

Frequently Asked Questions

Rhode Island Temporary Guidance Enabling Remote Notarization Processes

In the wake of the COVID-19 pandemic, many state leaders and title professionals are looking for temporary solutions 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 [Temporary Guidance](#) issued by Rhode Island Secretary of State Nellie Gorbea on April 3, 2020, notaries are able to offer remote ink notarization services.

These FAQs are designed to provide some basic explanation of what is allowed under this Guidance and what you must do to meet its requirements.

- 1. How do I conduct a remote notarization under RI Temporary Guidance?**
- 2. Does the Rhode Island Temporary Guidance allow me to conduct a remote online notarization, as allowed in other states across the country?**
- 3. What technology do I need to conduct a remote notarization under the Rhode Island Temporary Guidance?**
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- 9. Do my professional liability and errors and omissions policies cover me if I take an acknowledgement outside the physical presence of my client?**
- 10. Will lenders allow documents to be executed in accordance with the RI Temporary Guidance?**
- 11. Does the issuance of the RI Temporary Guidance require me to conduct a notarization using remote processes as described in the Guidance?**
- 12. I hear that a federal remote online notarization act is being considered by Congress. If such an act passes, how will the RI Temporary Guidance be affected?**

1. How do I conduct a remote notarization under RI Temporary Guidance?

Before a notary can conduct a remote notarization under the RI Temporary Guidance, the notary must:

1. Be or become a commissioned notary public registered with the RI Department of State;
2. Read the [updated Standards of Conduct](#) during the state of emergency period;
3. Contact one of the approved solution providers listed on the [RI Department of State's website](#) and obtain their services for remote online notarizations;
 - a. Approved solution providers currently include [DocVerify, Inc.](#), [Pavaso, NotaryCam, Inc.](#), and [SIGNiX](#);
4. Complete the training provided by the selected solution provider;
5. Register with the RI Department of State/Business Services/Notary Division to perform "Remote Online Notarizations" by completing and submitting the pertinent new notary application/renewal or information update form with all required information; and
6. Await confirmation from the RI Department of State via email before notarizing remotely.

Once approved, the notary may conduct a notarization remotely if the following conditions are met:

1. The notary and signer are physically located in Rhode Island;
2. The signer and the notary can communicate simultaneously by sight and sound through an electronic device or process during the notarization;
3. The notary has identified the signer through:
 - a. Personal knowledge of the signer, which requires having seen the signer's identification at some point during your relationship; or
 - b. At least two different processes or services that provide the notary with the means to verify the individual's identity through a review of public or private data sources; or
 - c. An oath or affirmation of a credible witness; and
4. The notary records and retains a copy of the performance of the notarization for ten (10) years.

A notary may remotely notarize a document for a signer located outside of Rhode Island using the same process, so long as:

1. The record is intended for filing with or relates to a matter before a court, governmental entity, public official, or other entity subject to the jurisdiction of the United States; or
2. The record involves property located in the territorial jurisdiction of the United States or a transaction substantially connected to the United States; and
3. The notary has no knowledge that the execution of the record is prohibited by the laws of the jurisdiction where the individual is physically located.

2. Does the Rhode Island Temporary Guidance allow me to conduct a remote online notarization, as allowed in other states across the country?

No, the Rhode Island Temporary Guidance enables some remote notarization processes but **does not permit a remote online notarization to be conducted under Rhode Island law.** Despite the fact that the Guidance refers to the process as being a “remote online notarization,” the process described in the Guidance is not a remote online notarization as the term has been defined by the real estate industry.

The process allowed in Rhode Island 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. The signer would execute the document with wet-ink signatures and transfer the document by mail or other delivery service. Upon receipt, the notary would apply a wet notarization and any required ink stamp or seal to the original document. The requirements under the Rhode Island Temporary Guidance differ from typical remote online notarization laws that enable notaries to electronically notarize digital documents that are electronically signed by a remotely located individual.

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

3. What technology do I need to conduct a remote notarization under the Rhode Island Temporary Guidance?

To conduct a remote notarization under this Temporary Guidance, you will first need to contact one of the providers approved by the Rhode Island Department of State and undergo training by that provider.

To conduct a notarization using a remote notarization provider, you will need some additional basic technology, including:

1. A device equipped with a camera and microphone that will allow you and your client to simultaneously see and hear each other.

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.

4. What if my client does not have the ability to print or scan documents? How can they execute documents remotely?

If your client does not have a printer to create a hardcopy of the document for a wet signature, you may mail a copy to them for execution. Your client will need to have hardcopies of any documents that will be executed over video conference to comply with the Temporary Guidance. **Documents must be signed in wet ink and wet notarized to comply with the Temporary Guidance.**

5. How should I verify the identity of my client, as required by the RI Temporary Guidance?

The RI Temporary Guidance offers three methods of identifying a signer who will be executing documents remotely over video conference.

