

Date: January 28, 2021  
To: All Colorado Agents  
From: David Dickard, VP, Western Region Underwriting Counsel  
RE: Colorado Remote Online Notary (RON) Procedures

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The purpose of this Bulletin is to bring agents up to date on approved statutory and regulatory RON procedures in Colorado and FNTI's underwriting position relative to RON transactions.

The onset of the Coronavirus pandemic in 2020 led to unprecedented changes in the way that title companies conduct real estate closings. Among those changes was the rapid adoption in many states of the use of RON as an approved method for parties to appear before a notary public. On March 27, 2020, Governor Polis issued Executive Order D2020-019, temporarily suspending the personal appearance requirement before a notary officer and authorizing the Secretary of State to issue emergency rules for notarization via audio-video communication. The Secretary of State subsequently issued temporary rules limiting notarization via audio-video communication to notaries and parties physically located in Colorado and not specifying approved third-party platforms with trusted security protocols for conducting audio-visual communications.

On June 26, 2020, Governor Polis signed into law Senate Bill 20-096, codifying more secure methods for performing notarial acts using audio-video communication and bringing Colorado more into line with the practices of other states that had approved RON procedures. Following an "interim period" set forth in the Bill, the new RON statutes became effective December 31, 2020. The statutes can be found at C.R.S. 24-21-502 and C.R.S. 24-21-514.5. In conjunction with the passage of SB 20-096, on December 1, 2020, the Secretary of State issued notice of adoption of new Administrative Rule 5 regarding approved RON procedures, also effective on December 31.

Colorado notaries must be authorized by the Secretary of State to perform RON and are now allowed to do RON for parties located outside of Colorado. RON for parties located outside of the US is more restricted, the most significant for our purposes being that it must be related to property located within the US. In all cases the RON notary must be physically located in Colorado. The RON transaction must be recorded and the RON notary must store an electronic record of the RON transaction for a period of ten years. The parties appearing by RON must explicitly consent to the use of RON for their transaction, the recording of the RON meeting, and the electronic storage of the RON meeting.

An essential element of the RON transaction is the use of a trusted third party vendor to provide the platform for real time audio-visual communication between the notary and the remotely located parties and to assist the notary in confirming of the identity of the remotely located parties. Approved methods of identification are:

1. The notary's personal knowledge of the remotely located parties.
2. The oath or affirmation of a credible witness who is personally known to the notary, personally knows the remotely located parties, and is in the physical presence of either the notary or the remotely located parties at the time of the RON meeting or
3. Verification of the remotely located parties photo ID by credential analysis procedure *and* either:
  - a. A dynamic, knowledge-based authentication assessment by the RON system provider or
  - b. A valid public key certificate.

The notarial certificate for a RON transaction must indicate that the notarial act was performed using audio-video communication technology.

Prior to performing RON, Colorado notaries must provide the Secretary of State with the name of each RON system that the notary intends to use. At this time LiveNotary, Pavaso, and SIGNIX have been approved by the Secretary of State. Please contact your FNTI underwriter with any questions about approved RON providers. Skype, Zoom, and Facetime are not approved RON providers.

The following statement has been added to the Colorado Commitment Disclosure form and is being distributed to your software vendors:

Pursuant to C.R.S. 10-11-122 (4), Colorado Notaries may remotely notarize real estate deeds and other documents using real-time audio-video communication technology. You may choose not to use remote notarization for any document.

FNTI will insure transactions utilizing RON technology for properties located in Colorado provided that the provisions of C.R.S. 24-21-502, C.R.S. 24-21-514.5, and Secretary of State Administrative Rule 5 are followed. If the transaction involves a new loan, you must obtain the consent of the lender to any use of RON as part the transaction. Prior to using RON, you must verify that the county recorder where the property is located will accept RON documents for recording.

For situations involving RON utilizing notaries located outside of Colorado, please contact your FNTI underwriter.

This Underwriting Bulletin becomes a part of the principles and practices with which you are to comply under the terms of your Underwriting Agreement with First National Title Insurance Company. Should the content of this bulletin address the closing and escrow function, this information should be considered a directive and part of the principles and practices if non-compliance would result in liability to FNTI under either the insured closing service letter or policy of title insurance notwithstanding that the Underwriting Agreement does not include the closing and escrow functions of your agency.