

WFG Underwriting Bulletin



To: All Policy Issuing Agents and Direct Operations of WFG National Title Insurance Company
From: WFG Underwriting Department
Date: February 28, 2021
Bulletin No.: NB 2022-01
Subject: Underwriting Standards for Remote Online Notarizations

This Bulletin updates and supersedes WFG National Title Insurance Company's UNDERWRITING STANDARDS for the insurability of Remote Online Notarization transactions whether residential or commercial subject to specific state Underwriting Bulletins.

Except as specifically noted below, this Bulletin does not include emergency orders or hybrid, remote ink notarization (AKA "RIN", where the person executes a paper document, "appears" before a notary using a remote communication method (Skype, Zoom, Facetime, etc.) to acknowledge execution, and delivers the physical document to the notary for signature and affixing of any seal/stamp.)

This is a daunting and lengthy Bulletin which you will need to review in its entirety. However, a checklist is attached as Exhibit A to simplify your review process for each state.

The following Guidelines must be adhered to:

1. With certain exceptions found below, you may insure a transaction in which documents are acknowledged before a remote online notary (RON) provided the state where the property is located has enacted a remote online notary (RON) statute effective as of the closing date. A current list of such states is in Exhibit B.

You may be asked to insure a transaction in a state without an effective RON statute by taking exception to potential defects in the RON acknowledgement. You are NOT authorized to do so when you are:

- a. Issuing a loan policy to a Government Service Entity, "GSE" (Freddie/Fannie). The GSE's Secondary Market Guidelines prohibit such an exception for a RON-acknowledged loan document. No lenders will accept such an exception.

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- b. Issuing an ALTA 2021 Policy Form. The ALTA 2021 Policy Forms provide coverage for defects in RON-acknowledged documents as part of the Covered Risks.
2. Exceptions to your authority to insure:
 - a. State laws which limit specific transactions to “in person” or place specific closing locations must be followed. Additionally, some states prohibit the use of a RON for certain transactions. (Texas home equity loans and “A6” mortgages are examples of such laws).
 - b. In states where there is not an effective RON statute or regulations and for cash purchases or purchases where you are not issuing a loan policy, you may issue an Owner’s Policy to the buyer provided:
 - i. You are not issuing an ALTA 2021 Owners Policy or an ALTA 2021 Homeowners Policy; and
 - ii. You take exception in your commitment and the subsequent policy using this exception:

“The Company will not pay loss, damage, attorneys’ fees or costs for any reason as a result of the use of a remote online notary.”
 - iii. You must disclose this exception and obtain the written consent of the buyer to close.
3. You may not insure a transaction where a Virginia RON is used unless the property is in:
 - a. Virginia
 - b. Illinois and Florida, provided the clerk/recorder for the county where the property is located will accept the document acknowledged before the RON. This is a change from prior Bulletin on RON. We will no longer insure when RON is used when the property is located in Washington.

The Virginia statutes/regulations for RON are vague and confusing as to whether a Virginia RON has to conduct an in person verification of the person’s identity prior to taking their acknowledgment and affixing their signature/seal.
4. South Dakota RONs are not recommended, but may be used for South Dakota property. By statute, a South Dakota RON can only take the acknowledgment on a paper document and must personally know the party acknowledging execution.

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5. Each person who will be executing an instrument acknowledged before a RON may need to be a United States Citizen or a Resident Alien. Non-US Citizens may acknowledge execution of documents provided they have enough credit information to generate the multi-factor authentication questions which may be required by state statute and administered by the RON platform vendor.
6. If state statute requires approval of the RON platform vendor by the Secretary of State or other agency regulating notaries where the notary is commissioned, you must verify the vendor is approved prior to closing. If state statute requires the state regulator approve vendors and the state has not implemented rules approving vendors/remote notaries, contact the Underwriter for the state where the RON is appointed/commissioned.

In all other states, documents to be notarized must be executed and acknowledged via a RON platform which includes Knowledge Based Authentication, credential capture and analysis, signing, and notarization with a recorded video of the notarial acts.

In all cases, the RON may not use Skype, Facetime, Zoom or similar video conferencing software for RON notarizations unless specifically authorized by state statute.

