

WFG Underwriting Bulletin



To: All New Hampshire Policy Issuing Agents of WFG National Title Insurance Company;
All WFG Policy Issuing Agents; All WFG Title Examiners and Officers

From: Underwriting Department

Date: February 4, 2022

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Subject: Coming Soon - Remote Online Notarization (“RON”) in New Hampshire

New Hampshire [Senate Bill 134](#) was signed into law on August 10, 2021 and among other things, amended the state’s statutes to allow for remote online notarization and recording of electronic documents. These provisions become effective February 6, 2022. A summary of the bill can be found below. Unfortunately, the statute lacks sufficient detail as to the required RON procedures. However, the statute permits the New Hampshire Secretary of State to prescribe various rules regarding performance of the RON act, standards for the communication technology used for RON and required identity proofing. As of the date of this Bulletin, the Secretary of State’s Office has not released these rules. Based on discussions with the Secretary of State’s Office, these rules are in the final draft stage and will be available soon.

Until the Secretary of State promulgates these rules, WFG agents in New Hampshire may not issue WFG policies insuring transactions utilizing RON. Once these rules are published, further underwriting guidance will be provided.

Summary

Newly enacted NH [RSA 456-B:6-a](#) authorizes notaries located in New Hampshire to perform notarial acts for a Remotely Located Individual¹ using technology allowing the individual and notary to visibly and audibly communicate simultaneously if:

1. The Notary has personal knowledge of the individual’s identity, or
2. Has satisfactory evidence of the identity of the remotely located individual by oath or affirmation from a credible witness appearing before the notary public, pursuant to [RSA 456-B:2-b](#), or this section, or
3. Has obtained satisfactory evidence of the identity of the remotely located individual using at least two different types of identity proofing²; and

¹ Defined as an individual who is not in the physical presence of the notary public who performs a notarial act.

² Identity proofing is a process or service by which a third person provides a notary public with a means to verify the identity of a remotely located individual by a review of personal information from public or private data sources. [RSA 456-B:6a\(I\)\(c\)](#).

4. The notary is able to reasonably confirm that the record³ being notarized is the same record being signed by the remote individual; and
5. An audio visual recording of the notarial act is created and retained for 10 years; and
6. Notary seal/stamp must be affixed by use of a digital certificate that must contain the following additional statement “This notarial act involved the use of communication technology”; and
7. Notary must keep a journal⁴ of all RON’s performed for 10 years from date of last act logged in the journal. The journal may be kept digitally in a tamper evident format or in a permanent bound register, with numbered pages, but not both.

If the remotely located individual is located outside of the United States, the record must:

1. Relate to a matter before a public official or court, governmental entity, or other entity subject to the jurisdiction of the United States; or
2. Involve property located within the territorial jurisdiction of the United States, or involve a transaction substantially connected with the United States; and
3. The act of making the statement or signing the record can’t be prohibited by the laws of the jurisdiction where the remotely located individual is.

The notary must inform the Secretary of State they intend to perform remote notarization and identify the technologies they intend to use before performing a remote online notarial act. The technology must meet the standards set forth by the Secretary of State.

[RSA 456B:8-d](#) validates the notarial act if the notary fails to perform a duty or meet a requirement specified by law. This does not validate RON performed by an individual who is not authorized to perform notarial acts.

The bill also enacted the Uniform Real Property Electronic Recording Act ([RSA 478-A](#)), effective February 6, 2022. [RSA 478-A:3](#) provides electronic documents are considered originals for purposes of recording, electronic signatures are considered signatures for the purposes of recording and RON satisfies the requirement of notarization and acknowledgement for purposes of recording. A tangible copy of an electronic document⁵ is required to be recorded if a notarial officer certifies it is an accurate copy of the electronic document.

³ Record is defined as information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form

⁴ Journal entry to be made contemporaneously with notarial act and contain (a) The date and time of the notarial act; (b) A description of the record, if any, and type of notarial act; (c) The full name and address of each individual for whom the notarial act is performed; (d) If identity of the individual is based on personal knowledge, a statement to that effect; (e) If identity of the individual is based on satisfactory evidence, a brief description of the method of identification and the identification credential presented, if any, including the date of issuance and expiration of the identification credential; and (f) The fee, if any, charged by the notary public.

⁵ Other than plats, maps, surveys or plats of land under 478:1-a

Underwriting requirements for RON in New Hampshire will be circulated when the Secretary of State promulgates RON standards.

Should you have any questions, please don't hesitate to reach out to one of our New Hampshire underwriters.

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NOTE: This Bulletin should not be interpreted as reflecting negatively upon the character of an individual or entity mentioned herein and is for the sole purpose of establishing underwriting positions and policies reflecting WFG National Title Insurance Company's best business judgment. 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.