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Overview of Online Notary and ALTA's Principles

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ALTA'S PRINCIPLES FOR ONLINE NOTARY



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Adequate safeguards to protect the public and the parties relying on notarization from identity thieves, forgery, undue influence, and fraud;



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Proven methods of authenticating identity of the signer through a multi-factor identification process that includes at least two of the following categories:

- what the signer possesses (credentials, e.g., driver's license, passport, military ID card, etc.),
- what the signer knows (knowledge-based authentication, e.g., questions based on the signer's personal knowledge), and
- who the signer is (recognition of behavioral and biological characteristics, e.g., fingerprint recognition, eye scan, etc.);



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Confidence that a document notarized online is recordable in the local land records and that once recorded, the document is a real property record that will serve as effective constructive notice upon which the public can rely; this includes the ability to record an electronically notarized (including a document notarized online) in the official land records regardless of the capability to receive electronic recordings;



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A determination of whether the state will recognize online notarial acts performed by out-of-state notaries and whether such acts are governed by the state;



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An indication be required to be apparent on the notarized document to specify the type of appearance the signer made before the notary, be it a physical appearance or a online appearance;



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Tamper-evident technology is used to assure the integrity of a document notarized online;

Retention of records so that an online notary must retain for a period of at least 7 years

- the IP address data of the notary and the signer,
- date and time information, and
- an audio-video recording of the portion of the notarial act during which the identity of the signer is authenticated;



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Clarity and consistency within the statutes
which utilize the use of notaries and witnesses
to give guidance as to the impact of online
notarization on these other processes.

DIGITAL WORK FLOW ISSUES

- Identify where in your work flow or closing process the use of online notaries will work
- Remember that the notaries are **NOT** the settlement agents
- View some of the readily available online notary vendor demos
- The parties must agree to the electronic process before hand
- There must be a way to “paper out” the closing if the recorder is unwilling or unable to accept electronic

filings



- The process must include the Seller and Buyer side

KEY TALKING POINTS FOR LEGISLATORS AND OTHERS OUTSIDE OUR INDUSTRY

Strong online electronic notarization standards can improve the real estate process for consumers, businesses, and the public

Occasionally, real estate closings involve parties that are not physically in the same city or state as the property they are buying or selling. When this occurs, a complex choreography takes place to get the important documents signed and the transaction complete. Online electronic notarization has the potential to make this process smoother, cheaper, and more secure.



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Why notarize documents in the first place?

Notarization helps provide confidence that transaction documents are actually signed by the persons named in the documents. It is performed by government-authorized persons called Notaries Public who confirm the identity of the signatory (usually established by government issued ID) before placing their signature and seal on the document.



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Why is notarization important for real estate transactions?

In the United States, real estate transfer documents are typically recorded in local land records at the end of a transaction. These public records provide the world with *constructive notice* about American property rights. The ability to rely on the validity of these records is central to our real estate market and provides a fundamental foundation for all parties when mortgaging, purchasing, and selling real property.



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What needs to happen to make online electronic notarization successful?

- First, policymakers need to pass statutes authorizing the practice in their state.
- Second, regulations and business practices need to be implemented to protect consumers from identity theft, forgery, undue influence, and fraud when using remote electronic notarization.
- Third, states should adopt processes that encourage electronic recording of real estate documents to provide local governments with major savings and efficiency.

How do we reduce the risk of fraud with online electronic notarization?

The key to reducing fraud is a multi-factor method of authenticating the identity of the signer. This process should include two of the following: (1) items the signer possesses, like a drivers license; (2) information the signer knows based on personal knowledge such as, "What was the make and model of your first car?"; and (3) characteristics unique to the signer, like a finger print.

Notaries using online electronic notarization should maintain secure and tamper-evident records of the documents they authenticate and the method of identity verification used.



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What about online electronic notarizations done under a different state's laws?

Policymakers must determine whether to specifically recognize documents that were notarized online by out-of-state notaries. The U.S. Constitution's *"full faith and credit clause"* sets requirements for recognizing the actions of another state; however, it does not require a state to set aside its own state statute in favor of another state's statute when it expresses a conflicting policy. By enacting clear legislation that addresses recognition of out-of-state online notarizations, states can provide confidence that such a notarization process will meet the state's requirements for notarial acts.

The Goal: Ensure that electronic documents signed through online electronic notarization are as valid, secure, and provide the same constructive notice as paper documents signed in-person.



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QUESTIONS?



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Thank you!
