed to said instrument, to wit, _____, sign, seal and deliver the same to _____, and said witness subscribed the said instrument in attestation thereof, in the presence and with the consent of the person so executing the same, to wit, the said _____.

Notary Signature

Notary Seal

Form 102

Colorado Proof of Execution of Instrument by Subscribing Witness, Acknowledgment to Witness

State of Colorado

County of _____

On this day, _____, before me, _____, a notary public, personally appeared _____, personally known to me to be a subscribing witness to the instrument to which this certificate is attached, to wit:

[describe the instrument by dates and parties and state briefly to what it relates]

That said subscribing witness was lawfully sworn and examined by me, and his/her testimony was, by me, then and there reduced to writing, and was by said subscribing witness subscribed in my presence, and it appears from said testimony that said subscribing witness did not see the said _____, sign, seal and deliver said instrument to _____, but the said _____ showed said instrument to said subscribing witness and said that he/she signed and sealed it and that it was his/her free and voluntary act and deed, and that said witness subscribed said instrument in attestation thereof in the presence and with the consent of the person executing the same, to wit, the said _____.

Notary Signature

Notary Seal

Form 103

Colorado Proof of Execution of Instrument by Subscribing Witness, Witness Proved to be a Subscribing Witness

State of Colorado

County of _____

On this day, _____, before me, _____, a notary public, personally appeared _____, who has proved to me by the testimony of _____ to be a subscribing witness to the instrument to which this certificate is attached, to wit:

[describe the instrument by dates and parties and state briefly to what it relates, and conclude as in preceding form]

Notary Signature

Notary Seal