

Remote Online Notarization 101

What you need to know about the
technology enabling remote digital
mortgage closings





Introduction

History has shown that today's tech advancements are tomorrow's table stakes. But for many, there isn't urgency to move beyond "the way we have always done things."

A prime example can be seen at the closing table. Notarizing documents in person has always gotten the job done. Workflows have already been established, everyone involved knows how to perform their role, and consumers accept the process as status quo. As a result, remote online notarization is generally seen as a nice-to-have, rather than a necessity.

Remote online notarization is capable of improving the mortgage closing for all participants, including making it more convenient, cost-effective, accurate, efficient, and secure. So, why has the industry been so slow in adopting remote online notarization?

The industry's fragmentation has made it very difficult for lenders and settlement companies to implement remote online notarization. Not only does it require state legislation to authorize notaries to perform their role remotely, but there are also technological requirements, financial investments, and limited acceptance that span across the many parties involved in the mortgage closing process.

Yet, every year, the industry moves a bit closer towards adoption. As remote online notarization becomes increasingly necessary, lenders, settlement companies, and notary signing agents need to be prepared.

This eBook serves as an introduction to remote online notarization for anyone in the mortgage industry. It breaks remote online notarization down into simpler components, explains its benefits, lays out the hurdles that need to be overcome to achieve industry-wide adoption, and provides guidance on how to implement it in your line of work.

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01

Notarization in a Digital World



A notary public's role during the signing of a critical document is three-fold: to act as an impartial and unbiased witness, to prevent fraud through identity verification, and to ensure the document is being signed willingly and without coercion. As a public servant commissioned by the state, their role validates the legality of signatures on financial and legal documents. The notarial act is one of great significance to a well-functioning democracy.

eNotarization

Traditionally, the notarial act has been carried out in person through a “wet signing” or “ink signing,” where the notary public physically verifies the signer's identity and uses an ink stamp and ink signature to notarize a paper document that has been signed in their presence.

As digital documents became mainstream, the need for an electronic notarization method gave rise to eNotarization. Today, electronic documents — including real estate documents — can be eSigned by consumers, and the notary's ink stamp and signature can be replaced by a digital stamp or seal and an eSignature.

In some states, notaries are required to obtain a digital certificate. The digital certificate verifies the identity of the notary, is used by the notary to eSign the document, and is attached to the document so that it becomes tamper-evident.

In-person eNotarization vs. Remote online notarization

There are two types of eNotarizations: in-person electronic notarization (IPEN) and remote online notarization (RON).

IPEN is the act of conducting eNotarizations in person, while RON eliminates the need to meet in person. During a RON signing, the notary and signer join a digital meeting and use two-way audiovisual technology, like a webcam, to virtually conduct an eNotarization.

Remote ink-signed notarization

RON should not be confused with remote ink-signed notarization (RIN). RIN is also sometimes known as audiovisual notarization (AVN).

With RIN, the signer and the notary also meet virtually. However, they are completing paper documents in ink. While RON requires the use of an eNotarization solution that meets state and industry standards, RIN can occur using any two-way audiovisual technology. Via online video, the notary examines the signer's ID and witnesses the signing of the document. Afterward, the signer must mail the document to the notary, who will notarize it upon receipt.

RIN is generally seen as a stopgap for notarizing essential documents, like loan closing documents, when extraordinary circumstances prevent in-person ink notarizations and there isn't infrastructure set up to support RON. Because documents still need to be mailed back and forth, they can be easily altered and the process is quite tedious. The pitfalls of RIN make it a temporary solution and not the mortgage industry's digital future.

