

## Real Estate/Lending Transactions and the IMPACT of COVID-19 Closures

With the almost daily increase in the number of County Clerk's Offices closed to the public in response to the COVID-19 pandemic, and as more state governors issue Executive Orders limiting or closing business operations, guidance is evolving regarding how to proceed with real estate and lending transactions and obtain title insurance acceptably underwritten by the national underwriters. Our Lending Team has been working with the national title insurance underwriters to help develop documentation and closing procedures to enable lenders to close their transactions and obtain an insured mortgage lien consistent with their credit approvals. Underwriters are generally viewing this event similar to "*insuring the gap*" – which is a common concept in large, money-center markets where it is difficult to search title right up to the time immediately before recording or where recording information is not readily available. The different risk, though, presented by the COVID-19 recording gap, is that a standard set of recording procedures has not yet been developed. The process has been **somewhat** simplified where "remote notary laws" have been enacted and where electronic recording has been enabled, both of which reduce the risk. However, many Clerk's Offices have not yet been able to fully implement such helpful measures. The underwriters are now requiring specially-prepared Affidavits and Indemnity Agreements and additional Schedule B – Part 1 "*Requirements*," the Schedule B – Part 2 "*Exceptions*" and "*Notes*" in title commitments and the policies relating to the COVID-19 Recorder's Offices Closures. Financial services and lending are considered to be "Life-Sustaining Business" which provide "Essential Services" under most Executive Orders and the good news is deals are getting done.

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