



**First American Title™**  
NATIONAL COMMERCIAL SERVICES

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# Current Developments Special Edition

First American Title  
National Commercial Services

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## REMOTE ONLINE NOTARIZATION REMOTE INK NOTARIZATION NEW YORK STATE

Governor Cuomo's Executive Order 202.7 signed on March 19, 2020 authorized notaries public to officiate documents remotely using what is known as Remote Ink Notarization ("RIN"). RIN allows a person seeking a notary's services, using audio visual technology, to ink-sign a document signed at a location different from the notary. The ink-sign document is then scanned and emailed or faxed to the notary who completes the notarial certificate and transmits the executed document back to the person whose signature has been acknowledged. This EO, as extended, was rescinded effective June 25, 2021.

Current Developments issued January 10, 2022 reported that on December 22, Governor Hochul signed into law Chapter 767 of the Laws of 2021, effective 180 days after its enactment, adding Section 137-a ("Electronic notarization") to the State's Executive Law, authorizing notaries, registered to do so with New York's Department of State ("DOS"), to perform notarial acts using Remote Online Notarization ("RON"). RON allows an electronic signature to be acknowledged and its simultaneous notarization to occur electronically without the need for an ink signed paper document. The Governor's Memorandum approving the legislation advised that further legislation would be enacted to provide the DOS additional time to create a system to enable notaries to register to perform electronic notarizations.

Chapter 104 of the Laws of 2022, amending the Executive Law, was enacted on February 24, 2022. Section 1 of the Chapter allows any New York notary public to notarize using either RON or RIN, although the RIN process differs from that under the expired EO. The Section is "effective immediately" and sunsets on January 31, 2023. Section 2 of the Chapter, reiterating and expanding the text of Chapter 767, authorizes a New York notary public to register with the DOS as an "electronic notary public."

Using either RIN and RON, the notary must be physically present in New York State, although the person whose signature is being acknowledged can be out of the state or even in another country.

Under Section 1 of Chapter 104, any New York notary public may notarize for a remote signer who is physically located in New York, elsewhere within the United States, or outside the United States, provided: "(1) the [document being notarized] is to be filed with or relates to a matter before a public official or court, governmental entity, or other entity subject to the jurisdiction of the United States; or (2) the [document being notarized] involves property located in the territorial jurisdiction of the United States or involves a transaction substantially concerned with the United States." For RON, under Section 2, these limitations apply only when the person whose signature is being acknowledged is outside of the United States.

A complete, detailed explanation of the requirements of Chapter 104 is beyond the scope of this Bulletin. The legislation (Senate Bill 7780/Assembly Bill 8691) may be obtained at: [Bill Search and Legislative Information | New York State Assembly \(nyassembly.gov\)](#). Notwithstanding, set forth below are certain notable provisions of the Chapter.

1. Under Section 1, the technology allowing for communication between the person signing the document and the notary must allow for their "real-time, direct interaction...[and] [a] recording, containing both audio and video, of the remote notarization must be retained by the notary public for at least ten years." This applies to both RIN and RON notarizations under Section 1. The notary is required to maintain a journal of each remote notarization.

Section 5 of Chapter 104 further provides that “[a]ny recording, backup of such recording, and journal of a remote notarization made pursuant to Section 1 of this act must be retained by the notary public for at least ten years.”

Under Section 2, for RON, “the electronic notary shall keep a copy of the recording of the video and audio conferencing and a notation of the type of any other identification used. The recording shall be maintained for a period of at least ten years from the date of” the notarized document.

2. Section 2, for RON, provides that the DOS will issue standards for identifying document signers. To be included is “a standard that requires two or more different processes for authenticating the identity of a remotely located individual utilizing technology to detect and deter fraud, but which may allow a notary public’s personal knowledge of a document signer to satisfy such requirement.”
3. Under Section 1 and Section 2, a recording officer is required to “accept for recording a tangible copy of an electronic record” otherwise recordable “if the record has been certified by a notary public or other individual authorized to perform a notarial act.” The “tangible copy” is a paper print-out of the signed document together with a completed “Certificate of Authenticity.” The certificate is to be “substantially” the form set forth in Chapter 104:

*Certificate of Authenticity*

State of New York) ss:

County of )

*On this....day of.....in the year.....I certify that the signature pages of the attached record (entitled.....) (dated.....) is a true and complete copy of the signatures affixed to an electronic record printed by me or under my supervision. I further certify that at the time of printing , no security features present on the electronic record indicated any changes or error in an electronic signature in the electronic record after its creation or execution.*

*(Signature and title of notary public)*

*(official stamp or registration number, with the expiration date of the notary public’s commission)*

4. Under Section 1, a notary public is not required to perform a remote notarization. Under Section 2, a notary is not required to perform a notarial act using electronic communication technology.

The DOS will be issuing procedures for the registration of notaries to authorize them to perform electronic notarizations, and other regulations. Regulations for Section 1, effective until January 31, 2023, may now be issued. The DOS must issue regulations for Section 2 by its effective date of January 31, 2023.

The DOS has posted “Remote Notarization FAQs” at <https://dos.ny.gov/notary-public#remote-notarization-faqs>.

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