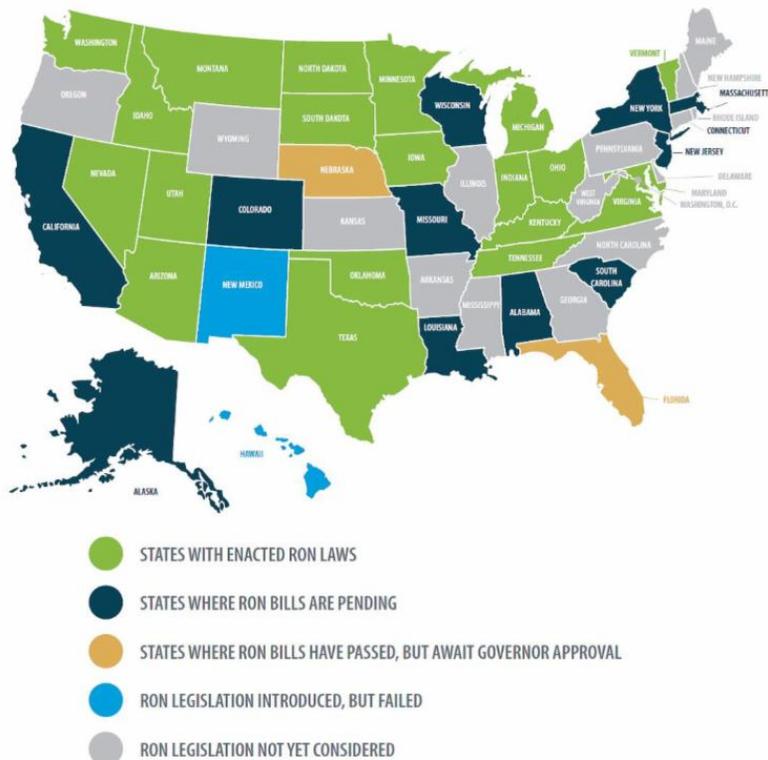


The Ramblings of a Title Man by Michael Holden

~~~~~  
*Combating the 'naysayers' in technology*

Remote Online Notarization (RON) is picking up speed. As of June 2019, more than 20 states have enacted laws permitting the use of technology to conduct a notary signing. But there are still some "naysayers" out there who are against implementing the technique. The typical argument goes like this: *"The technology of doing a remote online notarization is ripe for fraud. The person signing is very susceptible to undue influence or outright coercion."*

Another new technology facing the same naysayers is the self-driving car industry. Several companies, including Uber and Waymo, have been testing self-driving cars on U.S. roads. The data they have gathered has made them safer, more reliable and closer to being used in a wider way. However, the technology's safety is not yet 100-percent guaranteed, and naysayers point to that as the reason not to put them on the road.



NOTE: Information last updated 6/5/2019

Self-driving cars have a very strong upside. They are predicted to reduce traffic; use of self-driving trucks on highways in the middle of the night is expected to eliminate congestion; and many people with mobility issues will be able to gain new freedom with their use. Most of all, they aim to reduce pollution, as almost all projects testing self-driving cars use low-emission vehicles.

However, there is a hurdle that the machine learning and algorithm-based systems allowing cars to be self-driving must overcome. It is the proverbial "kid that runs into the street." The possibility of a child running in front of a self-driving car is a scary one. Will the car stop in time? What if the car is traveling too fast to stop in time? What evasive maneuvers should the car take? What if the choice is to swerve into an oak tree or oncoming traffic? What should the car do to avoid hitting the kid who runs into the street?

Because there is not a good answer or consensus on how to program a car to respond to every conceivable situation, the argument has been to not permit use of this technology on U.S. roads. However, we have adopted many new technologies without having 100-percent guaranteed safety: The airplane, the locomotive, vaccines, anesthesia and even the automobile itself. But the point here is this: Should the 100-percent safety argument delay adoption of remote online notarization as well?

Many of the 20 states that have adopted RON have done so by following the American Land Title Association model law for RON. That model legislation has several safeguards: Requiring two-factor authentication of the person who will be executing documents; requiring consent of the party to use RON; using encryption; recording the notary session; adding notary appointment categories; and even requiring the notary be commissioned in the same state where the property is located.

Yes, it is true that any real estate transaction can be susceptible to fraud. But fraud is not borne by using RON. In many ways, use of such notary services can reduce fraud by preserving a recording of the entire signing ceremony and using tamper-locked documents after they are signed.

To be sure, there will be court challenges to documents signed using RON in the future, but I like the industry's chances of winning any such challenges if the model legislation is followed. Just like with self-driving cars, if we follow the rules, we can achieve a very high level of safety.

**"It has become appallingly obvious that our technology has exceeded our humanity."**

Albert Einstein, 1879-1955, scientist and theoretical physicist

DISCLAIMER: The opinions expressed herein are those of the author, Michael Holden, and do not represent any company or organization. While the information presented is believed to be accurate, it should not be a substitute for legal advice, and readers are strongly encouraged to seek independent legal counsel.