

Date: April 10, 2020

To: All Texas Agents

From: FNTI Underwriting Department

RE: Supplement to Bulletin 2020-2: COVID-19 Pandemic Best Practices

Governor Abbott has issued an Order that **temporarily** allows the notarization of certain documents by a traditional notary (as opposed to a notary with an online notary license) by use of video conferencing. The link for the press release: <https://gov.texas.gov/news/post/governor-abbott-temporarily-suspends-certain-statutes-to-allow-for-appearance-before-notary-public-via-videoconference>

Real estate documents, such as Deeds, Deeds of Trust and Affidavits of Heirship, All Bills Paid Affidavits, etc. are not on the list.

However, Durable Powers of Attorney are on the list.

Based on the Governor's Order, FNTI will temporarily accept for insuring purposes a Durable Power of Attorney, notarized by a traditional notary, via use of video conferencing platforms such as FaceTime, skype and zoom, under the following conditions:

1. The notary public shall verify the identity of a person signing the Durable Power of Attorney at the time the signature is taken by using two-way video and audio conference technology.
2. The notary public will verify identity by either personal knowledge of the signing person, or by analysis based on the signing person's remote presentation of a government-issued identification credential, including a passport or driver's license, which contains the signature and a photograph of the person. A scanned copy of the signing person's identification credential should be received by the title company and maintained as part of the guaranty file.
3. The notary public must view the person sign the Durable Power of Attorney via the video conferencing platform being utilized.
4. The signing person shall transmit by fax or electronic means a legible copy of the signed Durable Power of Attorney to the notary public, who may notarize the transmitted copy and then transmit the notarized copy back to the signing person by fax or electronic means, at which point the notarization is valid.
5. Lender consent must be obtained in advance for use of this process if the person signing is their borrower.
6. The Durable Power of Attorney is not for use with a Home Equity Loan and/or Reverse Mortgage transaction, in which case it must still be executed and notarized at the title company office for insuring purposes.

This Underwriting Bulletin becomes a part of the principles and practices with which you are to comply under the terms of your Underwriting Agreement with First National Title Insurance Company. Should the content of this bulletin address the closing and escrow function, this information should be considered a directive and part of the principles and practices if non-compliance would result in liability to FNTI under either the insured closing service letter or policy of title insurance notwithstanding that the Underwriting Agreement does not include the closing and escrow functions of your agency.

This Order will remain in effect until terminated by the Office of the Governor or until the March 13, 2020 disaster declaration is lifted or expires. Documents executed while this Order is in effect, and in accordance with its terms, will remain valid after the termination.

If you have any questions or comments, please do not hesitate to contact an underwriter for assistance.

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