

# Remote Online Notarization FAQs

## **Background**

### **Question: What is a notarization? What does a notary do?**

Notarization is an anti-fraud measure. A notarization is performed by a government-authorized person called a notary. A notary's job is to verify a signer's identity, to witness the signing of a document or take the acknowledgment of the signer, and to provide an independent and neutral check on the mental capacity of the signer. Notaries indicate they have performed these tasks by affixing their signature and notarial stamp or seal to a document. Notarizations have evidentiary value in court because they are considered self-authenticating.

### **Question: Why do documents need to be notarized?**

Notarization helps provide confidence that a document was actually signed by the person named in the document. Many state laws require notarizations to make documents legally effective or binding on third parties. Examples include recorded deeds and mortgages and durable or health care powers of attorney.

### **Question: How does a notary identify a signer in a traditional notarization?**

A notary will review the signers' current and valid government issued ID that has a photo, physical description and signature. This is typically a driver's license or passport. Based on their training they will determine if the ID is authentic and matches the person that presented the ID.

### **Question: How does someone become a Remote Online Notary?**

Generally, the Secretary of State's office commissions notaries and provides them with training programs, handbooks and other guidance to ensure they may successfully perform notarial acts in compliance with state law. Remote online notarization is an additional service that notaries can provide after receiving state authorization.

### **Question: Is a notarization valid everywhere in the U.S.?**

Yes. All states have laws recognizing the authority of notarial acts conducted by out-of-state notaries. The signature and title of a notary conclusively establish the authority of the officer to perform the notarial act.

**Question: What is necessary for a valid notarization? What makes a notarization valid and enforceable?**

A valid notarization can only be performed by a duly authorized notary who is a disinterested witness. Notaries must complete and attach a certificate to the document as evidence of the notarial act. Generally, a notarial act is not invalidated after the fact due to minor technicalities or notary negligence under state laws.

**Usage**

**Question: Who can use Remote Online Notarization?**

When allowed by state law, Remote Online Notarization (RON) is a convenient alternative to traditional in-person notarization for all consumers, but it is especially beneficial to consumers who are unable to easily travel to access notarial services. Examples include active-duty military stationed overseas, child and elder caregivers, sick or elderly persons, and those exercising social distancing measures.

**Question: How does RON help underserved communities?**

Remote Online Notarization (RON) improves access to notary services and thus financial services in underserved and unbanked communities. This helps communities where notary services are not readily available because of the absence of traditional providers like bank branches or lawyers. RON provides scheduling flexibilities, so consumers are not adversely impacted by having to take time off from work or traveling long distances to sign documents. In addition, RON helps address the “digital divide” by making some services available to those with only a cell phone.

**Question: What is the environmental impact of Remote Online Notarization?**

Less driving and less paper.

**Question: What type of documents are notarized?**

Notarizations are used extensively in real estate transactions on deeds, mortgages, lien releases, and frequently for home equity loans. Notarizations are also utilized for auto registration documents, affidavits, powers of attorney, living trusts, advance health care directives and other documents as needed.

**Question: Where is Remote Online Notarization being used?**

Remote Online Notarization has been available and utilized by consumers since 2012. Bipartisan laws enacted in 29 states allow for the use of Remote Online Notarization, create legal certainty, and provide a framework for the permanent and safe use of this technology.

In coming legislative sessions, lawmakers are expected to pass additional nonpartisan bills allowing their constituents the option of using this method of notarization.

**Question: Why is there a push for use of Remote Online Notary happening now?**

A survey conducted by the American Land Title Association of major vendors working in the Remote Online Notary (RON) space indicated use of RON has increased **547%** during 2020 when compared to 2019. This increase can be attributed to heightened demand for RON during the COVID-19 pandemic, coupled with expanded consumer awareness of this notary option, the growth of e-commerce, and the convenience of digital transactions.

**Technology**

**Question: How is Remote Online Notarization different than in-person notarization?**

An in-person notarization requires the signer to “personally appear” before the notary. In contrast, Remote Online Notarization satisfies the “personal appearance” requirement for a notarial act by allowing the signer to appear before the notary using real-time and continuous two-way audio-video communication. The communication technology enables all participants to the notarial session to see, hear and speak to each other through use of the parties’ computer webcams and microphones. Authorized companies offering this technology use encrypted communication methods to protect against hacking or intrusion. In addition to audio-visual capabilities, technology solutions must also allow for multifactor authentication of a signer and recording of the notarial acknowledgement.

**Question: What is the difference between Remote Online Notarization and electronic notarization?**

An electronic notarization takes place when the notarial seal, signature or certificate is created, attached to an electronic record and stored electronically. Electronic notarization can either be done in person or remotely.

In-person electronic notarization (IPEN) occurs when a notary and signer are in the same physical location.

Remote online notarization (RON) occurs when the authentication and signing process take place using two-way real-time audio-visual technology, which enables the signer and notary to see and hear each other simultaneously.

**Question: What do consumers need to complete a Remote Online Notarization from their homes?**

Access to a computer, webcam, microphone and internet connection.