Types of Notarizations

	TRADITIONAL IN-PERSON NOTARIZATION	REMOTE INK-SIGNED NOTARIZATION	IN-PERSON ENOTARIZATION	REMOTE ONLINE NOTARIZATION
Paperwork	Pen & paper	Pen & paper	Electronic	Electronic
Appearance	In person	Remote	In person	Remote
Technology	None	Any two-way audiovisual technology	eNotarization solution	eNotarization solution

Additional digital closing terms to know

RON is part of a [larger digital closing ecosystem](#). To fully understand RON and its role in a digital closing, here are some additional terms that you'll need to know about:

Wet closing	In a wet closing, all of the loan documents are printed on paper and signed and notarized in ink. The workflows around the closing are digitized, and the borrower can preview their documents before going to their in-person closing appointment. The documents that need to be recorded with the county can be sent via courier or mail. They can also be scanned and electronically recorded with the county.
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Hybrid closing	<p>A hybrid closing is a mix of a wet closing and an eClosing. Some of the loan package is signed or notarized in ink, while the rest is electronically completed. The documents that are wet-signed versus electronically signed are usually dictated by the lender or investor's preferences.</p> <p>The borrower either electronically signs some of the documents before showing up to their closing appointment or they electronically sign those documents at the closing table. If the borrower electronically signs some of the documents prior to their closing appointment, they will only need to wet-sign the remaining documents when they're at the closing table. In a hybrid closing, the promissory note can either be signed on paper or digitized and electronically signed as an eNote. Because hybrid closings always have some documents that are wet-signed, they require an in-person closing appointment.</p> <p>The documents that need to be recorded with the county are either physically sent to the county recorder's office or they are electronically transferred and recorded.</p>
eClosing	<p>The closing process is digitized and the entire loan package is electronically signed and notarized in an eClosing. This includes the promissory note, which is known as an eNote when it is digitized. Because everything is done digitally, the closing appointment can happen either in person or remotely via audiovisual technology. When completed, the necessary documents are electronically transferred to and recorded by the county.</p>
Digital mortgage	<p>A mortgage process that has any digital component. Any part of the mortgage process can be digitized, but the entire process does not need to be digital.</p>
eMortgage	<p>A completely digital mortgage process, spanning from the mortgage application to the sale of the loan in the secondary market. In an eMortgage, borrowers apply for their mortgage online and electronically sign the initial disclosures. When it comes to the closing, all loan documents are electronically signed, notarized, and recorded. This includes the eNote, which is electronically signed and stored in an eVault.</p>

eSign	The act of electronically signing digital documents.
eNote	An electronic promissory note that is eSigned. eNotes must be registered on the MERS® (Mortgage Electronic Registration Systems, Inc.) eRegistry and stored in an eVault.
eRecording	The electronic transfer and recording of completed loan documents.
eVault	An electronic repository used to securely store and transfer electronic documents, most notably eNotes. An eVault is required for eNotes.
eStrategy	A business strategy for implementing technology and moving towards digital processes.
Papering out	The act or process of converting electronic records to paper records that can be recorded. Papering out is typically used to record electronic documents with a county that does not offer eRecording. Each state needs to adopt legislation that allows for papering out. How to paper out will vary by state and includes stipulations such as who is allowed to supervise the process, what type of certificate gets attached, and what must be noted on the certificate.

02

How Remote Online Notarization Works



In concept, remote online notarization seems simple enough. In practice though, translating an in-person notarial act into a remote virtual one is complex, and it requires legislation and support from stakeholders. Let's explore the process to understand how RON works and is considered valid.

Using RON for digital mortgage closings

A RON eClosing — also occasionally referred to as a webcam signing or webcam closing — is the ideal option when all parties are not able to be physically present or when it's inconvenient to meet in person. This could be for any number of reasons, like the buyer residing out-of-state, a concern for health when one party is feeling unwell, or any time when movement is restricted.

To kick off an eClosing, lender and title documents are uploaded to the digital closing technology and either manually or automatically tagged with eSignature and eNotarization fields. These documents are made available to the borrower to review prior to the closing appointment, and they may eSign any pages that do not need to be notarized.

