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Interstate Recognition White Paper

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Executive Summary

Interstate recognition of notarial acts is rooted in a robust statutory, common law, and constitutional framework. It has been in practice in the United States for more than a century. It is essential to the efficient functioning of domestic commerce as it allows documents to be accepted across multiple states while maintaining confidence in their trustworthiness. Without it, critical documents would have to be re-executed for use in multiple states and cross-border transactions would be challenging.

Notarial laws are set at the state level, with each state setting the rules governing its own notaries. With interstate recognition, notaries can perform notarizations in accordance with the laws of their state, and recorders can trust those notarizations are valid regardless of whether they are performed in accordance with the laws of the recorders' states.

PRIA Supports Interstate Recognition in the Property Records Industry

Interstate recognition is central to PRIA's mission to promote efficient and secure processes for the recordability and acceptance of notarized documents. Interstate recognition is essential to ensuring that property transactions are fast, safe, and convenient. PRIA encourages its members to familiarize themselves with interstate recognition to ensure timely acceptance of out-of-state notarizations.

What is Interstate Recognition?

Interstate recognition allows for the legal acceptance of notarizations performed by notarial officers of other states. There are three core elements of interstate recognition, each of which is determined by its own set of laws.

1. The laws governing the document's execution dictate whether a notarial act is required and which type of notarial act is needed. These laws do not dictate who must perform the notarial act or how the notarial act must be performed.
2. The notarial laws of the notary's commissioning state dictate how the notary must perform the notarization and validate the notarization when performed in accordance with the laws of the notary's state.
3. In addition to authorizing their own notaries to perform notarizations, every state recognizes and accepts notarial acts performed by notaries of other states. Documents are notarized regularly for use in other states. With interstate recognition, signers can be confident that these documents will be freely accepted across the country when notarized in compliance with the laws of the notary's commissioning state.

What Is RON?

Remote Online Notarization (RON) is a modern form of notarization in which the signer appears before the notary by means of real-time, two-way audio-visual communication. Notaries may perform RON if authorized by their commissioning state. A remotely notarized document is as legally valid as one notarized via traditional paper-based notarization.

Interstate Recognition & RON

RON does not affect interstate recognition. It is just another method of performing notarizations. If the notary's commissioning state authorizes the notary to perform RON, then the notarization is valid. The statutes recognizing and accepting out-of-state notarizations apply equally to both RON and traditional paper-based notarizations.

The Recorder's Role

Recorders cannot be expected to know the notarial laws of all 50 states. They can trust that a notarization is valid because the notary is required to perform notarizations in accordance with the laws of the notary's commissioning state. When a completed notarial certificate is included with the document, the recorder can proceed with the recording process to expedite notice and help to maintain lien priority in the property records. The notarial laws of the recorder's state, however, do not affect the validity of the notarization.

Conclusion

While out-of-state notarizations may be different from what recorders typically see, interstate recognition ensures the validity and acceptance of these notarizations.