



## **FINDING AN ONLINE NOTARY**

### **Is there an approved list of online notary service providers in FL?**

No. While the state of Florida mandates that RON service providers adopt minimum technological standards, no list of approved providers is maintained.

### **Does The Fund or Old Republic care what online notary service provider is used?**

For a traditional RON signing session, where the principal signs electronically over a platform that meets Florida's minimum standards, The Fund and Old Republic do not care what platform is utilized. However, the platform must meet the minimum technological standards required by Florida law. For "PRON" signing sessions (see below), The Fund and Old Republic require the use of one of the following platforms: NotaryCam, Notarize, Pavaso/Pavaso Essential, SimplySecure, Nexsys or DocVerify.

### **I am not a Florida registered online notary, but I need one. What do I do?**

There are several companies in the market that provide online notaries "on-demand." They include NotaryCam and Notarize and more platforms are beginning to offer this option. Be advised that these companies are facing high demand for their services and there will likely be a wait time before a signing session can be scheduled.

### **I can't get through to a RON service provider that provides online notary services. What's this about the Fund RON Member Locator?**

In response to the high demand for online notarization, The Fund created The Fund RON Member Locator. This is a list of Florida registered online notaries, all Fund Members or their staff, who are proficient with RON and have agreed to assist other Fund Members in need of an online notary. The fee to be charged is a matter to be addressed between the Members.

### **I'm a Florida registered online notary. How do I get on the Fund RON Member Locator?**

Please contact Fund General Counsel Melissa J. Murphy at [MMurphy@TheFund.com](mailto:MMurphy@TheFund.com). A level of proficiency with RON will be expected.



## FUND/OLD REPUBLIC BULLETINS, BLOG & RESOURCES ON RON

Has The Fund or Old Republic issued any formal underwriting bulletins on RON?

Yes.

4/17/2020 - [Fund/Florida Underwriting Bulletin Modifying Online Notary Requirements](#)

4/08/2020 - [Fund Underwriting Guidelines Incident to COVID-19 Pandemic](#)

1/07/2020 - [Underwriting Guidelines for RON](#)

Please refer to The Fund's website ([www.thefund.com](http://www.thefund.com)) for additional bulletins as they are released.

Does The Fund's General Counsel have a blog that provides updates on RON from time to time?

Yes. Visit the [General Counsel Blog online](#). You can also sign up to get new blog articles will be delivered to your inbox.

Does The Fund maintain a webpage devoted to RON?

Yes. Visit the [Digital Closing webpage](#) in the Information Center for the latest updates on RON. .



## HOW TO BECOME AN ONLINE NOTARY

### **What are the required steps to become a registered FL online notary?**

An existing Florida notary, civil law notary or commissioner of deeds, can seek to register as an online notary. The applicant must complete a 2-hour course. A link to the course is found [here](#). The applicant must also identify a RON service provider, obtain a bond in the amount of \$25,000, an errors & omissions policy in the minimum amount of \$25,000 and submit an application to the Florida Dept. of State. Information on the Department's website can be found [here](#).

### **Is there a video I can watch that explains all of this?**

Yes. Fund members can view a free 20-minute video, How to Become a Florida Remote Online Notary by logging onto the Fund's website and accessing the Digital Closings tab within the Information Center.

### **Is it expensive to become a Florida online notary? What are my out of pocket costs to get started?**

The total costs of registering to become an online notary in Florida is roughly \$300. This does not include any subscription or contract fees with a RON platform provider.

### **I heard that there are a several reasons why the Dept. of State is rejecting applications to become a FL registered online notary. What are they?**

The state is requiring that the applicant submit a copy of the applicant's notary commission. Be sure to submit a copy with the application, not a screen shot. In addition, some applicants are simply stating "yes" to the question of the selection of a RON service provider, rather than entering the name of the provider.

### **Does The Fund have a CLE accredited program on digital closings?**

Yes. It can be found [here](#).



## **SUBSCRIBING WITH AN ONLINE NOTARY PLATFORM**

**Will I need a contract with a remote online service provider?**

Yes. Each RON Service Provider has some form of agreement that must be negotiated.