For a RON eClosing, the borrower and notary signing agent will conduct a virtual closing appointment to complete the notarized documents. A link is provided to each party that will allow them to join the virtual session when it's time for the closing.

To prevent fraud, borrowers need to go through multi-factor authentication in order to join the virtual closing. Depending on the RON technology used, the borrower may be able to authenticate their identity prior to the appointment time. If not, they will need to do so

at the start of the appointment in order to be allowed into the signing session. The multi-factor authentication process typically includes credential analysis and a series of knowledge-based authentication (KBA) questions.

For credential analysis, the borrower must capture an image of the front and back of his or her government-issued photo ID. This is usually done using a webcam or a mobile app. The images are then processed and validated by ID verification technology that is capable of identifying fraudulent or fake IDs.

Knowledge-based authentication requires the borrower to successfully answer a few questions, which are randomly generated by information retrieved from their credit report. Typically, KBA takes the form of five multiple-choice questions. The borrower must correctly answer at least four questions in two minutes in order to proceed with the closing. A sample question the borrower might answer is, "Which of the following zip codes have you never lived in?" If they fail to correctly answer, they may be able to try one or more times.

Once the borrower has successfully completed credential analysis and KBA, the borrower will enter the virtual closing and be connected with the notary. The notary visually confirms that the person who appears on the video feed matches the person in the uploaded ID before moving forward. The notary may also ask the borrower to rotate the video camera to survey the room and ensure that others are not present to coerce the signer.

Both ID verification technology and KBA add [additional levels of security](#) that go beyond what a notary can do, but do not replace the notary's role.

During the closing, the borrower and notary have access to the loan documents. They work through the documents, eSigning and eNotarizing where applicable. After all necessary fields have been completed, a tamper-evident seal is applied to the electronic documents so they can't be altered without detection. A recording of the closing is also saved and securely stored. The recording is either made automatically available to the relevant parties or is available upon request.

The completed loan package can be [accessed immediately](#) by the borrower, lender, and settlement company.

Legislative and legal background

Nowadays, it seems logical that online transactions would be equally as valid as those completed offline. In fact, we expect it, since technology touches nearly every aspect of our lives. However, consumers haven't always been provided with a guarantee that electronic transactions would carry the same legal weight as those done in person. Would a digital contract hold up in court? Was each party's electronic signature valid? Without a legal safety net, digital transactions are risky.

Uniform legislation needed to be adopted nationwide in order to safeguard online business transactions within and across state lines.

The long road to RON started with officially recognizing its components, like digital signatures and electronic records, as legally valid. A series of legislative acts have paved the way for RON to become possible today.

Uniform Electronic Transactions Act

The Uniform Law Commission (ULC) took the first step in 1999 by publishing the [Uniform Electronic Transactions Act \(UETA\)](#). Through UETA, barriers to e-commerce transactions were reduced by granting eSignatures the same legal effect as handwritten, ink signatures.

UETA was [successfully adopted by 47 states](#), the District of Columbia, Puerto Rico, and the Virgin Islands. The remaining three states (Illinois, New York, and Washington) adopted similar laws that gave eSignatures the same legal standing as handwritten signatures.

Electronic Signatures in Global and National Commerce Act

Even with UETA, electronic transactions were still missing a federal safety net. That arrived quickly when the [Electronic Signatures in Global and National Commerce \(ESIGN\) Act](#) was signed into law on June 30, 2000.

Under this federal law, electronic transactions that use eSignatures and their related electronic records are recognized as legally valid nationally and globally, as long as the involved parties consent to using this digital method. Any such electronic contracts and related records became valid and would have the same legal enforceability as the physical pen-and-paper equivalent.



QUICK FACT

The Uniform Law Commission is also known as the National Conference of Commissioners on Uniform State Laws (NCCUSL). Its [role is to propose uniform legislative measures](#), like UETA. However, each state must still adopt and enact these laws. Members of the ULC are appointed by state governments to draft and promote non-partisan legislation that standardizes state laws in areas where uniformity can be beneficial.

