

## WFG Informational Bulletin

To: All Florida Policy Issuing Agents of WFG National Title Insurance Company  
From: WFG Underwriting Department  
Date: July 21, 2021  
Bulletin No.: FL 2021-12  
Subject: Revisions to the Remote Online Notary Statutes

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On June 21, 2021, Governor DeSantis signed House Bill 121 (CS/HB 121) into law (hereinafter referred to as the “Bill”). The Bill revised several statutory sections of the remote online notary law, which will be effective on January 1, 2022. The following is a summary of the revisions to the RON statutory sections.

### **F.S. 117.021(4)**

Revised to provide that an online notary public shall select the technology to be used and no person or entity can require an online notary public to use a particular type of technology. However, the online notary public’s contract or employer may require the use of a particular technology.

### **F.S. 117.201(6)**

F.S. 117.05(5) provides that a notary public cannot notarize a signature on a document unless the notary personally knows the signor or has “satisfactory evidence” that the person signing is, in fact, the person described in the document. “Satisfactory Evidence” is defined in F.S. 117.05(5)(b)2c as a passport issued by a foreign government “if stamped by the United States Bureau of Citizenship and Immigration Services.” The Bill revised F.S. 117.201(6) regarding the definition of a government-issued identification credential i.e. a passport, to provide that for online notarization of a signor not located in the USA, a passport issued by a foreign government does not have to be stamped by the United States Bureau of Citizenship and Immigration Services.

### **F.S. 117.225(5)**

Revised to require that when a person is registering with the Department of State (hereinafter referred to as “DOS”) as an online notary public, the person must identify **all** RON service providers that the online notary public intends to use. This statute previously required the registrant to identify its “service provider” implying that only one RONSP could be used at a time.

**F.S. 117.231**

This statutory section was created to authorize remote administration of oaths for court proceedings, depositions, arbitrations, and for admission to the Florida Bar. The notary administering these oaths does not have to be an online notary public and does not have to use a RON service provider.

**F.S. 117.245(1)(e)**

Revised to clarify that evidence of the identity of the signor may either be by personal knowledge of the online notary public or by credential analysis and identity proofing.

**F.S. 117.245(2)**

Revised to change the responsibility for retaining the RON recording from the online notary public to the RON service provider.

**F.S. 117.245(4)**

Revised to authorize a RON service provider to contract with a secure repository to delegate to the repository the RON service provider's duty to retain the recordings of the audio-video sessions. Requires notice of the delegation to the DOS within 30 days of the delegation. The notice must include the effective date of the delegation, and the address and contact information for the repository. During the delegation, the repository has the responsibilities of the online notary public and the RON service provider to provide copies of the RON video to parties authorized by the RON statutes to receive copies of the RON recordings.

**F.S. 117.255(2)**

Revised to require a RON service provider to provide access to the RON video, or a copy upon request to the persons and entities listed in the statute.

**F.S. 117.255(3)**

Revised to authorize a RON service provider to charge a fee not to exceed \$20 for providing access to or copies of the audio-video communication records. However, such copies or access must be provided without charge to the parties listed in the statute.

**F.S. 117.265(5)**

Revised to create subsection "5(a)" to provide that an online notary public shall select the RON service provider to be used for the online notarization; and that a person cannot require an online notary public to use a particular RON service provider. However, the online notary public's contract or employer may require the use of a particular RON service provider.

**F.S. 117.275**

Prior to the Bill, this section provided that an online notary public could charge a fee not to exceed \$25 for performing an online "notarization". The Bill revised this section to change the word "notarization" to "notarial act"; and to provide that the \$25 limitation does not apply to the services of a RON service provider. Finally, this section was revised to confirm that a RON service provider's services are not closing services as defined under F.S. 627.7711.

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The Agent may be held responsible for any loss sustained as a result of the failure to follow the standards set forth above.**

## **F.S. 117.295**

Regarding the duties of the “DOS”, this section was revised to:

1. Create subparagraphs (2)(a) and (b). Subsection 117.295(2)(b) requires the DOS to publish on its website:
  - a. A list containing the names of each online notary public;
  - b. The online notary public’s RON service providers from January 1, 2022, and thereafter;
  - c. The effective dates when the online notary public used each RON service provider;
  - d. Any depositories whom the online notary delegated his / her duties to regarding storage of the RON video under F.S. 117.245(4) from January 1, 2022, and thereafter; and the effective dates of those delegations.

2. Revised section 117.295 to create subsections (4)(a) and (b). New subsection (4)(b) requires a RON service provider to file a self-certification with the DOS confirming that its audio-video communication technology and related processes, services, software, data storage and other services satisfy the requirements of the RON statutes and the rules adopted by the DOS. Each certification is effective for one year. Additionally, new subsection (4)(b) requires the DOS to publish on its website the RON service providers who have filed self-certifications, the dates of filing, and the names of any repositories to whom the RON service provider delegated its duties under F.S. 117.245(4) from January 1, 2022, and thereafter; and the effective dates of those delegations.

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