**Does The Fund or Old Republic care what platform provider I subscribe with?**

For a traditional RON signing session, where the principal is signing electronically over a platform that meets Florida's minimum standards, The Fund and Old Republic do not care what platform is utilized. However, the platform must meet the minimum technological standards required by Florida law. For "PRON" signing sessions (see below), The Fund and Old Republic require the use of one of the following platforms: NotaryCam, Notarize, Pavaso/Pavaso Essential, SimplySecure, Nexsys or DocVerify.

**Does The Fund or Old Republic limit the dollar amount of the transaction I am insuring with the assistance of online notarization?**

Not for "traditional" RON signings (those in which all documents are signed electronically).

There are parameters for insuring the online taking of an acknowledgement for "wet-signed" paper documents and those can be found in an underwriting bulletin found [here](#).



## **WORKING WITH A REMOTE ONLINE NOTARIZATION PLATFORM**

**Do the online service providers provide training on how to use the online signing platform?**

Yes. Due to the high demand for online notarization, you may experience a wait for the start of training.

**What sort of hardware will the signers and online notary need to conduct an online signing session?**

The signers and online notary will need a laptop, tablet or PC with a camera and microphone. The signer will also need a smart phone. Strong internet service will also be necessary for everyone involved. No special hardware is needed by the online notary.

**I'm concerned about fraud. How does the online signing process confirm the signer's identity?**

Florida's statutes require that the signer's identity be proven through ID credentialing and KBA. ID credentialing is a process whereby the platform confirms the validity of the signer's ID, typically a passport or driver's license. This process should reduce instances of the use of fake IDs. In addition, the signer will be obligated to answer a series of Knowledge Based Authentication questions ("out-of-wallet" questions), such as "which of the following addresses did you reside at?" or "which of the following cars did you once drive?" This should reduce instances of stolen ID claims. In addition, the entire notarial session must be videotaped and the recording retained for 10 years.

**I'm concerned that the signer will have difficulty accessing the platform. Any advice?**

Many platforms allow for a pre-signing session test of the signer's hardware. For persons not comfortable with technology, it may be best to have a family member assist the signer with the hardware test and with the log-on process.



**I'm concerned that the signer may not be able to answer the "KBA" questions. What will happen if that occurs?**

The signer will be given five KBA questions and must answer four correctly within 2 minutes, failing which the signer will be given one additional opportunity. If the signer cannot pass after two attempts, the signer may be locked-out for 24 hours. Please speak with your service provider for more details in this regard.

**I am the online notary and I have personal knowledge of the signer. Can I bypass the ID credentialing and KBA processes?**

We at The Fund are hearing that more and more service providers are allowing the online notary to bypass ID credentialing and KBA if the online notary has personal knowledge of the signer and indicates as such within the notarial certificate. Please speak with your service provider for more details in this regard.

**What's that about the notary log?**

Florida's new online notary laws require that the online notary maintain a log of all remote online signing sessions. Please speak with your service provider for more details in this regard.

**Is there a "start" and "stop" button on the recording of the session?**

The mandatory recording of the online signing session typically commences once the signer's ID is credentialed and the signer has passed KBA. The recording typically concludes once the online notary affixes his or her electronic seal. Please speak with your service provider for more details in this regard.

**Where's the recording saved of the signing session? Do I get a copy? Who else gets it?**

Although Florida's statutes impose the obligation to save and maintain the audio-visual recording of the online signing session on the online notary, many service providers are offering this service. Please speak with your service provider for more details in this regard. Florida's statutes also set out the persons who are entitled to a free copy of the recording. State law also sets out who is entitled to a copy of the recording but may be required to pay a fee. See Sec. 117.255(5), F.S.



**How long must the recording be saved? Who pays for the storage?**

The recording need be saved for 10 years. Note: different time periods may apply as to recording sessions of the online signing of wills and trusts. In addition, the GSE's have stated that the lender must maintain the recording of the online signing session for the life of the loan.

**What's the typical cost to the signer to use an online notary?**

Prices vary but seem to be comparable to the cost of utilizing a mobile notary service.

**What's that about \$25? I'm hearing it cost \$200-\$400 per signing session.**

Florida's statutes speak to the notary charging \$25 per notarial act. The cost of the notarial act is typically included in the overall service fee charged.

