

WFG Underwriting Bulletin



To: All Policy Issuing Agents of WFG National Title Insurance Company
From: Underwriting Department
Date: February 19, 2016
Bulletin No. NB2016-02
Subject: Web Cam Notarization

A number of our agents have received advertisements from web and app based services that purport to allow a Virginia Notary to “remotely” notarize any document for anybody, anywhere. This is based on a 2011 Virginia law that allows its notaries to make use of video and audio technology on the Internet to confirm identities and allow a party to have their signature notarized without being in the physical presence of the notary. A similar, but more limited law, was adopted in Montana in 2015.¹ Some of these advertisements represent that their notary service is valid in all 50 US states and the District of Columbia.

Unfortunately the legal framework in most states hasn’t caught up with this technological innovation. The validity of a Virginia or Montana remote notarization for real estate transactions in other states has not yet been confirmed by the courts. Legislatures or officials in [Arizona](#), [Arkansas](#), [California](#), [Colorado](#), [Connecticut](#), [Maine](#), [Nevada](#), [New Hampshire](#), [Iowa](#), [New Jersey](#), [North Carolina](#), [the Northern Mariana Islands](#), [Oklahoma](#), [Ohio](#), [Oregon](#), [Rhode Island](#), [West Virginia](#), [Wisconsin](#), and [Utah](#) have expressly declared web cam notarizations unacceptable in their jurisdictions. While not specifically prohibited in other States, “remote notarization” is not authorized in any states other than Virginia and Montana.

In many states, if a deed, mortgage or deed of trust is not properly notarized, it is ineligible for recording and/or even if recorded may not provide “Constructive Notice” to a subsequent purchaser or lender. Both of those outcomes have the potential to lead to a policy-limits claim. To date, there have been no reported cases construing remotely notarized real estate transactions.

¹ This Webcam Notarization is not the same as electronic notarization (commonly called eNotarization). With an eNotarization, the documents and notarial certificate are in digital form; the signer and Notary both sign digitally, and are in the physical presence of one another. WFG agents may rely on eNotarization for any instrument, after confirming that the recording office is able to receive it.

The Underwriting Standards:

Until the law catches up with the technology in all states, or we have a definitive Federal Court ruling, WFG agents SHOULD NOT use any of the web cam or remote notary services that does not require the party being notarized to be in the physical presence of the notary to execute and notarize any insured deed, mortgage or deed of trust, or any corrective instrument or other instrument which will form a part of the chain of title of an insured property. With the lender's approval, documents which will not be recorded or form part of the chain of title may be executed and notarized using such services.

WFG will rely on the remote notarization statutes in Virginia and Montana ONLY where all of these conditions are met:

1. The Notary and person whose signature is being notarized are both physically located within either Virginia or Montana at the time of execution.
2. The affected property is entirely within the state (either Virginia or Montana) where the notarization occurred.
3. The planned use of the remote notarization service has been discussed in advance with your WFG underwriter. There are very specific technology requirements for a valid remote notarization that must be confirmed and documented.

If your search indicates that an instrument back in the chain was notarized remotely or electronically, please contact your WFG Underwriter before agreeing to insure based on that instrument.

NOTE: This Bulletin should not be interpreted as reflecting negatively upon the character of an individual or entity mentioned herein and is for the sole purpose of establishing underwriting positions and policies reflecting WFG National Title Insurance Company's best business judgment. 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.