



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: March 21, 2022  
Bulletin No.: NH 2022-02  
Subject: UPDATED - Remote Online Notarization ("RON") in New Hampshire

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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<sup>1</sup> and recording of electronic documents<sup>2</sup>. These provisions became effective February 6, 2022. A summary of the bill can be found in [Underwriting Bulletin NH 2022-1](#). Since the release of that bulletin, the New Hampshire Secretary of State's Office has released its requirements for compliance with RON. This Bulletin sets forth not only those requirements, but the requirements for our agents to issue policies for a transaction based upon documents which are notarized utilizing RON in New Hampshire.

**Commented [LS1]:** Suggestion – include a definition of RON in a footnote. Remember, not everyone who works for one of our agents knows or understands what RON is. Yes, they can go back to the previous bulletin

#### Underwriting Standards for RON in New Hampshire

WFG will insure transactions for New Hampshire properties utilizing RON when each of the following requirements are met:

1. The notarial officer utilizing RON has been appointed under NH law and has informed the Secretary of State they intend to perform remote online notarial acts. Verify by checking [this website](#)<sup>3</sup>.
2. The notarial officer is using one of the RON platforms approved by the Secretary of State and is physically located in NH at the time of the notarial act. Approved RON platforms can be verified by checking [this website](#)<sup>4</sup>.
3. The notarial officer has a current and valid digital certificate complying with the X.509 standard adopted by the International Telecommunication Union. A list of X.509 standard digital certificate providers accredited by the private non-profit standards body, Direct Trust, is available [here](#)<sup>5</sup>.

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<sup>1</sup> Remote Online Notarization, or RON, is the use of audio/visual technology to complete a notarial act when the principal is not in the same physical location as the notary public.

<sup>2</sup> "Electronic document" means a document that is received by the register of deeds in an electronic form. RSA 478-A:2(III).

<sup>3</sup> <https://sos.nh.gov/administration/administration/electronic-and-remote-notarization/users-of-e-notarization/>

<sup>4</sup> <https://sos.nh.gov/administration/administration/electronic-and-remote-notarization/technology-providers/>

<sup>5</sup> <https://directtrust.org/about-membership/member-list#dt-accredited-ca>

4. The notarial certificate contains the following additional statement: “This notarial act involved the use of communication technology”. Statutory notarial certificates are located [here](#)<sup>6</sup>.
5. The notarial officer confirms the identity of the remotely located individual<sup>7</sup> using two forms of identity proofing<sup>8</sup>, through an approved RON platform and reviews a valid government issued picture identification that undergoes credential analysis through the approved RON platform.
6. The notarial officer affixes their digital signature, seal and digital certificate to the notarized document after confirming the document is the same document signed by the remotely located individual.
7. The notarial acts are captured in an audio/video recording, which is retained for ten years.
8. The notarial officer maintains a journal for ten years.
9. All parties, including the lender (if one is involved) expressly approve the use of RON. If the lender does not use eNotes<sup>9</sup>, the agent may not disburse funds until they have received the original wet ink note.
10. All written closing instructions are carefully reviewed and appropriate modifications are requested and made as needed to authorize RON.

*Restrictions on use of RON:*

RON may not be used for execution of a power of attorney that will then be used to execute other transaction documents. If the principal is available to execute a POA by RON, we want to understand why the entire transaction can't be executed by the principal using RON.

WFG will NOT rely for vesting of property on a will, trust agreement or termination of trust which has been e-signed, whether or not acknowledged by RON, without express underwriter approval.

**Conducting RON's in New Hampshire.**

*Physical presence requirement:*

The notarial officer must be physically present in New Hampshire. The person whose signature is being notarized does not need to be physically present in New Hampshire or even in the United States.

*Notification Requirements:*

Prior to performing any electronic or remote notarial act, the notarial officer must inform the Secretary of State they intend to do so and identify the technologies they will use. The form for notifying the secretary of state is located [here](#).

<sup>6</sup> <http://www.gencourt.state.nh.us/rsa/html/XLII/456-B/456-B-8.htm>

<sup>7</sup> Defined as an individual who is not in the physical presence of the notary public who performs a notarial act.

<sup>8</sup> 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\(\)\(c\)](#).

<sup>9</sup> An eNote is simply an electronic promissory note containing all of the same information in a traditional promissory note, but it is created signed and managed digitally. eNotes are stored electronically in a MERS approved eVault and registered in the MERS eRegistry.

**Commented [LS2]:** If WFG will not rely, then we will not insure and agents are not authorized to issue policies based upon ... Is this in the statute or an underwriting decision by us? This is the language used in Underwriting Bulletin 2018-06 (page 4, paragraph 4).

