

# THE REALITIES OF ONLINE NOTARIZATION

**MONTANA LAND TITLE ASSOCIATION  
SPRING EDUCATION SEMINAR  
MAY 13, 2022**

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## HOW IT ALL STARTED

1999 – UETA – The **UNIFORM ELECTRONIC TRANSACTIONS ACT** – Established equal legal status between electronic transactions and signatures; allowed for electronic notarization – Finally as of last year 48 of 50 states have adopted UETA – only took 21 years!

2000 – E-SIGN – **ELECTRONIC SIGNATURES in GLOBAL and NATIONAL COMMERCE ACT** – designed to co-exist with UETA to remove barriers to electronic transactions for interstate and international transactions.

2004 – URPERA - **UNIFORM REAL PROPERTY ELECTRONIC RECORDING ACT** – further clarified the authority of recording officials to receive, record, and retrieve electronic land records.

2006 – NASS **E-NOTARIZATION STANDARDS** – provide details regarding the notary's electronic signature and seal; address security concerns about the reliability of electronic notarial acts using more sophisticated technology

2010 – ULC – **REVISED UNIFORM LAW ON NOTARIAL ACTS** – model legislation included provisions for electronic notarizations and opened the door to online notarizations

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## E-NOTARIZATION & RULONA (REVISED UNIFORM LAW ON NOTARIAL ACTS)

Between 2000 - 2016

5 States approved e-Notarization

10 States enacted RULONA

Rarely used

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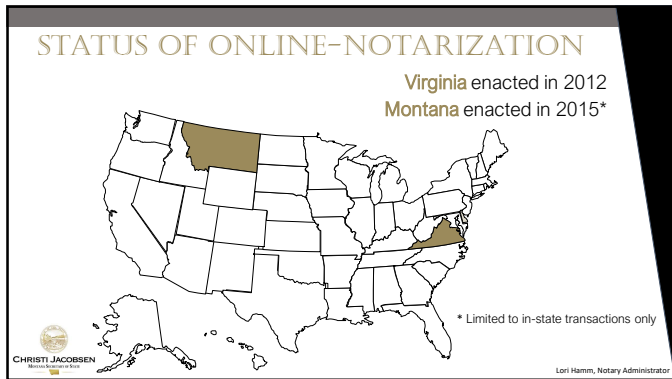
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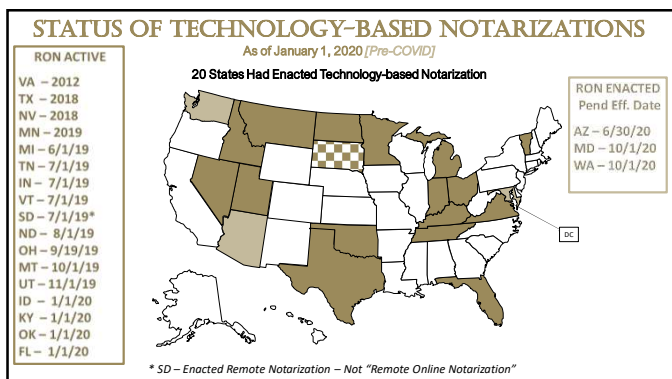
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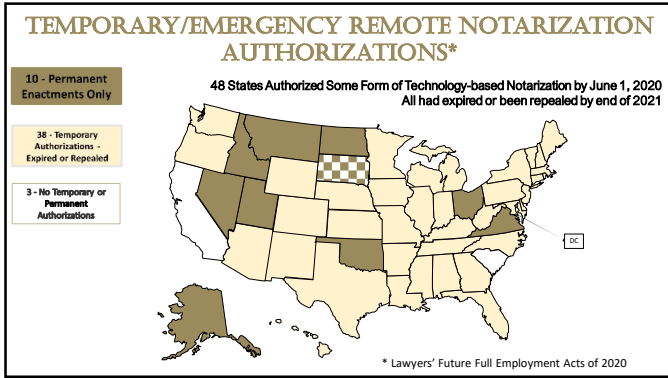
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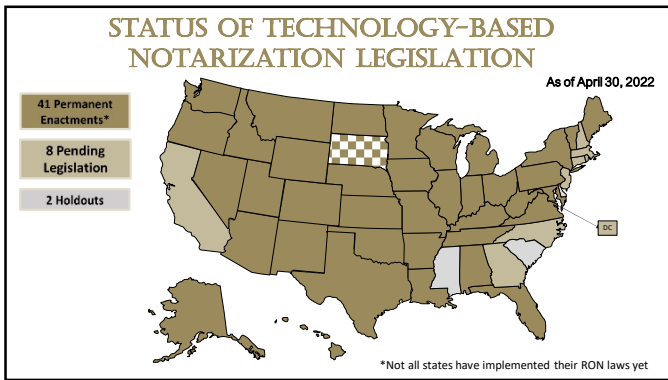
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## NOTARIZATIONS TODAY

