

# Remote Online Notarization

(RON)

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## HISTORY OF ELECTRONIC DOCUMENTS

### ELECTRONIC SIGNATURE ACT OF 1996- §§668.001-668.006

- ❖ Purposes include enhancing public confidence in use of electronic signatures, minimizing fraud in electronic commerce, and fostering development of electronic commerce
- ❖ Unless otherwise provided by law, electronic signature may be used to sign a writing and shall have same force and effect as a written signature

# **FLORIDA UNIFORM ELECTRONIC TRANSACTIONS ACT (UETA)**

## **- §668.50, FS- ADOPTED IN 2000**

- ❖ Provides legal framework for the use of electronic signatures and records in government or business transactions
- ❖ Applies to electronic records and signatures when parties agree to use electronic means
- ❖ Provides legal recognition to electronic records, signatures and contracts, and precludes non-enforcement solely due to it is an electronic record

## **FEDERAL ELECTRONIC SIGNATURES IN GLOBAL & NATIONAL COMMERCE ACT (E-SIGN ACT, 15 U.S.C. §7001, ET. SEQ.**

- ❖ Similar to UETA
- ❖ Consumer must affirmatively consent after written notice
- ❖ Consumer must be informed about how to withdraw consent
- ❖ Consumer must be informed about hardware and software requirements
- ❖ Consumer must demonstrate they understand hardware and software requirements
- ❖ Consents automatically used as part of electronic signing process

# **ELECTRONIC NOTARIZATION- §117.021- ADOPTED IN 2007 (IN-PERSON)**

- \* Participants in same place
- \* All signatures are electronic
- \* Notary uses electronic seal
- \* Statute requires that tamper-proof technologies, as established by the state, be used
- \* No requirement that journal be kept
- \* Identity confirmed by personal knowledge or valid identification

## **ONLINE NOTARIZATIONS §§117.201- 117.305**

Applicability and Requirements  
Effective January 1, 2020

- \* Notary must be physically located in Florida
- \* Witnesses must be physically located in U.S. or with signatory
- \* Signatory can be physically located anywhere
- \* Any document that can be physically notarized or witnessed, on paper, may be notarized or witnessed remotely, except marital rites
- \* Required to be in physical presence or able to see, hear and communicate through audio-video technology if outside of physical presence

❖ Change to Notary Acknowledgement and Jurat on all documents:

❖ STATE OF FLORIDA

❖ COUNTY OF \_\_\_\_\_

❖ The foregoing instrument was acknowledged before me by mean of [ ] physical presence or [ ] online notarization, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_.

❖ [SEAL]

❖ Online Notary

\_\_\_\_\_  
Signature of Notary Public

Personally Known \_\_\_\_\_ OR Produced  
Identification \_\_\_\_\_ Type of Identification  
Produced \_\_\_\_\_

# ONLINE NOTARIZATION PROCESS

- \* Documents signed, uploaded and tagged
- \* Consent
- \* Identity Proofing
  - \* Credential Analysis
  - \* Knowledge Based Authentication
- \* Audio-Visual Communication-Electronic Record retained for 10 years
- \* Electronic Signature
- \* Affix Electronic Seal

***RON service provider as described in law must be used (no Skype or Facetime)***

- \* Web based
- \* Technology:
  - \* Real time audio video connection among parties
  - \* Documents, including consent, uploaded and viewed ahead of signing
  - \* Documents signed electronically
  - \* Affixing electronic signature and seal
  - \* Identity proofing
  - \* Credential analysis
  - \* Tamper evident protection
  - \* Videotaping of notarial session

# EARLY RON SERVICE PROVIDERS

Website: <https://pavaso.com/>

Video: <https://pavaso.com/ron/>

Website: <https://www.notarycam.com/>

Video: <https://www.screencast.com/t/g6GXOSG7CGsn>

Website: <https://www.notarize.com/>

Video: <https://youtu.be/JvoMzIIBJa0>

## IDENTITY PROOFING

§117.295(3)(a) requires use of **knowledge-based authentication (KBA)**:

- \* Principal presented with 5 or more questions with minimum of 5 possible answer choices per question
- \* Each question drawn from a 3d-party provider of public and proprietary data sources, identifiable to the principal's SSN or other ID info, or principal's identity and historical events records
- \* Responses made within a 2-minute time constraint
- \* Minimum of 80% of questions correctly
- \* May be offered one additional attempt, with no more than three repeated questions on second attempt

