

Principles for Remote Electronic Notarization

Objective:

The title insurance and settlement industry wants to guarantee that a remotely electronically notarized document will receive the same certainty, and provide effective constructive notice, under state law as a traditional, wet-signed, personal appearance notarization. Though states have long accepted traditional notarizations conducted in other states, it is currently unclear whether remote electronic notarizations will receive the same treatment.

To help ensure that remote electronic notarizations can succeed in the marketplace, it is critical that states implement legislation that sanctions and governs such notarizations.

Stipulations:

ALTA and its members support legislation that sets strong standards for remote electronic notarizations. Such standards include:

- ***Adequate safeguards*** to protect the public and the parties relying on notarization from identity thieves, forgery, undue influence and fraud;
- ***Proven methods of authenticating*** the 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.);
- ***Confidence*** that a remotely electronically notarized document is recordable in the land records and that, once recorded, the document is a public record upon which the public can rely, which includes the ability to record an electronically notarized (including remotely electronically notarized) document in the official land records regardless of the capability to receive electronic recordings;
- ***A determination*** of whether the state will recognize the remote notarial acts performed by out-of-state notaries and whether such acts are governed by the state;
- ***An indication*** on the document to indicate the type of appearance the signer made before the notary, be it a physical appearance or a remote appearance;
- ***Use of tamper-evident technology*** to assure the authenticity of a remotely electronically notarized document;
- ***A retention of records requirement*** for a remote electronic notary to 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; and
- ***Clarity and consistency*** within the statutes that utilize the use of notaries and witnesses to give guidance on the impact of remote notarization on these other processes.