

Frequently Asked Questions

Chapter 71 of the Acts of 2020 Enabling Remote Ink Notarization in Massachusetts

In the wake of the COVID-19 pandemic, many state leaders and title professionals are looking for a solution to enable real estate transactions to continue to close. Such solutions include emergency measures to permit the use of remote notarization in the state. Under [Chapter 71 of the Acts of 2020](#) (the “Act”), signed into law by Massachusetts Governor Charlie Baker on April 27, 2020, Massachusetts notaries are able to offer remote ink notarization services.

These FAQs are designed to provide some basic explanation of what is allowed under the Act and what you must do to meet the requirements set forth in this temporary legislation.

- 1. How do I conduct a remote ink notarization under the Act?**
- 2. Does the Act allow me to conduct a full remote notarization, as allowed in other states across the country?**
- 3. Is the ability to conduct a remote ink notarization under the Act permanent?**
- 4. What technology do I need to conduct a remote ink notarization under the Act?**
- 5. Does CATIC require the use of any particular vendors or have a list of approved vendors that we must use to conduct a notarization under the Act?**
- 6. What if the signer does not have the ability to print documents? How can they execute documents remotely?**
- 7. How do I verify the signer’s identity over video conference?**
- 8. If the signer is not personally known to me, how should he/she provide a copy of his/her ID, as required by the Act?**
- 9. How do I verify that the signer is in Massachusetts at the time of the execution of the documents?**
- 10. Can I notarize a document for a signer physically located in Massachusetts while I am out of state?**
- 11. The signer will have a family member in the room while executing the documents. What must I do to ensure compliance with the Act when there are additional individuals present aside from the signer?**
- 12. Do I need to modify the notarial certificate for any documents executed under the Act?**
- 13. What must the affidavit that I complete under the Act include?**

14. I am using remote ink notarization to conduct a remote real estate closing. What additional steps must I do to execute documents remotely under the Act?
15. Will CATIC insure transactions where the documents are notarized pursuant to the Act?
16. Will lenders allow documents to be executed in accordance with the Act?
17. I hear that a federal remote notarization act is being considered by Congress. If such an act passes, how will the Act be affected?

1. How do I conduct a remote ink notarization under the Act?

Under the Act, electronic video conferencing may be used to conduct a notarization under the following conditions:

1. The electronic video conferencing must allow the signer and the notary to ***communicate in real time***;
2. The signer and the notary must be ***physically located in the Commonwealth*** of Massachusetts at the time of execution and the signer must affirm his/her location under the penalties of perjury;
3. The signer must make a ***disclosure of any person present*** in the room with the signer and that person or persons must be made viewable to the notary;
4. The notary must ***observe the signer's execution*** of the document during the video conference;
5. The signer must ***present satisfactory evidence of identity*** during the video conference, unless personally known to the notary, in the form of a government-issued photo ID, a copy of which must be provided to the notary to be retained for ten (10) years;
6. The signer must execute the documents using ***wet-ink signatures*** and make their acknowledgment, affirmation, or other notarial act to the notary during the video conference;
7. The notary must create an ***audio and video recording*** of the performance of the notarial act, which recording must be retained by the notary for a period of ten (10) years;
8. The signer must return the original signed documents to the notary by ***delivery service, courier, or other means*** in accordance with the notary public's instructions; and
9. Upon receipt of the original signed documents, the notary ***affixes his/her signature and stamp and/or seal***.

For **real estate documents** notarized under the Act, the notary must also:

1. Be a ***Massachusetts-licensed attorney***, or a paralegal under the direct supervision of a Massachusetts-licensed attorney;

2. Review a ***second form of identification***, unless the signer is personally known to the notary. This second form of identification must include the signer's name and can be a credit or debit card, social security card, or municipal tax bill or utility bill dated within 60 days of the first video conference, or other similar document; and
3. Conduct a ***second video conference*** during which the signer verifies to the notary public that the document received is in fact the same document executed during the first video conference. Thereupon the notary shall affix their signature and stamp and/or seal to the document. For instruction on how to date and complete the notarial certificate, please see Question 12 below. The second video conference must also be recorded, and the recording retained by the notary for ten (10) years.

2. Does the Act allow me to conduct a full remote notarization, as allowed in other states across the country?

No, the process permitted under the Act is instead a ***remote ink notarization***. This process allows a notary in a different physical location from a signer to observe the signer executing the document over a video conference.

To learn more about the differences between remote online notarization and remote ink notarization, please [click here](#).

3. Is the ability to conduct a remote ink notarization under the Act permanent?

No, the ability to notarize documents using video conferencing technology is temporary only. The provisions of the Act will be **automatically repealed** three (3) business days after the Massachusetts state of emergency is lifted.

4. What technology do I need to conduct a remote ink notarization under the Act?

To conduct a remote ink notarization under this temporary legislation, you will need:

1. A ***device equipped with a camera and microphone*** that will allow you and the signer to interact in real time.
2. An ***internet connection*** that can support a video conference call. You should also use a secure connection, i.e., a private network that requires a password to access the network.
3. Access to or an account with a ***video conference provider***. Since the Act requires you to retain a copy of the remote notarization session for a period of ten (10) years, you must engage a video conference provider that provides this service or you must have the ability to store the video conference through other means, such as through hard drive back up or cloud-based storage. For more information about vendors, please refer to Question 5 below.

5. Does CATIC require the use of any particular vendors or have a list of approved vendors that we must use to conduct a notarization under the Act?

