

e-Changes and other practical closing matters

Description

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It seems like I get the same question in almost every closing: “When are

we going to be able to sign these documents electronically?” As someone who is employed doing the very thing they are advocating eliminating, it takes a great deal of effort to not wince when I hear the question. From what I can tell, all of the “e-changes” are happening in steps. We have seen forms of e-closings that are half electronic and half wet signatures. There are offerings for end-to-end e-closings from various vendors in the marketplace. While none of these are the norm just yet, they are gaining traction. However, one area that has seen a great deal of change in Virginia recently is e-recordings and the use of e-notaries.

The first step we saw in “e-changes” was the transition to electronic recording. Many counties in Virginia already allow us to e-record our settlement documents. Not all are on board yet, but the process is well underway. The use of e-notaries is also increasing and appears to be the next step. As many of our readers know, this process allows a client to sign and have a document notarized remotely. There are several third-party vendors who offer this service. While none of these companies are exactly the same, there are some similarities from platform to platform:

- The notary service will have an account representative who can help set up the appointment.
- The client will have to contact the service and set up an appointment (the settlement agent/attorney can be part of the call).
- The client will have to show proof of identification and may need to confirm identity in other ways (social security number for example).
- At the appointed time, the notary will call the client and go through the identification process.
- The notary will e-notarize the document and the .pdf will be sent to the title company for use (recordation or otherwise).
- The notary will have to have qualified as an e-notary under Virginia requirements.
- The client will be billed for the service.
- The title company should confirm that the locality (county or town) will accept the e-notary.

E-notary currently acts as a service for clients’ with unique circumstances. The thing that is still unknown is whether this service becomes more common than not. As with all advancements in technology and new services offered there will be an impact that comes from that change.

What about an e-closing? Everyone seems to think that is the next logical step. When is it going to happen? Can we “stop” it from happening? I do not pretend to know the answers to any of those

questions. I've been to countless seminars and conventions and heard all of the talk about how our industry is changing and that soon everything is going to be signed and recorded electronically. No matter how much is being said, the fact of the matter is that the information available is limited and the answers to these questions are still unknown.

My experience with e-signing anything is two-fold. The process feels extremely convenient and easy. I do not think there is any argument to those facts. If I can stay at home and sign or if I can simply click a button then of course the process is easier. The second thing that stands out is how little I understood. The process itself allows (or maybe encourages) me to avoid trying to understand it. A client simply has to scroll through and click. Applying that experience to settlements can be frightening. Those clicks bind the client to a product that could last for the next thirty years. Pointing and clicking seems to be a disservice in that case. How can we ensure that anyone understands anything when all they did was click a button?

The fact that everyone thinks that and no one who sits in my seat really seems to be doing anything makes me wonder. Are we blind to the change? Do we not know what to do next? Do we have the capability to address the change and approach it properly? My mind starts to wander down too many paths once I start trying to answer these questions. There is one key question for me and I think it is the real question for all of us. Are these changes good for our industry? So much of what is happening is preparing to accept e-closings as a reality. I believe the more important question is whether this drive for convenience is negatively impacting the experience for the client. Is easier really better?

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