Uniform Real Property Electronic Recording Act

The [Uniform Real Property Electronic Recording Act](#) (URPERA) was published by the ULC in 2004 to build on the advancements that were being made to legitimize electronic transactions. Although the UETA and ESIGN Act established the validity of electronic transactions, there was uncertainty about whether electronic real estate documents could be recorded. URPERA established that any state requirements for original paper documents can be met by electronic documents.

The act authorized county recorders to accept, store, and transmit electronic documents, as well as create a system to search for and locate these digital records. County recorders would still need to accept paper documents, so the indexing system created would need to support both electronic and paper document types. Additionally, the act created requirements that county recorders must abide by and designated a board that would set statewide standards for electronic recording.

The key here is that URPERA authorizes electronic recording, but does not mandate it. In states where URPERA is enacted, it's ultimately the decision of individual county recorder's offices as to whether they're financially equipped to implement the technology needed to accept and retrieve digital real estate records.

Revised Uniform Law on Notarial Acts

The UETA and ESIGN Act set up the legal framework that paved the way for eNotarization. In 2010, the ULC released the [Revised Uniform Law on Notarial Acts](#) (RULONA), which revised the original Uniform

Law on Notarial Acts (ULONA) that was passed in 1982. RULONA (2010) further recognized electronic notarial acts as equivalent to notarial acts performed on tangible paper documents. It also created requirements to protect the integrity of this electronic process, including the use of tamper-evident technology to seal electronic records.

In 2018, [amendments to RULONA](#) were approved. Most notably, the addition of Section 14A authorized remote online notarization. The notary must be physically present within the boundaries of his or her commissioning state, but the signer can be located anywhere. RULONA (2018) also outlined provisions for these notarial acts, which include the use of audiovisual technology, the identity verification of the individual through at least two different methods, and the recording of the notarial act.

While RULONA has been an exciting advancement for notarial services, one key issue remains. Each state must enact legislation that authorizes the use of eNotarization, whether that's IPEN or RON. In states that have yet to do so, notaries cannot legally perform electronic notarizations. This is due to the fact that, as public servants appointed by their state government, notaries must abide by the notarial laws of the state they are commissioned in.

Interstate recognition and validity

Despite all the legislation that has been passed over the last couple decades, there still isn't a uniformity law at the federal level. This has created concern over whether a notary in one state can conduct a remote closing for a property that's in another state or a transaction that's recorded in another state.

The [United States Constitution](#) calls on states to respect “the public acts, records, and judicial proceedings of every other state.” This means that states will generally recognize and accept out-of-state notarizations.

Since each state has the power to enact and enforce unique rules within its jurisdiction, there may be scenarios in which the remotely notarized documents are not accepted on a technicality. For example, the county that the documents will be recorded in might mandate that the notary is commissioned in the same state that the county is located in. If this is not the case, the county may refuse to record the documents.

To avoid invalid documents, it’s critical to look at [each state’s legislation](#) and verify that notaries are authorized to conduct notarial acts for another state. You also need to look at whether documents can be completed by an out-of-state notary.



QUICK FACT

Reciprocal interstate recognition is outlined in the U.S. Constitution’s [Full Faith and Credit Clause of Article IV, Section 1](#). It reads:

“Full Faith and Credit shall be given in each state to the public acts, records, and judicial proceedings of every other state. And the Congress may by general laws prescribe the manner in which such acts, records and proceedings shall be proved, and the effect thereof.”

03

The Benefits of Remote Online Notarization



Remote online notarization offers substantial benefits to all parties that are involved in the mortgage closing: the borrower, lender, settlement company, and notary signing agent.



CONVENIENCE



COST-EFFECTIVENESS



ACCURACY



SPEED



SECURITY



ENVIRONMENTALLY
FRIENDLY

Convenience



Traditional closings have worked well enough when meeting in person was the only option. However, with today's technological capabilities, there's little value in forcing borrowers to interrupt their day to travel to the title office or sending mobile signing agents to meet with borrowers for an in-person closing.

