

AMERICAN
LAND TITLE
ASSOCIATION



MBA[®]
MORTGAGE BANKERS ASSOCIATION

**NATIONAL
ASSOCIATION OF
REALTORS**[®]

December 21, 2020

Federal Housing Finance Agency
Constitution Center
400 7th Street, SW
Washington, D.C. 20219

Fannie Mae
1100 15th Street NW
Washington, DC 20005

Freddie Mac
1551 Park Run Drive
McLean, VA 22102

Re: Temporary COVID-19 Notary Measures

We applaud your efforts to work with industry partners during the COVID-19 pandemic to create allowances and flexibilities for real estate transactions. Specifically, we appreciate increased acceptance of documents signed via Remote Online Notarization (RON). Undoubtedly, these short-term flexibilities have ensured critical real estate transactions could continue during these difficult economic times and have helped keep both consumers and industry professionals safe and healthy. Notwithstanding your efforts, recent state level policy discussions that promote permanent codification of temporary measures such as Remote Ink Signed Notary (RIN) in permanent law are disconcerting. The outcome of codifying these temporary measures, some of which lack consumer protections and anti-fraud measures, interjects a high-level of uncertainty into what might constitute a valid notarial act. Additionally, such laws will create inconsistency with RON laws adopted throughout the country. The legal framework for use of remote notarizations in real estate transactions must not be compromised in this way.

Over the course of the past four years, The American Land Title Association (ALTA), Mortgage Bankers Association (MBA) and the National Association of Realtors (NAR) have promoted passage of RON laws that protect consumers, prevent fraud and encourage adoption of digital closings and emortgages. We have also advocated for the adoption of the RON standards issued by the Mortgage Industry Standards Maintenance Organization (MISMO), the adoption of

which provides consistency across the country. ALTA, MBA and NAR support remote notarization options that leverage technology to improve the consumer experience, while protecting consumers from fraud and providing enough confidence for use in real estate transactions.

Our approach to RON policy is based on core principles, including, but not limited to: the recognition of consumer choice in using RON; that RON should receive the same legal status as traditional notarization; the inclusion of robust provisions for ID proofing and credential analysis; that acknowledgements performed online can be readily identified and distinguished from those done in person; that technology requirements should not be so specific as to favor one vendor over another, nor should they be so restrictive that they impede evolution of new ways to improve security over time; and, that legislation should conform to other legal standards and laws. All these factors combine to ensure consumers are not at risk of having their legal documents deemed invalid. Currently, 29 states have passed legislation embracing these principles.

The push to provide remote real estate closing options on a broader scale will continue to grow, improving the consumer experience and driving digital efficiencies. In this transition, it is vital industry stakeholders and lawmakers find the right balance between convenience and security, rejecting options that are simpler but lack essential safeguards. Unintended consequences resulting from passage of RIN legislation will risk the legal enforceability of documents, contaminate local land records with unlawfully executed documents and inaugurate a race to the bottom in notarial law.

Some temporary emergency measures do not provide for the protections contained in the model RON legislation adopted by most states. They also don't follow the MISMO standards. Therefore, some of these measures do not represent a viable long-term approach to real estate notarizations. To help mitigate the temptation to instantiate emergency measures into permanent law, we encourage your organizations to provide additional clarification that your COVID-19 related policies on certain notarial actions, such as RIN, are temporary measures that will not continue indefinitely.

We look forward to continuing to engage with you on the expanded use of RONs and further adoption of digital closings and mortgages. In the meantime, should you or your staff have any questions, please do not hesitate to contact Elizabeth Blosser at ALTA (eblosser@alta.org), Kobie Pruitt at MBA (kpruitt@mba.org), or Sarah Young at NAR (scyoun@nar.realtor).

Respectfully,

American Land Title Association
Mortgage Bankers Association
National Association of Realtors