

WFG Underwriting Bulletin



To: All Michigan Policy Issuing Agents of WFG National Title Insurance Company
From: WFG Underwriting Department
Date: April 16, 2020
Bulletin No.: MI 2020-03
Subject: Impact of Michigan Governor's Executive Order No. 2020-41 on Closing and Recording

On April 9, 2020, Michigan Governor Gretchen Whitmer issued [Executive Order 2020-41](#) ("EO"), which temporarily suspended strict compliance with the provisions of the Uniform Electronic Transactions Act (UETA), the Uniform Real Property Electronic Recording Act (URPERA) and the Michigan Law on Notarial Acts (MCL 55.261 et seq). The EO temporarily authorized and legalizes an abridged form of remote notarization that involves wet ink signatures on paper documents, while the notary observes from a remote location, watching the signing and communicating simultaneously by two-way, real-time audiovisual technology.

Paragraph 5 of the [EO](#) provides that any notary currently holding a valid notarial commission may, utilizing two-way real-time audiovisual technology, perform any notarial act required under Michigan law, so long as provisions (a) through (h) of said Paragraph 5 are met. Please see the EO and read it in its entirety.

The use of Remote Online Notarization (RON) was previously authorized by WFG in Michigan – please refer to [WFG Underwriting Bulletin MI 2020-01](#) for guidelines for a RON transaction.

The newly established use of the two-way, real-time audiovisual technology described in said paragraph 5 is extraordinary, AND ONLY EFFECTIVE THROUGH MAY 6, 2020, according to the EO. WFG has agreed to accept these expanded notarial provisions to enable its agents to continue closing and insuring during this difficult period, based on full compliance and conformity with Paragraph 5 (a) through (h), together with the following additional requirements and guidelines:

- All parties, including the lender, must authorize in writing the use of the audiovisual conference notary process for each transaction.
- The two-way, real-time audiovisual technology used for such transactions should be one that is considered secured for the exchange of non-public information (NPI).
- The audiovisual conference session for such transactions must be recorded and securely maintained and stored for at least ten (10) years.
- Documents to be executed and notarized should be provided to the signatory in advance of the audiovisual conference session, either by email, fax, Federal Express, UPS or USPS mail. Instructions should be included to NOT sign the documents until the audiovisual conference session. In addition, a prepaid return envelope should be included for the signatory's use.

- At the time of the audiovisual conference session, the signatory's identity must be validated by at least TWO (2) sources/methods:
 1. Driver's License, U. S. Passport, or other government-issued identification shown to the camera – both front and back; and
 2. At least one of the following options:
 - a. The notary can use a two-factor authentication method at the start of the audiovisual conference. This can be done by sending a text to a verified mobile device with a random set of numbers or a phrase. Once received by the signatory, they must verbally repeat back to the notary the number or phrase they received. Several code generators can be used, which will auto generate a random a six-digit number or phrase for such purposes; or
 - b. The notary can ask the signatory a question during the audiovisual conference session, gleaned from personal data contained in the loan file that only the signatory would know; or
 - c. A borrower in a refinance transaction, or a seller in a sale transaction, during the audiovisual conference session, the signatory can display a copy of a utility bill dated within the last 30 days for the party's known address in the name of the signatory; or
 - d. The use of a third-party identity verification service with evidence of same retained in the file.
- At the notary's direction, the signatory should verbally state what documents they are signing and date them as of the then current date.
- Preferably only original wet-ink documents are to be recorded. If, however, due to the state of emergency, the only available method of recording is electronic, the notary may notarize an electronically transmitted copy of the signed document.

In suspending strict compliance with URPRA, UETA and the Michigan Law on Notarial Acts, the EO also provides (in Paragraph 10) that a Register of Deeds cannot refuse to record a tangible copy of an electronic record on the grounds that it does not bear an original signature of the signatory or notary, if the notary before whom it was executed certifies that the tangible copy is an accurate copy of the electronic record. This "paper out" option allows you to record a "tangible" paper copy of the electronic record, when the county doesn't currently accept electronic recording. Nevertheless, as always, be sure to confirm your ability to record your documents before closing your transaction.

For your assistance, the following are suggested service providers, which offer audiovisual conferencing technology, with the ability to record such conference sessions:

Cisco Webex: <https://help.webex.com/en-us/nzpa89j/Manage-Cisco-Webex-Meetings-Recordings>

GoToMeeting: <https://www.gotomeeting.com/features/online-meeting-recording>

Microsoft Teams: <https://support.office.com/en-us/article/record-a-meeting-in-teams-34dfbe7f-b07d-4a27-b4c6-de62f1348c24>

Contact your WFG Underwriter with any questions.

NOTE: The information contained in this Bulletin is intended solely for the use of employees of WFG National Title Insurance Company, its title insurance agents and approved attorneys. Disclosure to any other person is expressly prohibited unless approved in writing by the WFG National Title Insurance Company's Underwriting Department.

The Agent may be held responsible for any loss sustained as a result of the failure to follow the standards set forth above.