



## **Important Update on Electronic Notarial Acts**

### **Friday Fast Facts**

**February 10, 2023**

### **Remote Online Notarization**

As of January 31, 2023 new regulations that affect both traditional in-person notarization and Remote Online Notarization ("RON") are in effect. The use of remote ink notarization ("RIN") in NY will be prohibited after January 31, 2023.

#### **ALL NOTARIES PUBLIC WHO WISH TO PERFORM ELECTRONIC NOTARIAL ACTS IN NEW YORK STATE MUST**

- **Register the capability to notarize electronically with the Secretary of State in compliance with this Part;** (You must be a notary public to be an electronic notary, although you must register on the NYSDOS website if you wish to perform electronic notarial acts.)
- **Use only those vendors or providers who comply with the standards outlined in this Part and any communication or reporting relating to those standards as required by the Secretary of State.**
- **Note: NYS does not "approve" or certify platforms. Per the NYSDOS, notaries are required to select platforms that comply with minimum standards. Notaries should obtain confirmation that any platform used complies with the NYS requirements and the platform provider is required by New York's General Business Law to comply with those standards if they're operating in the NY marketplace or if they're representing to commissioned notaries that such platform complies.**
- **Be physically located within the boundaries of New York when performing electronic notarial acts, although the signer may be located outside of NYS or outside of the United States).**

- Logistically, for RON, the notary must be able to see and interact, in real-time, with the remote signer of the document through audio-visual communication technology. Regardless of the location of the signer, whether in or out of the United States, this technology must have security protocols in place to prevent unauthorized access.
- The notary must make and keep an audio-visual recording of the electronic notarization and ensure that there is a back-up of the recording. This recording must be kept for a minimum of 10 years. The recording is part of the electronic notary journal that must be maintained by the notary as defined below.
- For any individual who appears before an electronic notary public using communication technology, and who is not personally known to the notary public, satisfactory evidence of identity requires ALL of the following:
  - Identity verification is a process that compares the identity that a person claims to have with the supporting data they possess.
  - Credential analysis is a process in which a principal's government-issued identification card is validated. The process requires a third party to use technology to confirm the security features on an ID and confirm the ID is not fraudulent.
  - Identity proofing is a process or service through which a third party confirms the identity of a signer through review of personal information from public and proprietary data sources.
- There are approved RON Vendors who offer credit analysis and identity proofing as part of their platform (i.e. Notarize, NotaryCam, Pavaso, Simplifile, Stavvy, and others)

**“Electronic” notary journal must include:**

- The date, approximate time, and type of notarial acts performed.
- The name and address of any individuals for whom a notarial act was performed.
- The number and type of notarial services provided.
- The type of credential used to identify the principal, including, for verification made where a notary relies on the oath or affirmation of two witnesses who identify themselves with a valid government issued ID and who know the document signer personally, the names of the witnesses and, if applicable, the type of credential used.
- The verification procedures used for any personal appearance before the notary public.
- For electronic notarial acts, identification of the communication technology, certification authority, and verification providers used; and an actual audio/video recording of the act.



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