1. ***Personal knowledge*** of the signer, which requires the notary to have seen the person's identification at some point during the relationship. Simply knowing the signer without ever having seen their identification does not satisfy the personal knowledge requirement.
2. ***Oath or affirmation of a credible witness***. The witness must be either physically present with the signer or able to communicate with the signer and notary over the video conference. The notary must have personal knowledge of the witness, as described above, or identify the witness using two forms of identity proofing, as described below.
3. ***Two different types of identity proofing***, which requires a third party to provide two different processes or services which provide a notary public with a means to verify the identity of a remotely located individual by a review of personal information from public or private data sources. The providers approved by the RI Department of State, referenced in Question 1, offer identity proofing services. Such processes typically include a review of a valid government-issued credential and a series of knowledge-based questions that only the signer should know. These questions will be similar to those asked when you attempt to access your online bank account, such as, "Which address is associated with you?"

6. How do I verify the location of my client during the notarization?

You should ask your client to confirm his/her location during the video conference. Under the RI Temporary Guidance, a notary may take the acknowledgment of both an individual

located in Rhode Island for any record, or an individual located outside the state if the record being signed by the out-of-state individual is:

1. Intended for filing with or relates to a matter before a court, governmental entity, public official, or other entity subject to the jurisdiction of the United States; or
2. Involves property located in the territorial jurisdiction of the United States or a transaction substantially connected to the United States.

The notary must also have no actual knowledge that the execution of the record is prohibited by the laws of the jurisdiction where the individual is physically located.

7. If I am a notary commissioned in Rhode Island, can I notarize a document for a client while I am out of state?

The RI Temporary Guidance does not make mention of where the notary must be at the time of notarization. However, from a practical standpoint, the notarial act will take place where the notary is physically located at the time of notarization, and that notarial act will be interpreted by the laws of the state where the notary is. If the notary is in Massachusetts and the signer is in Rhode Island, the notarial act would be occurring in Massachusetts and Massachusetts law would apply. Massachusetts law does not permit remote notarization of a signer who is not in Massachusetts and thus, this act could be invalid.

8. What county should be noted in the notarial certificate/notary clause as the location of the notarial act?

You should include the county where you, the notary, are located at the time of the notarization. However, you should include the date of the notarization as the date your client executed the document over the video conference. This date may be different from the date you complete the notarial act.

9. Do my professional liability and errors and omissions policies cover me if I take an acknowledgement outside the physical presence of my client?

It depends. Your professional liability and/or errors and omissions policies could contain specific exclusions for claims based upon acknowledgments taken outside the physical presence of the signatory. Be sure to check your policies to determine if they contain any exclusion of coverage in this area and, if so, take proper measures to protect yourself or find an alternative safe way to close your transactions. If you are unsure whether your policies provide such coverage, you should contact your broker and inquire.

10. Will lenders allow documents to be executed in accordance with the RI Temporary Guidance?

Lenders may have special requirements for executing documents remotely. CATIC recommends that you reach out to your lender partners to describe the process you are using to enable your clients to sign documents remotely, and verify that such practices will not violate their closing instructions.

11. Does the issuance of the RI Temporary Guidance require me to conduct a notarization using remote processes as described in the Guidance?

No, you may conduct a traditional in-person notarization under R.I. Gen. Laws § 4-30.1, *et seq.* However, you should be mindful of safety measures and social distancing requirements as established by Rhode Island Executive Order 20-02 and all subsequent Orders.

12. I hear that a federal remote online notarization act is being considered by Congress. If such an act passes, how will the RI Temporary Guidance 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). As described in Question 2, the RI Temporary Guidance does not permit the use of RON.

The SECURE Notarization Act establishes minimum standards for remote online notarizations, including the use of tamper-evident technology and multifactor authentication to verify the identity of the signer. The federal proposal would preempt state remote notarization laws that fail to meet these minimum standards.

In states that have implemented RON through state legislation and/or regulation, the SECURE Act would have little effect, as long as the state meets the SECURE Act's minimum standards. For states that have not implemented RON, like Rhode Island, the SECURE Act would bring significant changes to the closing process. Notaries, located anywhere in the country, would be able to use RON to remotely execute documents related to Rhode Island using electronic documents, electronic signatures, and electronic notarization.

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.

Rhode Island U.S. Senators	
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Jack Reed (D)	Cranston, RI: 401-943-3100 Providence, RI: 401-528-5200 Washington, DC: 202-224-4642
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Rhode Island U.S. Representatives		
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