

The Remote Online Notarization Landscape for State Government

Introduction

For states, a notarization is the act of signing an official government document in the presence of a state-licensed individual known as a notary public. Notaries verify the signer's identity, witness the document being signed, affix a notarial seal to the document and record the transaction in a journal.

The scope of documents that require notarization include everything from power of attorney, affidavits, leases, permits and closing documents, releases and waivers, settlement agreements, court filings, and more. **Over a billion documents**¹ are notarized each year in the United States.

Historically, notarizations have been conducted on paper and in person, which can be costly and time-consuming for all parties involved. But as electronic notarization technologies and associated legal principles have become more familiar, these traditional manual and paper-based processes are being replaced by digital remote solutions.

Over the past several years states began authorizing the use of remote online notarization (RON), which refers to the process of having a notary public perform a notarial act when the person seeking the notarial act is not in the same physical location as the notary public. This notarial act is conducted remotely through the use of electronic signature, identity verification, audio-visual and electronic notarial journal and recordkeeping technologies.

One of the most common questions government leaders have about RON is whether it's legal and admissible in a court of law. Over the past several years, the landscape of electronic notarization has evolved, and as a result states have been passing legislation to allow more efficient and convenient ways to perform notary transactions.

This whitepaper explores how RON can serve as a secure solution to remotely and electronically notarize documents. It also provides an overview of the trends around RON legislation across state lines, how to ensure a notarial act is properly executed in any given state, the requirements that make RON a secure transaction, and future legislation.

¹ "Online notarizations usher in era of trusted transactions," Housing Wire, last modified December 1 2020, <https://www.housingwire.com/articles/online-notarizations-usher-in-era-of-trusted-transactions/>

Overview of RON legislation trends across state lines

Laws governing RON generally begin with the foundational laws established over the past 20 years, governing the use and validity of electronic records and signatures. These laws establish the core principles—such as technology neutrality, auditability, security and data privacy—for legally enforceable electronic transactions.

In more recent times, the COVID-19 pandemic created temporary orders to allow for remote notarization on the state-level. Some of the mandates during this time were RON, Remote Ink-Signed Notarization (RIN), or mandates that only enabled certain documents to be signed electronically.

Lately there has been a more unified remote notarization approach across states. As a result, [42 U.S. states](#)², along with the District of Columbia, have passed legislation permanently enabling notaries to utilize electronic notarization to remotely notarize documents through a RON. Many of the states have based their laws on the Uniform Notarization Act.

The most recent legislative milestone concerning RON is known as the Revised Uniform Law on Notarial Acts of 2021 (RULONA)³. Published by the Uniform Law Commission (ULC), RULONA allows states to adopt and enable RON, and provides certainty around performing notarial acts, even when completed on an electronic record or if the signer is remotely present via audio-visual technology.

Most of the remaining states have similarly authorized notaries to perform RON through executive orders or temporary legislation. And the few states that have not yet fully adopted RON at least have statutes that recognize out-of-state notarial acts.

Generally, as long as RON has been completed in accordance with all laws in the state in which the notary public is seated and commissioned, the remotely and digitally notarized document is legally admissible, like traditionally notarized documents—and should be recognized as such anywhere in the country.

Common standards requirements for RON

It is important to note that every state that has passed its own RON legislation has its own set of RON requirements. But at a high level, these are the common requirements:

- Notaries must be commissioned and seated in the state to perform RON ceremonies
- RON platforms must utilize two-way, audio-visual communication
- Signers must present a government issued identity document such as a passport or driver's license, which requires the use of credential analysis technologies for true ID verification
- RON platforms must be able to apply digital signatures and digital seals

² "Remote Online Notarization Legality Guide", DocuSign, last modified August 1, 2022, <https://www.docuSign.com/how-it-works/legality/global/united-states/ron>

³ "Law on Notarial Acts, Revised (2021)," Uniform Law Commission, last accessed January 19, 2023, <https://www.uniformlaws.org/committees/community-home?CommunityKey=e5350d2e-df77-4dfd-8cf0-eeef41cc09f1#:~:text=Description&text=The%20Revised%20Uniform%20Law%20on,a%20copy%20of%20a%20document>

Examples of RON government benefits and use cases

With RON, state and local employees can conduct remote online notarizations securely and efficiently by leveraging a trusted e-signature platform. This method also supports a better, modern approach that avoids delays, enhances the constituent experience, and preserves an auditable record of the notarial transaction. Using RON, agencies can:

- **Create convenient experiences:** RON helps agencies meet constituents' growing expectations for convenient, digital experiences
- **Reduce turnaround times:** Eliminate logistical challenges associated with onsite signing to help ensure documents are notarized quickly and accurately
- **Ensure reliable identification:** Government agencies can be confident that their notaries public are accurately and reliably identifying signers
- **Preserve the record:** Government officials can securely store and readily access clear, complete, and audit-ready documentation of every notarization

There is a wide range of RON use cases that can help state agencies achieve all of the benefits highlighted above. These include:

- **Right-of-way easements:** This process typically requires a notary to be present while the right-of-way easement is prepared and signed for the record.

While this is a cumbersome and potentially error-prone process, today's RON solutions include easy-to-use fields and templates that make it simple for government notary staff to efficiently prepare documents to be signed and notarized digitally

- **Legal documents:** Virtually every legal jurisdiction requires affidavits to be notarized prior to submission as evidence in court. The identity of the signer is extremely critical in notarized affidavits.

Today's leading RON providers are able to mitigate the risk of identity fraud by using both identity verification and knowledge-based authentication in a single platform.

- **Secretary of State and City Clerk offices:** A high-ranking government official, often the Secretary of State, is responsible for the administration of notaries public, and therefore determines which documents require the notary seal. The city clerk needs to be able to track these in a central repository.

Certain RON solutions allow notaries to preserve a robust audit trail of every notarial transaction. This includes a Certificate of Completion for each notarial transaction as well as long-term storage of the encrypted audio-visual recording and electronic journal.

The future of RON

On July 27, 2022, the U.S. House of Representatives passed the Securing and Enabling Commerce Using Remote and Electronic (**SECURE**) Notarization Act of 2022⁴, which would allow the use of RON in all 50 states if signed into law.

The SECURE Notarization Act would require U.S. states to recognize notarizations that occur in or affect interstate commerce and allow a notary public to use RON with individuals located outside of the U.S.

The SECURE Notarization Act creates a minimum standard establishing the use of RON throughout the U.S. This legislation is very similar to the Electronic Signatures in Global and National Commerce Act (ESIGN) of 2000, which grants e-signatures and records the same legal effect as handwritten signatures and paper documents for most consumer and commercial transactions, and permits a notary to sign electronically.

To find out how your state can get started with RON, visit:

<https://www.docusign.com/how-it-works/legality/global/united-states/ron>

⁴ "H.R. 3962, SECURE Notarization Act of 2022," Congressional Budget Office, last modified November 17, 2022, <https://www.cbo.gov/publication/58790>

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