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eClosings: It May Be a Paper Moon, but Your Real Estate Practice Isn't

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The mortgage lending industry continues to advance toward the day when the entire mortgage transaction will be conducted electronically and electronic documents will replace paper documents. This paper will serve as a brief introduction to the world of emortgages and eclosings and the legal infrastructure that supports them. We will look at three areas: e-notes; e-mortgage documents and notarization; and the process for converting an electronic record to a paper record for purposes of recording in those counties that do no record electronically.

First some notes on the alphabet soup:

UETA: The Uniform Electronic Transactions Act, Texas Business and Commerce Code Chapter 322. UETA is intended to give equivalent legal status to electronic documents that are signed electronically equal status to paper documents.

URPREA: The Uniform Real Property Electronic Recording Act, Texas Property Code Chapter 15. UERPRA permits an electronic document to be recorded in counties that have the capacity to record electronically.

RON: Remote online notary, sometimes referred to as remote notary. The Texas RON statutes were passed in 2017 in HB 1217, and are codified as amendments to Civil Practice and Remedies Code Chapter 121 and Government Code Chapter 406, Subchapter C.

MISMO: Mortgage Industry Standards and Maintenance Organization. This is an affiliate of the Mortgage Bankers Association. It establishes industry standards and protocols for the mortgage industry that are designed to facilitate secondary market transactions for mortgages. Generally anyone can participate in MISMO projects although only members can vote.

These standards include technical standards for remote online notary, electronic recording, and technical requirements for documents.

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