

## WFG Underwriting Bulletin



To: All Michigan Policy Issuing Agents of WFG National Title Insurance Company  
From: WFG Underwriting Department  
Date: March 6, 2020  
Bulletin No.: MI 2020-01  
Subject: The use of Electronic Notarization and Remote Online Notarization for transactions involving land in the State of Michigan

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The purpose of this Bulletin is to provide information and underwriting guidance for insuring land transactions located in the **State of Michigan**, involving Electronic Notarization and Remote Online Notarization (RON).

### **Notarization Background:**

The Michigan Department of State commissions notaries public. They are officers appointed by the Secretary of State to attest to the authenticity of a person's signature, administer oaths and witness acknowledgements in the State of Michigan. Traditional notarization on a document certifies that the person named on it appeared before the notary, displayed valid identification and was in the presence of the notary at the time of execution.

In an electronic notarization (eNotary or IPEN, In Person Electronic Notarization), the document being notarized is digital and the notary uses electronic signatures (a digital representation of a person's actual handwritten signature, executed by that individual with the intent to sign). This is an In-Person process, similar to a "wet ink" traditional notarization.

A remote notarization (or RON, Remote Online Notarization) is conducted through audio and visual equipment with the signer NOT in the physical presence of the notary public. The document being notarized is digital and the notary uses electronic signatures.

The State of Michigan amended its notary law in 2018, by Public Acts 360 and 361, to be in line with other states that have authorized electronic and remote online notarizations. To do this, the Secretary of State was authorized, with the assistance of the Department of Management and Budget, to evaluate and select vendor systems to be used in Michigan for performing electronic and remote online notarizations.

The Department of State has approved, as of the date of this bulletin, five eNotary vendor systems for use in Michigan, four of which also offer remote online notarization services. The following vendors have met the State of Michigan's requirements:

- eMortgageLaw – offers electronic notarization services only
- Nexsys – offers both electronic and remote notarization services
- Notarize – offers both electronic and remote notarization services
- NotaryCam – offers both electronic and remote notarization services
- Pavaso – offers both electronic and remote notarization services

Qualified Michigan notaries may contract with the vendor of their choice, which will require a fee. The Department of State does not provide access, training or determine the costs for these systems. The use of eNotary vendors is optional and no action is needed on the part of current commissioned notaries in order to continue performing traditional pen and paper notarizations. To be eligible to perform electronic and remote notarizations, these steps must be completed:

- If not already commissioned as a Michigan Notary Public, complete the process to become commissioned as a Michigan Notary Public.
- Select one of the state-approved electronic notarization systems/platforms from the above list. You must work with that vendor to purchase their system/platform directly.
- Complete and submit the forms provided on the Michigan Secretary of State website to identify the system/platform vendor with whom you have contracted, in order to qualify to perform electronic (eNotary or IPEN) and remote (RON) notarizations. The notary MUST file said forms, notifying the State of the system/platform contracted, BEFORE performing the first electronic or remote notarial act.

#### **WFG Underwriting Guidelines:**

In addition to the standard review of the chain of title and the documents intended to be executed at settlement, which will result in the issuance of WFG title policies, the following guidelines apply to underwriting and insuring land in the State of Michigan, and for settlements utilizing in-person electronic notarization (IPEN) or remote online notarization (RON) in the State of Michigan:

- In order to perform IPEN or RON, the notary MUST first comply with the rules set forth by the State of Michigan Secretary of State, shown above.
- In order to perform IPEN or RON, all parties to the transaction, most especially the Lender, MUST consent to said form of notarization.
- In order to perform IPEN or RON, or accept such notarized documents for settlement, the settlement agent MUST first verify with the Register of Deeds and Treasurer for the county, where the land to be insured is located, that said documents will be eligible for e-recording and e-Tax certification.
- The settlement agent MUST carefully review all written closing instructions to confirm that IPEN or RON will be acceptable.
- A duly qualified Michigan Notary MUST be located in the State of Michigan, in order to perform a RON or any form of notarization. However, the principal/signor need not be in the State of Michigan for such a RON notarization.

- DO NOT use RON for the execution of Powers of Attorneys (POAs), and DO NOT use RON for the execution of documents pursuant to a Power of Attorney.
- DO NOT use RON for the execution by Non-U.S. citizens. (A foreign citizen may not have enough credit information available to generate the necessary RON questions.)

**Note, at the present time: WFG's requirements in this bulletin for RON in Michigan are for transactions performed by a RON-qualified Michigan notary, physically located in Michigan at the time of notarization, although the principal(s)/signor(s) may be located elsewhere. Contact a WFG Underwriter regarding RONs involving non-Michigan notaries for Michigan transactions.**

NOTE: The information contained in this Bulletin is intended solely for the use of employees of WFG National Title Insurance Company, its title insurance agents and approved attorneys. Disclosure to any other person is expressly prohibited unless approved in writing by the WFG National Title Insurance Company's Underwriting Department.

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