To comply with the provisions of the Act, you may use whatever vendor you feel can meet your business needs. CATIC does not require the use of specific vendors nor do we have a list of approved vendors. If you are looking for vendor options, you may refer to CATIC's Technology Vendor List, available on CATIC's [Remote Notarization webpage](#) in the "All States" section. This list provides a helpful starting point as you begin to consider which vendors can meet your needs.

6. What if the signer does not have the ability to print documents? How can they execute documents remotely?

If the signer does not have a printer to create a hardcopy of the document for a wet signature, you should mail a copy to them for execution. The signer will need to have hard copies of any documents that will be executed over video conference to comply with the Act. **Documents executed under the Act must be signed in wet ink and wet notarized.**

7. How do I verify the signer's identity over video conference?

The Act permits a single-factor identification process which requires:

1. Personal knowledge of the signer; or
2. Satisfactory evidence of identification, as described in Question 8 below.

8. If the signer is not personally known to me, how should he/she provide a copy of his/her ID, as required by the Act?

The Act requires that the signer present his/her government-issued photo ID with signature over the video conference for you to visually inspect. The signer must also provide you with a copy of this ID, which can be provided either in hardcopy or in an electronic format. The signer must transmit a copy of the front and back of a government-issued credential or, if a passport, a copy of the front cover along with the page featuring the individual's photograph, name, and signature. You must retain the provided copy of the ID for ten (10) years.

9. How do I verify that the signer is in Massachusetts at the time of the execution of the documents?

Under the Act, the signer must affirm under the penalties of perjury that he/she is physically located within the Commonwealth of Massachusetts at the time of the signing. You must attest that the signer affirmed his/her location in the affidavit you will execute upon notarizing a document in accordance with the Act. Please see Question 13 below for additional information on how to complete this affidavit.

10. Can I notarize a document for a signer physically located in Massachusetts while I am out of state?

No, the Act requires that you be physically in the Commonwealth of Massachusetts to execute a document remotely under this temporary legislation.

11. The signer will have a family member in the room while executing the documents. What must I do to ensure compliance with the Act when there are additional individuals present aside from the signer?

On the video conference, the signer, under the penalties of perjury, must make a disclosure of any other person present in the room. The signer must also make any such person viewable to you, the notary, during the execution process. You may conduct the signing process while another person is present in the room with the signer if you are comfortable with the process.

12. Do I need to modify the notarial certificate for any documents executed under the Act?

Yes, the notarial certificate attached to any remote ink notarized document must include a statement indicating that the document was notarized remotely pursuant to the Act. The notarial certificate should note the county in which the notary was located at the time of notarization and should include the date on which the notarial act was completed. With respect to the notarization of mortgages, the Act includes an express exception which allows the notary to date the notarial certificate as of the date of the mortgage, even if the notary is completing the notarial certificate at a later date.

13. What must the affidavit that I complete under the Act include?

Upon executing a document in accordance with the Act, the notary must complete an affidavit attesting that the notary public has:

- a. received a copy of the signer's ID, if applicable,
- b. obtained the signer's verbal assent to record the video conference,
- c. taken the signer's attestation as to the signer's presence in Massachusetts, and
- d. been informed and noted on the affidavit any person present in the room with the signer during a video conference, including a statement of the relationship of any such person to the signer.

The notary must retain the affidavit for a period of ten (10) years following execution of the documents.

You do not need to record a copy of the affidavit with any document submitted for recording in the land records.

14. I am using remote ink notarization to conduct a remote real estate closing. What additional steps must I do to execute documents remotely under the Act?

If you are using the Act to notarize real estate documents, the notary must also:

1. Be a Massachusetts-licensed attorney, or a paralegal under the direct supervision of a Massachusetts-licensed attorney;
2. Review a second form of identification, unless the signer is personally known to the notary. This second form of identification can be a credit or debit card, social security card, municipal tax bill, or utility bill, or other such document; and
3. Conduct a second video conference with signer during which the signer verifies to the notary public that the document received is in fact the same document executed during the first video conference.

Please note that for notarizations of real estate documents under the Act conducted by paralegals, the supervising attorney must retain copies of the signer's identification along with the video recording and affidavit for a period of ten (10) years.

15. Will CATIC insure transactions where the documents are notarized pursuant to the Act?

Yes, CATIC will insure transactions executed pursuant to the Act provided that the conditions and requirements of the Act are satisfied.

16. Will lenders allow documents to be executed in accordance with the Act?

Lenders may have specific requirements regarding remote execution of documents. CATIC recommends that you reach out to your lender partners to describe the process you are using to enable the signer to execute documents remotely. You should also verify that such practices will not violate the lender's closing instructions.

17. I hear that a federal remote notarization act is being considered by Congress. If such an act passes, how will the Act be affected?

The federal legislation that is currently being considered by Congress is the [SECURE Notarization Act](#). The federal proposal would allow notaries in every state to conduct a remote online notarization (RON) and would preempt the Act. Notaries, located anywhere in the country, would be able to use RON to remotely execute documents related to Massachusetts.

While this legislation appears to respect and defer to Massachusetts precedent regarding the unauthorized practice of law, it has the potential to better enable national title insurance underwriters and their out-of-state national agents to conduct closings in Massachusetts without the involvement of a Massachusetts attorney.



Please contact your state's U.S. Senators, and reference S. 3533, or your Congressional Representatives, and reference H.R. 6364, if you would like to provide your opinion on such legislation. You can find a list of Massachusetts Members of Congress [here](#).