**Question: Can Remote Online Notarization be done on a smart phone?**

Yes. Many Remote Online Notarization technology providers support notarizations using only a smart phone, increasing accessibility.

**Question: What does a notary need to do a Remote Online Notarization?**

Access to a computer, webcam, microphone and internet connection, along with being licensed to perform RON by the relevant state authority and being registered with an approved technology provider.

**Question: What type of data does a notary collect and retain?**

Notaries may be required by state law to collect information to complete a transaction and retain a journal or log.

For a Remote Online Notarization (RON), the audio-video recording of the notarial acknowledgement is generally required to be retained for a period of 5-10 years by state law. Notaries may engage a RON platform to securely maintain the notarial journal and/or recordings.

## **Security**

### **Question: How do you verify someone's identity in a Remote Online Notarization?**

While the traditional notary process requires review of an identification credential, such as a driver's license, the remote notary process takes ID proofing much further. Remote Online Notarization platforms are designed to require third-party, multifactor authentication of the signer.

These measures, which go beyond those used for traditional paper notarization, are a strong deterrent to fraud and protect consumers.

### **Question: What is multifactor authentication of an individual?**

Multifactor authentication is the gold standard for identity proofing, as it requires a person to confirm their identity using at least two different methods of verification, which significantly reduces the chances for fraud.

### **Question: What third-party identification tools are used in a Remote Online Notarization?**

Remote Online Notarization utilizes two of the most common third-party identity proofing measures available in the market today – credential analysis and knowledge-based-authentication questions. These are tried and true verification methods used by many industries, as they are the strongest procedures widely available today.

### **Question: What is Credential Analysis?**

Credential analysis enables verification of a government issued ID, like a driver's license, with a high degree of certainty. A service provider conducting credential analysis confirms information from the security features, like the barcode or image placement, and compares the data on the credential to trusted public or proprietary data sources.

### **Question: What is Knowledge-Based-Authentication (KBA)?**

To pass knowledge-based authentication (KBA), an individual must correctly answer 4 out of 5 personal and financial history multiple-choice questions within two minutes. The questions are generated from trusted public or proprietary databases.

**Question: What is the significance of the audio-visual recording of a Remote Online Notarization?**

State laws generally require an audio-visual recording of the notarial act be created and retained for 5-10 years. The recording provides evidence to refute allegations of fraud or other disputes. It also deters fraudsters from appearing before and attempting to deceive the notary.

**Fraud Prevention**

**Question: How does Remote Online Notarization prevent fraud?**

Remote Online Notarization was designed with fraud prevention in mind. It includes multifactor authentication as well as the audio-visual record retention to protect the consumer, notary and integrity of the notarial act.

The notary retains control over the session and may terminate the session at any time and for any reason, such as if the notary is uncomfortable with the signer's purported identity, if the communication fails to meet the required standards or if there is concern about fraud or coercion.

**Question: What other security features does Remote Online Notarization employ?**

Remote Online Notarization platforms utilize tamper-evident technology to prevent the unauthorized modification of notarized documents and provide a robust audit trail of each action by the notary and signer.

**Question: What happens if someone is a victim of notary fraud?**

In the event of a lawsuit, a court would follow the same well-established process that is currently used for traditional in-person notarizations for the discovery of out-of-state records, including depositions of notaries and requesting copies of notaries' official records.

Parties relying on Remote Online Notarizations have the same legal ability, as with the current paper notarial practices, to pursue legal remedies against a notary in their state or another state.

Currently, there are notarial insurance policies, bonds and/or E&O coverage, available in all 50 states. Surety bonds provide coverage for acts performed by the notary during the term of the notary's commission.

**Question: What is a deepfake?**

A deepfake is a computer-generated version of someone. Deepfakes use what is called a “neural network” to process images of someone to make a model of that person's face.

**Question: How does Remote Online Notarization protect against a deepfake being used in a transaction?**

Making convincing deepfakes takes significant resources and time, not to mention extensive visual data. The multifactor authentication requirements in a Remote Online Notarization transaction create an additional layer of protection beyond the visual identification of a signer, making deepfake use very impractical for would-be fraudsters.

**Privacy**

**Question: How is a consumer's information protected in a Remote Online Notarization?**

Remote Online Notarization (RON) laws do not exempt RON records from the purview of other state laws, such as state data privacy and security laws. Remote online technology vendors are subject to state and federal data privacy laws. They do not have exemptions.

State laws require notarial records, which in some cases are considered public, to be retained. These records contain limited personal information. State laws do not require a RON notary maintain copies of notarized documents. Retained data is stored in encrypted and/or tamper-evident format to protect information from disclosure.

**Question: How is the audio-visual recording of Remote Online Notarization stored and used?**

The audio-video recording is retained for the length of time required by state laws (generally 5-10 years) and accessed as needed by a party to the transaction, court or government entity. State privacy laws may require the signer to provide affirmative consent to being recorded and limit the use of signer data to effectuating the purpose of the underlying notarized transaction.