

E-Closings: The Promise and the Reality

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There is a lot of paper in a real estate closing. Even for those title companies that have gone paperless, a significant amount of paper must still be printed out for the actual closing.

On July 1, 2012, Virginia became the first state in the country to authorize online remote notarization. Despite becoming law over 6 years ago, it seems only recently we have been bombarded with articles and talks about the promise of E-closings. It is important to understand the different types of closings, since the word E-closing is thrown around without knowing exactly to what it refers.

A traditional closing is one in which all documents are signed with wet ink with an in-person notary who verifies identification traditionally (i.e., physically looking at the driver's license).

A hybrid E-closing involves signing a number of procedural or disclosure documents electronically, while the remaining documents, including specifically those needing to be notarized, are signed in wet ink with an in-person notary who verifies identification traditionally.

A full E-closing is one in which all documents are signed electronically with an in-person notary who verifies identification traditionally.

Finally, a remote notary E-closing (which is what most people are thinking of when the term E-closing is used) is where all documents are signed electronically and the notary is not in the physical presence of the signor, but rather witnesses the signing via webcam. It is this last category of E-closings that is most often talked about and has sparked the interest of the industry.

The promised benefits of a remote notary E-closing are significant. The convenience is undeniable as the client may conduct their closing from anywhere they have a computer with internet access. Additionally, the client will likely be able to sign their documents quicker without the need to drive anywhere. This type of transaction will also increase efficiency to the extent it will be a truly paperless transaction.

The reality, however, is that most lenders still require a wet signature on their promissory notes which prevents a remote notary E-closing. In fact, there have likely been more articles written about full remote notary E-closings than the number of these closings to have actually occurred. For transactions that accommodate remote notary E-closings, certain steps and guidelines must be followed at the request of title underwriters. For example, a verification that the Clerk of the Court will accept electronic signatures and notaries for recording as well as a verification that any lender involved has approved and will accept the use of a remote notary E-closing.

Eventually, the vast majority of closings will be remote notary E-closings, we just aren't there quite yet.

UNDERWRITER GUIDELINES:

1. Title Agency must be approved for electronic closing and E-Notary.
2. Verification that Clerk of Court for the jurisdiction has approved and authorized the electronic recording process utilizing electronic signatures and notaries.
3. Verify that lender and parties to the transaction have approved the use of E-Notary or Remote E-Notary.
4. Must be for Virginia properties only.

-Note: there is a separate commission for an electronic notary.

NEW OPTION FOR SELLERS AND CASH BUYERS:

1. Sign before leaving town.
2. Have POA executed (remember, needs to be notarized).
3. Get appointment at Embassy or Consulate office (this can take time).
4. Mail away (logistics of international mailing).

5. **Remote E-Notary closing.**