

Remote Online Notarization Becomes Law

Article

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Governor Evers signed AB 293 today which permits parties in Wisconsin to allow the performance of notarial acts via audio-visual technology^[1] for remotely located individuals. In other words, a notary public in Wisconsin does not need to be in the same room as the person for whom they are performing the notarial act-if the requirements of this new law are met. This is an important development for brokers, developers, notaries, real estate and finance lawyers, and others who routinely engage in transactions requiring a notary.

The creation of Chapter 140 of the Wisconsin Statutes heralds the arrival of Remote Online Notarization (RON) in Wisconsin. RON takes advantage of online technological advances to allow individuals to acknowledge documents for real estate closings and other business and legal processes, and should operate in tandem with other electronic real estate closing processes and applications. For real estate professionals, this eliminates or reduces one of the last remaining hurdles to closing a transaction remotely. With the potential to notarize documents remotely, the timing of a real estate closing no longer has to be based on the physical location.

The law adopts the structure of the latest uniform law on notarial acts, also known as Revised Uniform Law on Notarial Acts (RULONA), which includes the language to authorize the performance of notarial acts for remotely located individuals by means of audio-visual technology, and incorporates it into Wisconsin law. The law sets the requirements to become a RON notary and provides for additional privacy and fraud protection in the form of retention rules and identity verification processes. Current notaries must register with the Department of Financial Institutions (DFI) to become RON notaries. RON notaries must use DFI registered RON providers of communication technology. Furthermore, the law provides for the establishment of a Remote Notary Council made up of members of the State Bar, Mortgage Bankers Association and Wisconsin Land Title Association to cooperate with the Wisconsin Department of Financial Institutions to promulgate appropriate rules and keep up with changes in the technology. In addition to RON, the law also combines Wisconsin notarial laws into one Chapter and addresses some other issues related to the use of a notary in Wisconsin.

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[1] RON may not be used for creation and execution of wills, codicils, or testamentary trusts, living trusts (non-business), trust amendments for personal use, powers of attorney (non-business), marital property agreements, powers of attorney for health care, living wills, and authorizations for use and disclosure of health information. See Wis. Stat. Section 140.145(10).

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