RON enables mortgage closings to happen from anywhere, at any time. Out-of-state and military-deployed borrowers don't need to buy an unnecessary plane ticket. Borrowers who are on vacation can close on time, without having to rush home. Also, those living with mobility difficulties don't need to add a disruptive event to their day.

Notaries no longer have to navigate traffic to rush between closing appointments and dropping off documents. Instead, they can comfortably conduct closings from their home or office.

Cost-effectiveness



Time is money. When time savings equal cost savings, remote digital closings will reduce operating costs and increase bandwidth for lenders, settlement companies, and notary signing agents.

They no longer need to spend time downloading, printing, uploading, and faxing or mailing documents back and forth. Cutting out these manual and paper-based tasks can free them up to handle more closings while also reducing their expenses. They can save on paper, ink, and shipping. The cost of storing digital documents and records is also less than storing paper records.

For mobile notary signing agents, one of their biggest expenses is gas. While notaries can [claim tax deductions](#) for their travel, they're often not specifically compensated for how far they need to drive to a closing. RON eliminates the need to travel to a closing and its associated expenses.

Accuracy



Lenders and settlement companies know all too well that quality control is an important part of the closing process. Manual tasks, like annotating documents with eSignature fields, are prone to human error. Even notary signing agents know that delivering a fully completed and correctly completed loan package is crucial to their success. With just one missed signature or notary stamp, funding can be delayed. Plus, fixing mistakes costs everyone more time and money.

eSigning and eNotarization technologies that enable remote closings can prevent these mistakes. For a RON eClosing, the system identifies each field that needs to be filled in and guides the borrower and notary to complete them. The closing can't be completed until all empty fields have been eSigned or eNotarized. This eliminates the possibility of missing signatures and leads to less time spent on post-closing quality control.

Speed



RON technology ensures that the borrower and notary are completing all required fields on the documents. These areas are clearly highlighted, and the tap of a mouse saves precious time by identifying the next space that requires attention. Instead of spending an hour shuffling through piles of paper, both the borrower and notary can [wrap up the closing in just a few minutes.](#)

After the remote closing appointment has ended, the lender and settlement company will have instant access to the completed digital package. They'll no longer need to wait to receive physical paper documents. As a result, lenders can give funding authorization and sell the loan faster. Lenders who use warehouse lines can decrease their dwell time, thereby reducing the interest they pay while allowing them to fund more loans.

Security



Industry-backed RON standards ensure a high level of security that's superior to its ink-on-paper alternative.

Here's how:

- Fraud risk is reduced through [multi-factor authentication](#). If the borrower is unable to verify his or her identity through credential analysis and KBA, then the RON eClosing can't take place.
- After all digital documents are eSigned and eNotarized, they are electronically tamper-sealed so it's evident if they are altered afterward.
- Audit trails record the actions that were taken, along with timestamps. By creating a record of what happened and when, audit trails can be referenced in the event of a legal dispute.
- The closing is recorded and saved so that it may be reviewed in the future if, for example, there is suspicion of signer coercion.

Although a digital service, RON also provides physical security. Borrowers and notary signing agents are likely meeting for the first time, which can create safety concerns for both parties. Borrowers may feel uncomfortable letting a stranger into their home.

Notaries may also feel uncomfortable walking into a foreign environment with unknown risks. They may face pressure, intimidation, or threats to bend the rules or break the law. With a remote closing, it becomes much more difficult for this to happen.

Environmentally friendly



RON enables a green closing by eliminating paper in favor of a completely digital process. It's estimated that wet closings consume [960,000,000 pieces of paper every year](#). Switching to eClosings that use either IPEN or RON could save 1,200 acres of trees each year.

In the absence of paper documents, there's also no reason for any party to travel for an in-person meeting, to mail documents, or to maintain physical storage space.