7. The County where the real estate is located must accept electronically executed documents for filing, i.e., must accept "e-recordings" except as noted in Items 8, 9 and 10 below.
8. Florida, Idaho, Montana, Minnesota, North Dakota, Oklahoma, Tennessee, and Texas*:

A paper copy of the electronically executed/acknowledged document may be filed in counties without e-recording capability.

*Texas requires recording of a "Declaration of Authority" to file a paper copy of an electronically executed/acknowledged document.

9. Ohio:

You may not insure a RON transaction unless the county accepts e-recordings.

Ohio has a statute permitting a paper copy to be recorded in counties that lack e-recording capability which is not valid. (The statute is void as the Ohio Constitution prohibits legislation that contains more than a single topic. The Ohio "papering out" statute was passed as part of the State's Budget Bill.)

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10. If the state where the property is located requires witnesses to execute a deed or mortgage, the witnesses must be in the physical presence of the parties executing the document when these parties execute the document, unless the state has a specific statute allowing remote witnessing. (Florida has such a statute.) The witness(es) may utilize an electronic signature provided the RON vendor platform supports the use of remote witness signatures and complies with any additional state law requirements.
11. All parties to the transaction: buyer/borrower, seller, and lender must agree, in writing, to the use of a RON.

The lender's closing instructions must be reviewed carefully to ensure the closing instructions permit a RON acknowledged document(s). Many "standard" closing instructions are vague and/or inconsistent in a RON context.

12. You may be asked to insure a transaction where the parties have executed paper documents, delivered them to the remote online notary, and then the acknowledgment is taken remotely. (Remote ink notarization aka "RIN".)

You may not insure such a transaction unless the property and RON are in South Dakota or the state statute where the property is located specifically allows for such (Florida).

Many states have issued Executive Orders or enacted emergency legislation to enable RIN/RON acknowledgements. As these are issued/passed/expire, WFG will issue Underwriting Bulletins supplementing this Bulletin.

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Exhibit A

In order to have an insurable RON E-Closing, you must be able to answer “YES” to each of these statements.

_____ 1. The lender (if one is involved) approves the electronic signing, electronic notarization, electronic recording of documents, and approves the use of Remote Online Notarization, and there is nothing to the contrary in the written lender instructions.

_____ 2. Each person who is signing a document, will consent to E-Sign the document. Note that most e-signing software platforms capture their consent as part of the signing process.

_____ 3. The property is in a county/recording jurisdiction that is able to accept a completely electronic document for recording.¹

_____ 4. You are working with a notary, properly approved in their state of residency to provide RON notarizations. The Notary will physically be in their state of appointment at the time the RON services are provided.

_____ 5. The software platform being used for signing and RON notarization

- _____ a. has been approved by the Secretary of State or other State Agency which regulates the notary you are using (if such approval of software is required);
- _____ b. includes Knowledge Based Authentication, credential capture and analysis, signing, and notarization with a recorded video of the notarial acts.²
- _____ c. Is on the list of States attached as Exhibit B.

_____ 6. Any required witnesses to the signing will (a) be physically in the same place as the person signing at the time of signing; or (b) the property is located in Florida and a remote notary will comply with Florida’s remote witnessing standards. See Bulletin Paragraph 10.

_____ 7. You have carefully reviewed all written closing instructions, and had changes made appropriate to an e-signed, e-notarized, e-recorded and RON transaction.

_____ 8. The property is located in a states listed on Exhibit B.

¹ Florida, Idaho, Montana, Minnesota, North Dakota, Oklahoma, Tennessee, and Texas have statutes permitting the recording of a certified printout of an electronic document. This is at best a curative tool, but should not be relied upon in counties known not to be ready to accept an electronic recording.

² As a general rule, persons who are not United States Citizen or a Resident Alien rarely have sufficient information to formulate Knowledge Based Authentication questions.

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Exhibit B

Caution: The links provided below are believed to be legitimate. As always, exercise caution and take sound precautions before clicking on any link and or downloading any documents

States with effective RON Legislation as of 2-15-2022:

Alabama

While Alabama has a statute authorizing a form of RIN, do not insure a transaction using an Alabama remote notary without underwriting approval prior to closing the transaction.

