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Emergency Measures Taken on RON in New Mexico

Emergency RON in New Mexico?

We wanted to bring you up to date on what the Association has been trying to do in connection with getting some workable form of Remote Online Notarization (RON) in New Mexico on an emergency basis.

As you may already know, since early March the Association has been trying to have the Governor issue an emergency order that would permit the use of RON in New Mexico and which include sufficient safeguards to allow title insurers to consider insuring RON closed transactions. More specifically the Association has advised the Governor's office that the following three issues are essential to be included in such an emergency order:

- Express authorization for the use of RON with express requirements for how a RON should occur, including two-factor authentication, tamper-sealed documents, retention of a secure electronic journal, and recording of the signing;
- Express recognition of RON executed documents which are executed in compliance with the laws of another state; and
- Express direction to the New Mexico County Clerks to accept RON documents for recording.

On March 30, the Governor issued Executive Order 2020-015, which addressed RON. Unfortunately, it fell short from the perspective of the title insurance industry. The order does not include any of the three main issues, and in effect, it is quite limited. All it really says is that a New Mexico notary who conducts a RON will not be subject to discipline. National title insurance underwriters have made it clear that the order is not sufficient for insuring RON closed transactions.

We continue to seek to persuade the Governor to issue an amended RON order that incorporates the three issues, but the Governor's office has its hands full with many different requests, so it is difficult to get someone to focus on this particular issue.

On a related front, we have had some discussions with the Governor's office and certain key legislators about trying to have a RON bill considered in a special session of the New Mexico Legislature focused on economic stimulus. There seems to be some good support for this idea, so even if the Governor does not issue any further emergency order, we may continue to have the chance to bring a good RON bill to New Mexico this year.

As always, we will continue to keep you informed and welcome your thoughts and ideas.

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