

March 20, 2020

Secretary of State Bev Clarno  
900 Court Street NE  
Capitol Room 136  
Salem OR 97310-0722

Dear Secretary Clarno,

We are writing to bring an urgent matter to your attention. We believe that you, under existing legal authority, could help Oregon keep a critical part of the real estate purchase and refinancing infrastructure functioning while also promoting the goals of social distancing.

Remote Online Notarizations (RON) allow the consumer and notary to be in different locations using two-way audiovisual communication, and multifactor identification proofing, to securely execute electronic documents. Twenty-three states have passed legislation and administrative rules that allow the use of RON technology since 2012.

Oregon is not one of these states. However, ORS 194.260 and ORS 194.255(2) require Oregon to recognize notarial acts performed in other states. Unfortunately, many County Clerks do not accept electronic RON documents (such as deeds and deeds of trust) because they are applying the *personal appearance* requirement set forth in ORS 194.235.

We believe that the *personal appearance* requirement governs notarizations taking place in Oregon but that ORS 194.260 and ORS 194.255(2) require Oregon officials to accept notarizations performed in other states so long as they comply with the requirements of ORS 194.260, namely that they are performed by a notary public of the other state (ORS 194.260(1)(a)). In fact, ORS 194.260(3) states that “[t]he signature and title of a notarial officer described in subsection (1) of this section conclusively establish the authority of the officer to perform the notarial act.”

Given this reasonable interpretation of the statute and the current crisis, we encourage you to act swiftly in issuing guidance to County Clerks across Oregon that electronic RON documents will be accepted for recording in Oregon so long as they comply with ORS 194.260. The electronic RON documents that the County Clerks should accept for recording are documents that were notarized in states that have RON legislation in place, by a notary that is authorized by that state to do RON signings, and all of that state’s requirements were complied with during the RON process.

If a “shelter in place” or similar order were issued by the Governor and notary services were not included as “essential” services, RONs would be the only way to close and record a real estate purchase or refinance transaction. **In such a situation, not allowing the recording of electronic RON documents acknowledged in other states would mean a complete collapse of the real estate purchase and refinance market in Oregon.** Even if such an order were not in place, accepting electronic RON documents acknowledged in other states would significantly

contribute to the objectives of social distancing. Home purchasers, refinancers and sellers; title company representatives and notaries would all be protected from social contact while still allowing real estate purchase and refinance transactions to occur.

Given the reasonable interpretation of this statute, your authority to issue guidance to County Clerks on this issue, and the importance of promoting social distancing, we urge to swiftly consider this important request.

Thank you,



Jenny Pakula, CEO  
Oregon Association of REALTORS®



Rich Bailey, Regional Underwriting Counsel  
First American Title Insurance Company



Dulce Phelps, Underwriting Counsel  
Stewart Title Guaranty Company

Cc:

Oregon Governor Kate Brown

Oregon Secretary of State Business Services Director Jeff Morgan

Oregon Secretary of State Corporations Division Director Ruth Miles

State Archivist Stephanie Clark