**Can the charges related to the execution of documents through a RON service provider's platform be separately itemized on the closing statement and/or CD?**

Generally, the answer to this question is "yes" because the remote signing of closing documents would be at the specific request of the buyer or the seller. However, it would be advisable that you indicate the cost of signing remotely online in any promotional materials that contain closing cost estimates (including a quote to a particular party) so it is clear to anyone who might choose the RON option what the additional cost will be. Here is a statement from the Department of Financial Services website on this topic:

Title agencies are permitted to charge the third-party fees as separate line items as long as the consumer has been notified these fees represent responsibilities of the agency, which were contracted to a third party. The consumer must also understand these fees will be charged to them either as part of the closing services fee total, or in addition to the agency's closing services fee. However, in no case should a third-party fee be charged to a consumer in a deceptive or misleading manner. Yes, it may be included in the Settlement Fee.



## WITNESSING AND RECORDING THE ELECTRONIC DOCUMENT

### **What if my instrument needs two witnesses? How is that handled in an online signing session?**

The online notary can serve as one of the witnesses. If another witness is needed, Florida's statutes differentiate between a witness who is in the physical presence of the signer and a witness who is remote from the signer. In the former situation, the need only announce his or her name and current address for purposes of the recording. In the latter case, the identity of the witness must be credentialed and proven in the same manner as the signer and the remote witness must be a U.S. resident and physically located in the U.S or a territory of the U.S. at the time of signing.

### **Where's the "original" of the signed instrument?**

The original instrument is the electronic document protected by tamper-evident technology. It may be "papered out" and certified pursuant to Florida statutes to qualify it as a legally acceptable substitute for the original.

### **How is the electronic document recorded?**

In Florida counties where e-recording is done, the recorder's office is specifically directed under Florida's new laws to record an electronically signed and notarized instrument. The Fund has not heard of any problems with e-recording in this regard.

### **What if my county doesn't accept e-recording?**

Florida's statutes allow for "papering-out." This is a straightforward process of printing out a hard copy of the electronically signed and notarized document and recording it with a certificate/cover page certifying that the paper copy is a true copy of the electronic document. The Fund has not heard of any problems with recording in this regard.



## SPECIAL CONCERNS – FOREIGN NATIONALS

### **What's the problem with RON and foreign nationals?**

Florida – and most states that have adopted RON – require that the signer successfully navigate the ID credentialing and KBA processes discussed above as a pre-condition of signing instruments remotely from the online notary. The KBA questions are computer-generated and derived from third party sources that rely in large part on the signer's U.S. credit history. Foreign nationals oftentimes do not have a sufficient base of information needed to build the KBA questions, thus making it difficult to use RON with a foreign national signer.

### **Is there a workaround approved by The Fund and Old Republic when it comes to foreign nationals?**

Yes. There are two workarounds: (i) if the online notary personally knows the foreign national signer and the platform being utilized allows for the bypass of ID credentialing and KBA, the online notary may be able to proceed with the online signing, provided that he or she marks "personally known to me" within the notarial certificate; (ii) the use of a Virginia online notary may allow for sufficient identity-proofing of a non-U.S. citizen and many platforms have access to Virginia online notaries. Old Republic and The Fund have issued [this](#) bulletin regarding the use of a Virginia notary. Suffice it to say, the risk of fraud decreases if the issuing-agent personally knows the foreign national signer and increases if the foreign national signer is unknown to the issuing-agent.

### **What if the issuing agent doesn't personally know the foreign national signer but a trusted person in the transaction does, like the real estate agent? Can I proceed? Do I need underwriter approval?**

This will depend on the circumstances presented in each case. Old Republic Title, through The Fund, will insure a transaction without exception involving an instrument that was notarized by a Virginia online notary, but the risk of loss will ultimately fall on the issuing-agent if there was identity fraud in the foreign national's signing process.



## **SPECIAL CONCERNS – PAPER REMOTE ONLINE NOTARIZATION (PRON) & REMOTE INK NOTARIZATION (RIN)**

### **What is PRON? How is it different than RON?**

Since the onset of the COVID-19 pandemic, the use of RON has boomed and has proven very useful for execution of seller documents, e.g. deeds and affidavits. However, many lenders still insist that their loan package be 'wet-signed' i.e. signed by ink. This has resulted in frustrations for buyers-borrowers who are house-bound and cannot meet with a traditional notary.