A Whole New Vocabulary

- ✓ Traditional **Wet Ink** Notarization
- ✓ In-Person **Electronic** Notarization
- ✓ Remote **Online** Notarization
- ✓ Remote **Ink** Notarization or **Remote** Notarization

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9

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TRADITIONAL WET INK NOTARIZATION  
 ~TWIN~

- Requires physical presence
- Paper document
- Signer's wet signature
- Notarial officer's wet signature and stamp

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10

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IN-PERSON ELECTRONIC NOTARIZATION  
 ~ IPEN\*~

- Requires physical presence
- Digital document
- Signer's electronic signature
- Notarial officer's electronic signature and stamp
- Should be e-Filed to maintain security, tamper evidence

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\* Formerly known as "e-Notarization"

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REMOTE ONLINE NOTARIZATION  
 ~ RON ~

- Requires virtual presence via communication technology
- Digital document
- Signer's electronic signature
- Notarial officer's electronic signature and stamp
- Should be e-Filed to maintain security, tamper-evidence

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12

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### REMOTE OR REMOTE INK NOTARIZATION

~ RIN ~ *[Montana only]*

- Requires virtual presence via communication technology
- Paper document
- Signer's electronic or wet signature
- Notarial officer's wet signature and stamp
- Only used for acknowledgments by Montana notaries



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13

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### IS IT A RON, RIN, OR IPEN DOCUMENT?

- ✓ A statement that the document was electronically signed/notarized
- ✓ Electronic signatures
- ✓ A statement that the notarial act involved the use of communication technology
- ✓ Some kind of security barcode or QR code

First Clue - It's Going to Look Weird



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### IS THE ONLINE NOTARIZATION VALID?

- ✓ Verify status of notary with SOS office (usually online)
- ✓ Stamp should look like regular stamp for most states
- ✓ Notarial certificate should indicate use of RON/RIN technology
- ✓ Electronic signature may be font or digital image of handwritten signature
- ✓ Venue should be consistent with notary's commission



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## RECORDING A **RON** DOCUMENT

In Montana an **ORIGINAL RECORD** is defined as:

“ ”

There is no definition at this time – so whatever the holder presents as an original *may be accepted* as such.


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## THREE OPTIONS FOR RECORDING A **RON** DOCUMENT

1. E-Filed record
2. Printed copy of RON document
3. Papered-out Certified Copy of electronic file


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## RECORDING A **PAPERED-OUT, CERTIFIED COPY** OF A **RON** DOCUMENT

**What is needed:**

- Printed, hard copy of document with electronic signatures & notarization
- Loose certificate (usually) with notary's "wet signature and stamp" §1-5-610(7), MCA




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**CHALLENGES  
GOING FORWARD**

- IMPLEMENTATION
- STANDARDIZATION
- EDUCATION
- LITIGATION

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**IMPLEMENTATION**

**Legislative Pipeline**

- 10 states have yet to adopt Online Notarization laws
- California bill – controversial issue: “Jurisdiction”

**Industry Acceptance**

- Real Property ~ leading the way
- Legal Profession ~ strong interest for Estate & Probate
- Financial Sectors ~ reluctance is diminishing
- Medical ~ growing acceptance
- Government ~ expect the fastest growth

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**STANDARDIZATION**

**Platform Certification**

- MISMO - Adopted as a standard by default
- Who sets the standards – Government or Industry?

**Identification Methodologies**

- Limitations to KBA
- Reliability of credential analysis
- Multi-factor authentication – too much / not enough

**SECURE Act**

- Establishes a baseline in federal law, similar to UETA

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## EDUCATION

**Needed for...**

- Notaries
- Document drafters
- Platform providers
- Public at large

**Terminology**

- Too many acronyms that confuse and obscure
- Inconsistency in laws



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## LITIGATION

**The RIN Problem** – When does the notarial act take place?

**Judicial Rulings** - How will prosecution, defense and judiciary decide?

- Interstate recognition of temporary orders
- Irregularities of notarizations during pandemic
- Notarizations performed in violation of statutes during pandemic
- King County Lawsuit



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23

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## FINAL THOUGHT

**“CHANGE is always welcome...**  
as long as nothing is altered or different”



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THANK YOU



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MONTANA SECRETARY OF STATE

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