04

Challenges to Adopting Remote Online Notarization



For all the benefits of remote online notarization, there are still [roadblocks preventing industry-wide adoption](#) and usage. Let's take a look at the most important challenges that need to be overcome to turn RON eClosings into a standard option for all borrowers.

State and county support

Notaries are commissioned by their state and, as such, their scope of authority is governed by state law. Traditionally, a notary signing agent meets with a borrower in person to notarize tangible loan documents. This long-established process is supported by state laws nationwide, and counties are set up to record and file these documents.

For notaries to have the legal authority to conduct a RON from their jurisdiction, legislation must first be passed at the state level. In 2011, Virginia led the nation by [becoming the first state](#) to pass a [bill enacting RON legislation](#). Since then, some states have followed. However, the pace has been slow, and there's still a long way to go in getting every state to draft and pass RON legislation.

Although no federal law currently exists that enables RON in all states, the [2019 coronavirus](#) (COVID-19) pandemic has spurred the federal government into action. Due to how easily COVID-19 is spread, RON has been seen as crucial to limiting in-person contact while enabling closings to still occur.



QUICK FACT

As of May 2020, [38 states have authorized some form of eNotarization](#), and 23 of those states currently have a law that allows RON. Some of these states have already developed rules and requirements for RON, while others are in the process of doing so.

On March 19, 2020, the federal government introduced the “Securing and Enabling Commerce Using Remote and Electronic (SECURE) Notarization Act of 2020.” If passed, the [bill would allow the immediate use of RON](#) nationwide. The act “authorizes every notary in the United States to perform RONs, requires tamper-evident technology in electronic notarizations, and provides fraud prevention through use of multifactor authentication.” As of May 16, 2020, the bill has not been passed.

Not only does legislation need to be passed at the state level, but county recorder’s offices also need to invest in technology and resources for eRecording. As of August 2019, more than [86% of the American population](#) lives in a jurisdiction that supports eRecording, according to the Property Records Industry Association (PRIA).

It’s important to note that just because a county offers eRecording, it does not necessarily mean that they will also accept remotely notarized documents. eRecording can be used for paper documents, so lenders and settlement companies need to specifically confirm whether a county will record remotely notarized documents.

Investor acceptance

Even as additional states and county recorder’s offices support RON, many investors in the secondary market are hesitant to accept eNotarizations, whether it’s IPEN or RON. This has been a huge blocker for lenders. “At the end of the day for us, it’s all investor driven — identifying which investors will accept eNotes, identifying which investors will accept RON, and building off of that,” said Jan Valencia, Residential Mortgage Systems Project Manager at KS StateBank.

A main concern for RON is centered around jurisdictional exceptions that might jeopardize the investor's lien position. This issue can appear when the state where the property is located does not have notary laws that are substantially similar to the laws of the state where the notary is commissioned. In this instance, it's easy to appreciate the importance of interstate uniformity laws.

In the secondary market, RON sees the most acceptance among the government-sponsored enterprises (GSEs). [Fannie Mae](#) and [Freddie Mac](#) both allow documents to be remotely eNotarized as long as they meet specific criteria. While Ginnie Mae and the Federal Home Loan Banks currently do not, they are actively taking steps to do so.

Borrower demand

Historically, there hasn't been considerable borrower demand for a fully digital and remote closing experience. Since RON has not been adopted widely, borrowers simply may not be aware of the possibility for a remote closing. Consequently, RON has been seen by industry stakeholders as a nice-to-have, rather than a must-have.

However, COVID-19 has shifted borrower demand for RON.

In-person closings quickly became risky during a time of shelter-in-place or stay-at-home orders, social distancing protocols, and widespread fear of spreading the coronavirus. Borrowers wanted and needed a safer alternative. To keep the public safe and ensure that important business transactions could still take place, some states issued emergency orders that temporarily authorized RON.



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