Alaska

General: <https://ltgov.alaska.gov/notaries-public/resources-and-language-assistance/>

Arizona

General: <https://azsos.gov/business/notary-public/remote-enotary>

Arkansas

General: Scroll down for approved platforms:

<https://www.sos.arkansas.gov/business-commercial-services-bcs/enotary>

Colorado

Approved Vendors:

<https://www.coloradosos.gov/notary/pages/remote/public/providerList.xhtml>

Approved RONs:

<https://www.coloradosos.gov/notary/pages/public/remoteNotaryList.xhtml>

FAQs:

<https://www.sos.state.co.us/pubs/notary/FAQ/remote.html>

Florida (Remote Ink Notary and RON)

RIN Bulletins:

<https://wfgunderwriting.com/wp-content/uploads/filebase/florida/bulletins/FL%202020-11%20Remote%20Ink-Signed%20Notarization%20-%20RIN%20-%20RON%20-%20Partial%20RIN%20-%20Partial%20RON.pdf>

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(Florida, cont'd)

RON Bulletins:

<https://wfgunderwriting.com/wp-content/uploads/filebase/florida/bulletins/FL%202020-08%20Remote%20Online%20Notary%20RON%20Requirements.pdf>

Other Bulletins:

<https://wfgunderwriting.com/wp-content/uploads/filebase/florida/bulletins/FL%202020-09%20Remote%20Online%20Notary%20RON%20Florida%20Requirements%20Update.pdf>

Other Bulletins:

<https://wfgunderwriting.com/wp-content/uploads/filebase/florida/bulletins/FL%202020-03%20Remote%20Online%20Notary%20Law%20-%20Wells%20Fargo,%20Notary%20Certificate,%20Closing%20Instructions,%20RON%20.pdf>

Hawaii

Hawaiian Notaries are regulated by the Attorney General whose website provides next to no information other than read the RON statute and contact them,

Statute: https://www.capitol.hawaii.gov/session2020/bills/SB2275_HD2_.pdf

Attorney General:

<http://ag.hawaii.gov/notaries-public/>

Additional:

<https://www.nationalnotary.org/knowledge-center/remote-online-notary/how-to-become-a-remote-online-notary/hawaii>

Idaho

General:

https://sos.idaho.gov/notary/electronic_notary.html

Rules:

<https://adminrules.idaho.gov/rules/current/34/340701.pdf>

FAQ:

<https://sos.idaho.gov/notaries-apostilles-authentications/notary-public-faq-electronic/>

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Illinois

Statute: <https://www.ilga.gov/legislation/ilcs/ilcs5.asp?ActID=107&ChapterID=2>

Additional: <https://www.nationalnotary.org/knowledge-center/remote-online-notary/how-to-become-a-remote-online-notary/illinois#:~:text=Does%20Illinois%20allow%20remote%20online,the%20time%20of%20the%20act.>

Indiana

General: <https://inbiz.in.gov/certification/notary> Includes Approved Vendors

Iowa

General: <https://sos.iowa.gov/covid19/remotenotarization/form.aspx>

FAQ: <https://sos.iowa.gov/covid19/remotenotarization/faqs.html>

Kansas

Please scroll down the linked document to find the requirements for RON which include using an approved vendor.

General: <https://sos.ks.gov/business/notary.html>

Kentucky

General: <https://www.sos.ky.gov/bus/businessrecords/notaries/pages/default.aspx>

Louisiana

Bulletin: <https://wfgunderwriting.com/wp-content/uploads/filebase/louisiana/bulletins/LA%202022-01%20Louisiana%20Supplemental%20Underwriting%20Standards%20for%20Remote%20Online%20Notarization,%20RON.pdf>

Maryland

Bulletin: <https://wfgunderwriting.com/wp-content/uploads/filebase/maryland/bulletins/MD%202020-10%20Maryland%20New%20Notary%20and%20RON%20Statute%20-%20RULONA.pdf>

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Michigan

Bulletin: <https://wfgunderwriting.com/wp-content/uploads/filebase/michigan/bulletins/MI%202020-01%20MI%202020-01%20Electronic%20Notarization%20and%20Remote%20Online%20Notarization%20for%20land%20in%20Michigan,%20RON.pdf>

Minnesota

General: <https://www.sos.state.mn.us/notary-apostille/notary-help/remote-online-notarization-authorization/>

Training: <https://www.sos.state.mn.us/notary-apostille/notary-help/remote-online-notarization-training/>

Missouri

General: <https://www.nationalnotary.org/knowledge-center/remote-online-notary/how-to-become-a-remote-online-notary/missouri>

FAQ: <https://www.nationalnotary.org/knowledge-center/remote-online-notary/how-to-become-a-remote-online-notary/missouri#AdditionalFAQs>

Montana

Allows RON and “Remote Notarization”. Remote Notarization may only be used when the property is in Montana and the Notary is a Montana Notary physically located in Montana who is authorized to do Remote Notarization.

