

Coronavirus Tracker: Virtual Notarization and PPP Lending Updates: 4.28.20

1. Massachusetts Virtual Notarization

Videoconferencing may be used by notaries public now in Massachusetts to accomplish important business transactions while avoiding face-to-face meetings during the coronavirus state of emergency. Governor Charlie Baker signed the bill into law as Chapter 71 of the Acts of 2020. The legislation contains an emergency preamble and is effective now until three business days after termination of the Governor's March 10, 2020 Declaration of a State of Emergency. The new law and its summary may be found at:

[Chapter 71 of the Acts of 2020: Virtual Notarization](#) – Effective April 27, 2020
[Virtual Notarization in Massachusetts](#) – Summary

During the course of debate and advocacy on the bill, the Association and others remained concerned that the earlier versions of the language conflicted with Fannie Mae and Freddie Mac as mortgage holders relative to how remotely notarized documents would be mailed securely. In addition, earlier in the legislative session, language was included in a municipal relief bill that would have limited remote transactions to only a notary who is a licensed attorney or a state-certified paralegal under the supervision of an attorney. The Association strongly opposed such language that would have excluded credit unions from remote notarization. The bill text was stricken from the municipal bill and subsequently amended and inserted into Senate 2645 to address the concerns of lenders, including credit unions, to allow for broader lender participation and includes more stringent requirements on how transactions are conducted.

To promote social distancing, a temporary suspension of the requirement that a notarial act may be completed only if both notary and principal are in each other's physical presence "at a single time and place," as required by M.G.L. c. 222, was included. A video alternative to in-person notarization during the emergency period was also negotiated to be available to notaries not involved in the practice of law. For an instrument that involves a mortgage or other conveyance of title to real estate, a secondary form of identification is required, as would a second video-conference (the latter for chain of custody purposes), to verify that the instrument that was delivered to the notary was the same one that the principal had signed.

Under this emergency legislation, the notarial certificate attached to the notarized document must include certain recitals, and the notary must execute an appropriate affidavit, which need not be recorded, but must be retained for ten years. Protections against the unauthorized practice of law are included in the law.

Massachusetts has approximately 100,000 public notaries and about 42,000 lawyers or paralegals certified to notarize transactions.

2. PPP Lending Operations Update – Tuesday, April 28, 2020

For the benefit of small business customers and their employees, SBA and Treasury are working on ways to optimize the loan processing system.

Starting today, Robotic Processing Automation (RPA), which are robotic systems used by some banks to mimic human data entry, may not be used to submit

Paycheck Protection Program loans into SBA's E-Tran loan system.

RPAs burden the processing system and diminish its capabilities. Without RPAs, the loan processing system will be more reliable, accessible, and equitable for all small businesses.

Application Programming Interface (APIs) will still be permitted. If you are a lender who needs assistance converting your submission process to a non-RPA API, contact Sheri McConville. (Sheri.Mcconville@sba.gov)

3. PPP Lending Update-Seasonal Employers

New updated information regarding seasonal employers may be found at:
<https://home.treasury.gov/system/files/136/Interim-Final-Rule-on-Additional-Criterion-for-Seasonal-Employers.pdf>