

COVID-19 UPDATE

MICHIGAN EXECUTIVE ORDER

Use of Electronic Signatures and Remote Notarization

The Governor signed [EO - 41](#), which suspends strict compliance with the Uniform Electronic Transactions Act, MCL 450.831 and the Uniform Real Property Electronic Recording Act, MCL 565.841 to allow the use of an electronic signature where a signature is required except when the law "mandates" a physical signature. The EO allows the State to use electronic signatures on various state documents. When getting things notarized and/or witnessed, use a two-way audio/visual system that records the exchange.

The Law on Notarial Acts, MCL 55.261, is temporarily suspended to the extent that it requires a notary to be in the physical presence of an individual seeking the notary's services or of any required witnesses. You can do a notary remotely if you do all of the following:

1. Use two-way, real-time audiovisual technology that allows direct interaction between the person seeking the notary's services, the witnesses, and the notary (sight and sound).
2. **The technology must be able to create an audio/visual recording of the complete act, and the recording must be made and kept by the notary (and journaled).**
3. The signer, if not known to the notary, must present identity evidence during the audio/video conference.
4. The signer must affirmatively represent that they are or are not in Michigan and that either: (a) the document is intended to be filed with or relates to a matter before a court, government entity, public official, or other entity subject to Michigan jurisdiction or (b) the document involves property in Michigan's jurisdiction or a transaction substantially connected to the State.
5. The signer has to sign "in a manner that renders any subsequent change" of the remote online notarial act to be tamper evident.
6. The signer or their designee must send by fax, mail, or electronic means a legible copy of the entire signed document to the notary on the same date that it was signed.
7. Once the notary gets the signed copy, they can notarize it and transmit the notarized document back. The official date and time of the notarization is the date when the two-way audiovisual witnessing happened.

For deeds and other documents, the same rules apply. Each title page and signature page must be shown to any witnesses during the audio/visual witnessing and every page must be numbered with both the page

number and the total number of pages. The signing must be visible to the witnesses. Registers of Deeds and financial institutions "must not refuse to record a tangible copy of an electronic record on the grounds that it does not bear the original signature...."

There are questions, given the odd time in which we find ourselves, such as, will lenders accept documents notarized per the EO? Will each register of deeds accept documents notarized under the EO for recording? Also, will title insurance underwriters impose new requirements before they will insure transactions relying on execution and notarization under the EO?

Please contact us if you have any questions.

Arthur Siegal

248.727.1452

asiegal@jaffelaw.com



The foregoing is only a general summary and is being provided with the understanding that Jaffe Raitt Heuer & Weiss, P.C. is not rendering legal, tax or other professional advice, positions or opinions on specific facts or matters and, therefore, assumes no liability whatsoever in connection with its use.