General: <https://sosmt.gov/notary/technology-based-notarization-remote-r-o-n-ipen/>

Nebraska

General: <https://sos.nebraska.gov/business-services/notary-public>

Nevada

General: <https://www.nvsos.gov/sos/licensing/notary/step-by-step-guide-to-enotary-registration>

FAQ: <https://www.nvsos.gov/sos/licensing/notary/enotary-faqs>

Vendors: <https://www.nvsos.gov/sos/licensing/notary/electronic-notary-solution-provider-information-1678>

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New Hampshire

General: <https://sos.nh.gov/administration/administration/electronic-and-remote-notarization/>

New Jersey

General: <https://www.state.nj.us/treasury/revenue/notary-public-law.shtml>

New Mexico

FAQ: <https://www.sos.state.nm.us/notary-and-apostille/notary-commissions/remote-online-notarization-faqs/>

North Dakota

General: <https://sos.nd.gov/notaries-public/remote-online-notarization>

Ohio

See Paragraph 10 above

General: <https://www.ohiosos.gov/notary/information/#electronic>

Oklahoma

General: <https://www.sos.ok.gov/notary/info/generalInformation.aspx>

Oregon

General: <https://sos.oregon.gov/business/pages/remote-online-notarization.aspx>

FAQ: <https://sos.oregon.gov/business/Pages/remote-online-notarization-faq.aspx>

Pennsylvania

Underwriting Bulletin:

<https://wfgunderwriting.com/wp-content/uploads/filebase/pennsylvania/bulletins/PA%202020-07%20PA%20Remote%20Notarizations%20Update;%20New%20Legislation,%20Remote%20Notarization,%20PA%20Notary,%20PA%20RON.pdf>

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South Dakota

South Dakota Remote Notaries may only notarize paper documents. See Paragraph 5

General: <https://sdsos.gov/general-services/notary-public/default.aspx>

FAQ: <https://sdsos.gov/general-services/notary-public/faqs.aspx>

Tennessee

General: <https://sos.tn.gov/products/business-services/online-notaries-public>

Texas

Bulletins:

<https://wfgunderwriting.com/wp-content/uploads/filebase/texas/bulletins/TX%202018-06%20Texas%20Remote%20Online%20Notaries,%20remote,%20online%20notary,%20Notary.pdf>

<https://wfgunderwriting.com/wp-content/uploads/filebase/texas/bulletins/TX%202020-02%202020%20Texas%20Remote%20Online%20Notarization%20Guidelines,%20RON,%20COVID-19,%20Coronavirus.pdf>

Utah

General: https://rules.utah.gov/publicat/bull_pdf/2019/b20190915.pdf

Vendors: <https://notary.utah.gov/2020/03/19/approved-remote-notary-vendors/>

Vermont

Vermont passed RON legislation in 2018; however, the effective date was postponed until such date as the Vermont Secretary of State enacted regulations. To date, no such regulations have been enacted. However, the Vermont Secretary of State enacted emergency RON regulations allowing RON acknowledgments through March 14, 2022.

You may check the current status of RON with the Vermont Secretary of State here:

<https://sos.vermont.gov/notaries-public/>

Virginia

See limitations in Paragraph 4 above.

Washington

General: <https://www.dol.wa.gov/business/notary/nremote.html>

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West Virginia

Contact Underwriting Counsel for Requirements

Wisconsin

General:

https://www.wdfr.org/apostilles_notary_public_and_trademarks/pdf/Remote%20Online%20Notarization%20-%20Guidance%20for%20Notaries.pdf

Wyoming

Wyoming allows both RON and RIN

General:

https://sos.wyo.gov/Services/Docs/New-Notary-Law-Highlights_Effective-07.01.2021.pdf

Additional:

<https://www.wyomingbar.org/changes-to-wyoming-notary-laws/>

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