



February 13, 2017

Leslie Reynolds
Executive Director
National Association of Secretaries of State
444 North Capitol Street NW, Suite 401
Washington, DC 20001

Re: Remote Electronic Notarization

Dear Leslie,

The American Land Title Association¹ (ALTA) appreciates the National Association of Secretaries of State (NASS) for its leadership on the emerging topic of remote electronic notarization. ALTA and its members want innovation in the marketplace, specifically remote electronic notarizations, to succeed. We appreciate that NASS Remote Notarization Task Force is “dedicated to promoting a greater understanding of the issues and policies surrounding remote/video notarizations among states.”

In order for this innovation to work, there need to be clear and consistent statutes, regulations, and standard practices that authorize and recognize remote electronic notarization. This guidance about how current notarization statutes will be interpreted under state law is necessary for our members to have certainty that remote/video notarizations will be viewed as valid notarizations by county recorders, state courts, and bankruptcy trustees.

The title insurance and settlement industry seeks assurance that a remotely electronically notarized document will receive the same legal certainty, and provide effective

¹ The American Land Title Association, founded in 1907, is a national trade association and voice of the real estate settlement services, abstract and title insurance industry. ALTA represents over 6,200 member companies. With more than 8,000 offices throughout the country, ALTA members operate in every county in the United States to search, review and insure land titles to protect home buyers and mortgage lenders who invest in real estate. ALTA members include title insurance companies, title agents, independent abstracters, title searchers and attorneys, ranging from small, one-county operations to large, national title insurers.

constructive notice, under state law as a traditional, wet-signed, face-to-face, personal appearance notarization. Though states have long accepted traditional notarizations conducted in other states, it is currently unclear as to whether remote electronic notarizations will receive the same treatment.

Given the inherent variations between traditional and remote electronic notarization processes, our members support legislation that protects the basic tenets of notarization in a remote setting. New and thoughtful legislation is needed to ensure that a remote appearance before a notary will satisfy the cornerstone of notarial practice, which is that a signer personally appear before a notary. Personal appearance has customarily required a physical appearance and face-to-face interaction between the signer and the notary. However, technological advances in the marketplace demand that our laws reconsider this requirement.

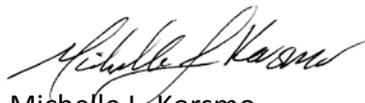
To ensure that remote electronic notarizations can succeed in the marketplace, it is critical that states implement legislation that authorizes and recognizes these practices. We believe that the following elements should be included in every remote electronic notarization statute:

1. **Adequate safeguards** to protect the public and the parties relying on notarization from identity thieves, forgery, undue influence, and fraud;
2. **Proven methods of authenticating identity** of the signer through a multi-factor identification process that includes at least two of the following categories: what the signer possesses (credentials, e.g., driver's license, passport, military ID card, etc.), what the signer knows (knowledge-based authentication, e.g., questions based on the signer's personal knowledge), and who the signer is (recognition of behavioral and biological characteristics, e.g., fingerprint recognition, eye scan, etc.);
3. **Confidence** that a remotely electronically notarized document is recordable in the local land records and that once recorded, the document is a real property record that will serve as effective constructive notice upon which the public can rely; this includes the ability to record an electronically notarized (including remotely electronically notarized) document in the official land records regardless of the capability to receive electronic recordings;
4. **A determination** of whether the state will recognize remote notarial acts performed by out-of-state notaries and whether such acts are governed by the state;

5. **An indication** be required to be apparent on the notarized document to specify the type of appearance the signer made before the notary, be it a physical appearance or a remote appearance;
6. **Tamper-evident technology** is used to assure the integrity of a remotely electronically notarized document;
7. **Retention of records** so that a remote electronic notary must retain for a period of at least 7 years the IP address data of the notary and the signer, date and time information, and an audio-video recording of the portion of the notarial act during which the identity of the signer is authenticated; and
8. **Clarity and consistency within the statutes** which utilize the use of notaries and witnesses to give guidance as to the impact of remote notarization on these other processes.

We appreciate consideration of these suggested standards for legal certainty and any feedback NASS may have as we work together to identify and implement standards for this important innovation. Should you have any questions about this letter, please do not hesitate to contact Justin Ailes at justin@alta.org or 202.261.2937.

Sincerely,



Michelle L. Korsmo
Chief Executive Officer