*Approved technology providers:*

All documents to be notarized must be executed and acknowledged via a RON platform approved by the Secretary of State which includes Knowledge Based Authentication, Credential capture and analysis, signing, and notarization with a recorded video of the notarial acts. Notaries may not use Skype, Facetime, Zoom or similar video conferencing software for RON notarizations.

At this time, six companies have been approved by the NH Secretary of State. These companies are [BKFS Services LLC](#), [Corporation Service Company](#), [Cyberize It LLC](#), Guardian Consumer Services, Inc. DBA [Pavaso](#), Inc. [E-Notary Seal LLC](#) and [Stavvy, Inc.](#) An up to date list of approved providers can be reviewed [here](#). Any transaction to be insured utilizing RON must utilize the services of an approved provider.

*Tamper Evident Technology:*

The notarial officer is required to have a current and valid digital certificate complying with the X.509 standard adopted by the International Telecommunication Union. A list of X.509 standard digital certificate providers accredited by the private non-profit standards body, Direct Trust, is available [here](#).

*Identity of the person seeking notarization:*

The notarial officer must determine, by satisfactory evidence, that the individual appearing before the officer and making the acknowledgment has the identity claimed and that the signature on the instrument is the signature of the individual. The notarial officer must also reasonably confirm the record being notarized is the same record being signed by the remotely located individual. A notarial officer must obtain satisfactory evidence of the identity of a remotely located individual through an approved RON provider, which includes credential analysis<sup>10</sup> and knowledge based authentication<sup>11</sup>. **If a remotely located individual must exit the signing session, the remotely located individual must restart credential analysis and identity proofing from the beginning.**

*Notarial Certificate:*

The notarial certificate must include the following additional statement: “This notarial act involved the use of communication technology”. Best practice would be to also identify the platform being used by the notary, although that is not required.

*Journal requirement:*

Notary must keep a journal<sup>12</sup> 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,

<sup>10</sup> Credential Analysis is a process or service, in which a third party aids a public notary in affirming the validity of a government-issued identification credential and data thereon through review of public or proprietary data sources.

<sup>11</sup> Knowledge-based authentication (KBA) is a security measure that identifies end users by asking them to answer specific security questions in order to provide accurate authorization for online or digital activities.

<sup>12</sup> 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

**Commented [LS3]:** The digital certificate is attached and/or “printed” on the electronic document. Does the notary “sign” it using a digital signature created with the RON platform or using only the digital certificate?

with numbered pages, but not both. This journal is separate from any journal used to log standard in-person notarizations. Most RON providers offer storage for at least ten years as part of their basic fee.

*Audio Visual Recording Requirements:*

The notarial officer is required to create an audio-visual recording of the performance of all remote notarial acts and retain it for a period of 10 years. The notary may engage a third party provider to retain the video.

**Recording RON document:**

Once properly executed and notarized, the electronic document can be recorded in the same manner as a **tangible document**.

If e-recording is not available, the notarial officer may certify a tangible copy of the electronic document is an accurate copy of the electronic document. The tangible copy can then be recorded.

The following is a best practice step-by-step process for certifying a tangible copy (i.e. a paper printout) of an electronic document:

1. The person requesting the notarial act must appear before the notarial officer, either in person or by using communication technology;
2. Properly identify the person requesting the notarial act;
3. Record the details of the notarial act in journal;
4. Reasonably determine whether the electronic document has been tampered with or altered;
5. Personally print or supervise the printing of the electronic document onto paper or other tangible medium; and
6. Complete and sign the notarial certificate on or attached to the tangible document.

*Consent requirements:*

All parties to the transaction must consent to the use of RON. The agent must carefully review all written closing instructions and ensure the instructions allow the use of RON. The agent must request and receive modified closing instructions if necessary to authorize RON.

*Requirements for RON with tangible documents:*

Although not as convenient as RON with electronic documents, RON can be used for notarizing wet ink signatures. Remote notarization of tangible documents can be performed as follows:

A signer affixes a wet-ink signature to a paper document that is physically sent to the notary public, who then obtains the signer's acknowledgment by use of an audio-visual session that meets all of the identification, recording, and journal requirements for a remote notarization. Then the notary also wet-signs and stamps the paper document, which can then be recorded.

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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.

**Commented [LS4]:** This section is confusing.

**Commented [LS5]:** Reference to tangible document as being a tangible copy of the electronic instrument but then below you reference tangible records. See if you can define them a little more succinctly.

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

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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.**