

## WFG Underwriting Bulletin



To: All New Jersey Policy Issuing Agents of WFG National Title Insurance Company

From: WFG Underwriting Department

Date: April 15, 2020

Bulletin No.: NJ 2020-03

Subject: Temporary Remote Online Notary (RON) Statute Enacted in New Jersey for the Duration of the Public Health Emergency and State of Emergency

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As one of many emergency virus-response measures, New Jersey just passed a law that temporarily allows the use of Remote Online Notaries (RON) which takes effect immediately and will last for the duration of the public health emergency and state of emergency declared by the Governor in Executive Order 103 of 2020.

This temporary new law supplements the current notary public law contained in Title 52 of the Revised Statutes. Assembly Bill A-3903/Senate Bill S-2336, [NJ - RON bill](#), was signed into law by the governor on April 14, 2020, and is effective now.

A RON transaction is when an individual is not in the physical presence of the notarial officer. So, a person located in Michigan will be allowed to use communication technology, like a webcam connected to a computer, to “appear” in front of a notary who is located in New Jersey.

Under this new temporary law, a notary public who is currently commissioned as a notary public pursuant to the Notaries Public Act of 1979, NJSA 52:7-10, et seq., may perform remote notarial acts using communication technology for a remotely located individual if:

1. The notary:
  - a. has personal knowledge of the identity of the individual appearing before the notary;
  - b. has satisfactory evidence of the identity of the remotely located individual by oath or affirmation from a credible witness appearing before the notary; or
  - c. has obtained satisfactory evidence of the identity of the remotely located individual by using at least two different types of identity proofing;
2. the notary is reasonably able to confirm that a record before the notary is the same record in which the remotely located individual made a statement or on which the remotely located individual executed a signature.
3. The notary, or a person acting on their behalf creates an audio-visual recording of the performance of the notarial act;

4. For a remotely located individual who is located outside the United States:
  - (a) The record:
    - (i) Is to be filed with or relates to a matter before a public official or court, government entity, or other entity subject to the jurisdiction of the United States; or
    - (ii) Involves property located in the territorial jurisdiction of the United States or involves a transaction substantially connected with the United States; and
  - (b) The act of making the statement or signing the record is not prohibited by the foreign state in which the remotely located individual is located.

This temporary law does not apply to any statutes, rules or regulations that deal with adoptions, divorce or family law, nor does it apply to sections of the Uniform Commercial Code (U.C.C.) dealing with Sales or Leases.

If a notarial act is performed remotely under this temporary law, the notarial certificate and name affixation required under current law is required to indicate thereon that the notarial act was performed using communication technology. Although the new law does not require any specific language or include any examples of such a notarial certificate, it is presumed that the following statement will satisfy that requirement – “This notarial act involved the use of communication technology.”

The New Jersey State Treasurer may establish rules and regulations related to RON, in order to:

1. Prescribe the method of performing a notarial act using communication technology;
2. Create standards for the communication technology and identity proofing;
3. Establish standards and a time period for the retention of an audio-visual recording that will be required under the law, which is currently set at 10 years;

As this is written, no rules or regulations are completed.

This new law does not specify or require the use of any particular RON Vendor, so until rules are adopted by the State Treasurer in regard to same, as indicated in WFG National Bulletin NB 2020-05 [NB 2020-05](#), WFG agents may utilize any of the following RON Vendors:

DocVerify  
Nexsys® Clear Sign  
Notarize  
NotaryCam®  
Pavaso®

If the State Treasurer does adopt rules that approve specific RON Vendors, then those are the vendors that must be used, which most likely will be one or more from the list above, but no guarantees on that.

The use of Skype, Facetime, Zoom or similar video conferencing software is not permitted.

All parties to the transaction: buyers/borrowers, sellers and lender must agree, in writing, to the use of a RON. And the lender’s closing instructions must be reviewed carefully to ensure the closing instructions

permit a RON acknowledged document. We are advised that some major lenders will not allow any RON acknowledged documents so please be aware and confirm prior to closing.

As this new law is only temporary and is designed to last only for the duration of the public health emergency and state of emergency as declared by the Governor, it is assumed that other RON legislation will soon be signed into law to make RON permanent.

We will supplement this bulletin if and when the New Jersey State Treasurer publishes the rules and regulations required by the new law.

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.**