In response to this circumstance, The Fund issued [this](#) bulletin, detailing a process that it has approved, called Paper Remote Online Notarization ("PRON"). Please review the bulletin for details, but the process involves an online notary affiliated with the issuing-agent utilizing an Old Republic Title-approved RON service provider to first ID credential and KBA-prove the signer (as per the traditional RON process); from there, it allows the online notary to watch the signer wet-sign the loan documents and take the signer's acknowledgement, all while recording the signing session as per the usual RON process. The signer will then overnight the wet-signed loan documents to the online notary for the affixing of their signature and stamp/seal and recording in the traditional manner.

### **My buyer can't meet in person with a notary and his lender is demanding that the loan documents be wet-signed. Can PRON help me?**

Yes. See above answer and [this](#) bulletin.



**Is it true that Old Republic has said that if an online notary affiliated with the issuing-agent uses the RON features built-into platforms by NotaryCam, Notarize, Pavaso/Pavaso Essential, SimplySecure, Nexsys or DocVerify, the online notary can watch the signer wet-sign the documents and, after the documents are shipped to the online notary, have them notarized and recorded in the usual manner?**

Yes. Unlike traditional RON signing sessions, where Old Republic Title and The Fund do not mandate the use of any particular RON service provider (so long as it meets Florida's minimum standards), Old Republic and The Fund have designated those platform providers as approved for PRON signing sessions.

**Is this the same as "RIN"?**

No. Although these acronyms can be confusing and applied differently by the title underwriters, "RIN" implies the authorization, on an emergency basis, of notaries using Zoom, Facetime or such other non-RON platform to visually confirm the signer's execution of instruments and then affix their notary seals later. This method is not permitted by Florida law and is not authorized by Old Republic Title and The Fund.

**I heard some states allow notaries to watch signers sign over Zoom or FaceTime. Is that also allowed in Florida?**

No.

**Wait. Didn't I hear of an Emergency Order allowing for notaries to do something that they couldn't do before the pandemic?**

The order referred to allows for notaries to swear-in remotely based witnesses in judicial proceedings. It does not apply to real estate transactions.



## APPROVED USE OF POWERS OF ATTORNEY

**If the lender insists on wet-signed documents, why can't the house-bound borrower just deliver to the issuing agent a Power of Attorney signed via RON and let the agent sign the loan documents? Would that be a conflict of interest or otherwise prohibited?**

Traditionally, this was not permitted for loans that lenders would then sell to Fannie Mae and Freddie Mac. However, in response to the COVID-19 pandemic, and recognizing that house-bound borrowers were still being required to wet-sign loan packages, the GSE's liberalized their rules and will now allow for borrowers to deliver their Power of Attorney to the closing agent, who may then sign the loan documents. There are strict rules in place regarding disclosure. Please see [here](#) for more details issued by Fannie Mae.

**I thought lenders won't allow closing agents to sign loan documents with a POA. Is that now allowed?**

Traditionally, this was not allowed but in response to the COVID-19 pandemic, the rules in this regard have been liberalized. See [here](#) for more details.

## E-NOTE LENDERS & FULLY DIGITAL CLOSINGS

**Why do some lenders allow me to use RON for their loan packages, but most don't? Does that have something to do with Fannie Mae and Freddie Mac?**

Yes. Most, but not all, residential mortgages are sold by the originating lenders to Fannie Mae and Freddie Mac. The GSE's have long-stated that unless the "seller" of the loan is an approved e-Note lender, they will insist that the promissory note be delivered in wet-signed form. For lenders that warehouse their loans and do not seek to sell them to the GSEs, they may allow for the loan documents, including the note, to be signed digitally.

Before proceeding with an all-digital loan closing, confirm with the lender that it will accept an electronically signed note and other loan documents.



**What's that about e-Vaults and MERS? Is that all part of the gradual movement to "e-Note" closings that I'm hearing about?**

Yes. It is expected that more and more lenders will eventually become e-Note lenders, thereby digitizing the loan package and rendering the closing process paperless. One hallmark of an e-Note closing is that the electronically signed note is stored in an "e-Vault." MERS is a national leader in the e-Vaulting of electronic notes.