

NOTARY NEWS: TO THE INTERNET AND BACK

Hilary S. Vaughn
Holland & Hart LLP

I. What is Remote Online Notarization?

“Remote online notarization” (shorthand “RON”), also known “remote notarization” is a notarization by a notarial officer that involves the use of audio-video communication technology allowing for simultaneous communication by sight and sound to conduct the notarization. The person signing, acknowledging, or attesting to a document is “remote” from the notary because he or she is not physically present during the notarization, as required by current law.

II. Status of Legislation

- A. The relevant law governing notarial practices is that of the state where the notary is located and licensed.
- B. Model RON bills have come through two channels: The Uniform Laws Commission and the Mortgage Bankers Association/American Land Title Association. Model bills can be found at www.alta.org or www.uniformlaws.org.
 1. The ULC’s Revised Uniform Law on Notarial Practices (RULONA) was promulgated in 2010 to revise and update the 1984 Uniform Law on Notarial Acts. RULONA was amended in 2016 to include a section addressing RON. Idaho adopted RULONA in 2017 *without* the RON provisions (reserved).
 2. The MBA/ALTA model bill was generated in 2016 when Texas sought to pass legislation permitting RON. At its 2018 annual meeting, the ULC again revised RULONA’s RON provisions to substantively match the MBA/ALTA model bill, fitting within RULONA’s existing framework.
 3. Montana and Virginia each passed RON legislation independent of either of the proposed options, with extremely differing results.

III. Components of Model Bills

- A. Simultaneous audio-visual communication satisfies the “in person” presence requirement under existing laws.
- B. Multi-factor authentication is required. This means that some combination of two or more of the following are present:
 1. Notary’s personal knowledge of the person signing, acknowledging, or attesting;
 2. Remote presentation of government-issued identification with third-party verification of identification (“credential analysis”); and/or

3. Identity proofing through knowledge-based authentication (something the signer knows) or biometric factors (something the signer is).
- C. The certificate must indicate that the record was electronically notarized. The model bills also provide an optional “papering out” method where the document is notarized, printed, and then re-notarized as a true and complete copy of an electronic original.
- D. Authority for implementation of rules governing technical standards is delegated to the appropriate commissioning official in the state—in Idaho, the Secretary of State. RULONA would delegate the following to the Secretary of State:
1. To proscribe the means of performing a RON;
 2. To establish standards for communication technology and identity proofing;
 3. To establish requirements or procedures to approve providers of communication and identity proofing technologies; and
 4. To establish standards and a period of time for the retention of an audio-visual recording.
- E. More acronyms:
1. Each of the model laws are compatible with existing UETA and E-SIGN statutes, which govern electronic signatures on documents.
 2. Industry groups that have a significant amount of weight with respect to the regulations that will govern RON methods, technology, and enforcement are the National Association of Secretaries of State (NASS) and the Mortgage Industry Standards Maintenance Organization (MISMO).

IV. Questions? *Thank you!*