## AUDIO-VIDEO RECORD RETENTION

§117.245(2) FS requires online notary to retain uninterrupted and unedited copy of recording, must include:

- \* Appearance by the principal and any witness before the online notary
- \* Confirmation of identity of the principal and any witness
- \* General description of records to be signed
- \* Recitation by online notary to identify notarial act
- \* Declaration by the principal that signature knowingly and voluntarily made
- \* All actions, including signing, of parties
- \* Must be provided to parties, title agent, RON service provider, POA designee

# ELECTRONIC JOURNAL

§117.245(1) FS requires that there be an electronic journal entry for each online notarization containing the following:

- ❖ Date and time of the notarization
- ❖ Type of notarial act
- ❖ Type, title, or description of electronic record or proceeding
- ❖ Satisfactory identity proofing of the principal
- ❖ Satisfactory credential analysis of government issued ID
- ❖ Name and address of each principal
- ❖ Evidence of identity of each principal, by a statement that the principal is personally known or presented a government-issued identification credential
- ❖ Fee, if any, charged for the notarization

## MISCELLANEOUS

- ❖ Clerks must accept electronically signed documents for recording
- ❖ Printed copies of e-signed documents certified by notary to be true and correct copies
- ❖ Wills cannot be signed electronically until July 1, 2020
- ❖ Real estate documents can be notarized online, with remote witnesses, except that documents remotely notarized by notaries or officials of other countries cannot be recorded in Florida- §695.03(3) FS
- ❖ Powers of Attorney- cannot grant super powers if subscribing witnesses are not in physical presence of principal, but can remotely notarize if witnesses are in physical presence- §709.2202(6) FS

Sec. § 117.285(5) FS requires assessment of a “vulnerable adult” electronically signing and witnessing following electronic records:

- Will
- Trust
- Advance healthcare directive
- Power of Attorney

Vulnerable adult questionnaire given, and depending on result, remote witnesses may not be allowed.

## BECOMING REMOTE NOTARY

- \* Be a Florida notary public, Florida civil law notary or Florida commissioner of deeds
- \* Submit signed and sworn registration to Florida Department of State
- \* Pay \$10.00 registration fee
- \* Choose RON service provider
- \* Complete 2 hour in person or online course: FLTA/RPPTL, \$20 fee-  
<https://dos.myflorida.com/sunbiz/other-services/notaries/remote-online-notary-public/>
- \* \$25,000 bond and \$25,000 Errors and Omissions insurance

## BIG PICTURE

- \* More than 20 states have RON laws
- \* Enotes and Emortgages skyrocketed in 1<sup>st</sup> quarter 2019- 19,000 eNotes originated compared to 17,000 eNotes in 2017
- \* RON dovetails into electronic originations
- \* Process flow of eNote delivery (eMortgage would be recorded in county or local records to create the lien on the real property):
  - \* eNote electronically signed by the borrower through use of an electronic closing system
  - \* eClosing system secures electronically signed documents by applying a tamper-evident seal to the entire transferable record (eNote)
  - \* eNote must be registered on MERS® eRegistry within one business day
  - \* lender transmits eNote to eNote Vault
  - \* lender submits a request to the MERS® eRegistry to transfer control of the eNote from the lender to the applicable GSE, if applicable

# QUESTIONS?

## More Resources:

- \* <https://www.thefund.com/information-center/pdf/digital-closings/ron-faq-final-02-05-2020.pdf>
- \* [http://www.leg.state.fl.us/statutes/index.cfm?App\\_mode=Display Statute&Search\\_String=&URL=0100-0199/0117/Sections/0117.265.html](http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display Statute&Search_String=&URL=0100-0199/0117/Sections/0117.265.html)
- \* <https://www.notaries.com/articles/how-remote-online-notarization-works/>
- \* <http://view.email.oldrepublictitle.com/?qs=9b9aa4f7b3947e026a230f0aa0ece8e7836ae42cae82994e4f37dd54f807988111e5bd4f735d1a0bdd09973be5ceb46995d6d0c42a2872c4aa71a2385c29da8fb4f79006c6c55fd07793ea7242801c88>