

Colorado Real Estate Goes Online Part 2 of 2: Pandemic Accelerates Changes in Denver Real Estate

In Part 1 of this series we looked at the adoption of online notarization as an alternative for completing a real estate transaction during the pandemic and subsequent lockdown. Colorado **Governor Jared Polis** implemented an executive order, approving the use of online notarization and the State Legislature subsequently passed a bill essentially making the executive order permanent.

The Leading Edge of Closings

A step beyond **Remote Ink-Signed Notarization (RIN)**, the new law allows for **Remote Online Notarization (RON)**, which means a notary does not have to be physically present with the signer when notarizing a document. The entire process is completed through an online video meeting.

Through the online notarization, the signer is identified by showing their ID to the camera, which through today's technology the system is able to confirm the ID is authentic. However, an authentic ID does not assure the signer is that person, which could leave doubt and potential fraud. With the traditional Notarial process, signers are identified through one-on-one interaction and personal knowledge, a practice dating back to the early Egyptians.

Currently in Colorado the real estate documents associated with a home purchase can be signed electronically, as well as the loan documents, depending on the lender. What stands in the way is the requirement for wet signatures on the Note and Deed of Trust. With these two documents requiring actual signatures, the quest for a fully Online transaction falls short.

An Easy Fix? Not So Fast...

Clearing the way to online closings may appear to be an easy fix by simply updating the law to allow digital signatures on the Note and Deed of Trust. But not everyone is in favor of going down this path. With convenience comes pitfalls and this is no exception.

In an interview with **Matt Miller**, President of [The California League of Independent Notaries](#) and a leading national expert in Online Notarization, he points out critical privacy and security issues that are not readily apparent at first glance. To perform the online closing a third party platform is used to host the video conference, provide the documents and generate electronic signatures.

Miller says these third party providers aren't financial institutions, but big tech companies whose aim is to generate revenue for their investors and collect data. These platforms collect the personal data from everyone involved in the online transaction. While the documents themselves may be protected, the privacy policies are clear that the company may provide this

user data to their third party vendors and affiliates, which may be used for marketing and other purposes.

Smile ... We're Collecting Data

Part of the data points collected are the facial features of the signers, which is specific to every individual person. Miller says, "It isn't a matter of *if* these companies get hacked, but *when*." Unlike an ID or credit card number, this highly personal information cannot be changed once it is stolen.

But how important are facial features, anyway?

In a 2018 article from **Fast Company**, [This new face-swapping AI is scarily realistic](#), video face-swapping, also known as "Deep Fake", has become so good that video producers can literally recreate your face in video and make "you" say anything they want. Not only could this make identifying an individual through an online meeting almost impossible, you as an individual could be shown on video purchasing a home that you have no connection to. This possibility opens the door to fraud at an unprecedented level.

The Future of the Agent - Client Relationship

Given time, the downsides of Remote Online Notarization will be overcome and we will see a full end-to-end online real estate transaction. In the age of ultimate convenience, this may sound like a great idea, but it puts home buyers and sellers in a perilous position, and chances are they don't even know it.

Real estate agents do more than write contracts. Agents are fiduciaries to their clients, legally obligated to protect their client's financial interests. They are also advisors, providing expert advice and guidance to their clients when buying and selling a home.

As we inch towards a fully online real estate transaction, the potential is exciting. There is a consumer push for this type of closing, and as a result the agent-customer relationship will be even more important, with the agent guiding the consumer through the benefits and pitfalls of going online.