



representing the Colorado title insurance industry

March 19, 2020

The Honorable Jena Griswold
Secretary of State
State of Colorado
1700 Broadway, Suite 200
Denver, CO 80290

Dear Secretary Griswold:

On behalf of the Land Title Association of Colorado (LTAC), the Colorado Mortgage Lenders Association (CMLA), the Colorado Association of Realtors (CAR), and the Colorado Association of Home Builders (HBA) we respectfully request that you seek an Executive Order from Governor Polis, waiving the requirements of C.R.S. §24-21-506, and any rules promulgated pursuant to this statute, requiring personal appearance for a signature executed or statement made for purposes of completing a notarial act. Alternatively, we respectfully request that you allow for the use of remote notarization technology, to satisfy the “personal appearance” requirement in C.R.S. §24-21-506, in order to remotely complete real estate notarizations. We request this Executive Order based on the following reasons.

As Governor Polis’s Executive Order D 2020 003 declares, Colorado is in a state of disaster emergency due to the presence of coronavirus disease 2019 (COVID-19). Just as every sector of Colorado’s economy is severely impacted by the threat of COVID-19 due to the necessary limitations placed on the public and private sector, the real estate industry is in a dire position as well. The industry is experiencing record level orders for both sale and refinance transactions, exceeding anything seen in the last 20 years. The ability for these important financial transactions to be completed gives a consumer the financial relief or flexibility that they need right now.

One of the current hurdles in completing real estate transactions as a result of the COVID-19 threat, is the document notarization process. C.R.S. §24-21-506 states:

“If a notarial act relates to a statement made in or a signature executed on a record, the individual making the statement or executing the signature shall **appear personally** before the notarial officer.”

The proper completion of a notarial act is sacrosanct in real estate law and is a necessary component to the validity of an extremely important legal agreement for

the transfer of property. The complications of COVID-19 restricting homeowners from traveling, interacting with others and imposing self-quarantines, however, necessitate an alternative to the traditional “personal appearance” requirement in C.R.S. §24-21-506, which is critical in alleviating the real estate transaction disruption that the industry is currently facing.

The use of remote notarization is not a new or untested technology. It is currently used by out-of-state notaries for Colorado notarial acts. More specifically, prior to the temporary adjournment, the Colorado General Assembly was considering the passage of SB20-096, Concerning the Authorization for Notaries Public to Perform Notarial Acts Using Audio-Video Communication, which is a bi-partisan bill that unanimously passed the Colorado Senate and awaits a hearing in the Colorado House of Representatives. This bill is whole-heartedly supported by all segments of the Colorado real estate industry, including the undersigned. Moreover, other governmental entities, including the Colorado District Courts through directives from the Colorado Supreme Court, are utilizing technology to allow the public to interact electronically and through video to accomplish, complete and conclude court and commercial or personal business.

Utilizing video technology as an alternative to, or in lieu of, the “personal appearance” requirement in C.R.S. §24-21-506, will assist the real estate industry to continually operate, serve the public need and demand to leverage equity and cash in response to a declining economy, while honoring your commitment to keep citizens safe and healthy through limited contact with others. This is a logical and necessary step to comply with the social and business distancing that is absolutely required at this time.

Lastly, the economic needs of Colorado consumers to access cash through the sale or refinance of their homes is totally dependent upon the ability to record the necessary documents in the clerk and recorders offices. We ask that those offices be deemed “essential services” through mandatory acceptance of eRecording or drop boxes if not available.

As such, we respectfully request the following:

1. An Executive Order waiving the “personal appearance” requirement in C.R.S. §24-21-506 for 90 days.
2. Alternatively, an Executive Order clarifying that for purposes of meeting the “personal appearance” requirement of C.R.S. §24-21-506, use a remote notarization system as described and defined in SB20-096 in a real estate transaction will satisfy this requirement for 90 days.

We understand the immense pressure you are under right now and are grateful for considering this request.

Respectfully,



Geri Combs
President
Land Title Association of Colorado



Matthew Schultz
President
Colorado Mortgage Lenders Association



Janene Johnson
President
Colorado Association of Realtors



Ted Leighty
Chief Executive Officer
Colorado Association of Home Builders