



April 29, 2021

Secretary of State Mac Warner
State Capitol Building
Charleston, WV 25305
Sent via electronic mail to: notary@wvsos.gov

Re: Remote Notarization Regulations

Our organizations are thankful West Virginia policymakers enacted legislation ([SB 469](#)) that grants the authority to utilize Remote Online Notarization (RON) (WVC 39-4-37(e)(2)). As you prepare to draft regulations for the implementation of RON and Remote Ink Notarization (RIN) (WVC 39-4-38(g)(1)), we write to urge you to consider including in the regulations a requirement that the notarial certificate for both types of notarization include a statement to indicate which was performed.

The law ([SB 469](#)) passed by the legislature is generally consistent with the national consensus¹ for RON adoption and implementation, however our associations have concerns about provisions in the law that will also allow for the use of RIN. Our organizations assert RIN transactions are not as safe as RON transactions because they do not require multifactor identification and security standards necessary to protect consumer information.

Allowing the long-term use of both RIN and RON creates a bifurcated system, with different standards for consumer protections in remote notarizations. Unfortunately, documents executed using RIN are often indistinguishable from documents wet signed and notarized in person, but do not have equivalent ID proofing requirements as RONs.

We are writing today to urge you to consider including a requirement in your proposed rules under the authority of WVC 39-4-38(g)(1) that the notarial certificate for documents notarized using RIN include an indication of how the notarization was performed, similar to what is required for RON. Both types of remote notarization – and not RON only – should include an indication of the notarization process employed. We propose the following language for a short-form certificate of a notarial act for both RIN and RON, with the applicable statute in the new law that provides the authority for promulgating the regulation in parentheses:

¹ Currently 34 states have enacted substantively consistent minimum standards for consumer protection and safe transactions, which are based on the non-partisan model state law, the Revised Uniform Law on Notarial Acts, proposed by the Uniform Law Commission.

- This **remote online** notarial act involved the use of communication technology. (WVC 39-4-37(e)(2))
- This **remote ink** notarial act involved the use of communication technology. (WVC 39-4-38(g)(1))

Our organizations welcome the opportunity to assist your office in reviewing and offering constructive comments in other areas of West Virginia's regulations for remote notarizations as well. Additionally, we would welcome the opportunity to discuss the benefits of sunseting the RIN statute so that the West Virginia public will ultimately benefit from the consumer protections of a single standard for multi-factor identity proofing in any remote notarization, regardless of the use of paper or electronic documents.

Should you or your staff have any questions, please do not hesitate to contact Elizabeth Blosser (eblosser@alta.org), Kobie Pruitt (kpruitt@mba.org) and Bill Anderson (banderson@nationalnotary.org).

Respectfully,
American Land Title Association
Mortgage Bankers Association
National Notary Association