



**FROM:** The North Carolina Underwriting Department

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## **PURPOSE**

To provide standards for underwriting transactions where settlement agents employ Emergency Video Notarizations in North Carolina pursuant to Session Law 2020-3 which was enacted on May 4, 2020.

## **BACKGROUND**

Session Law 2020-3 was signed into law by Governor Cooper on May 4, 2020, to facilitate the notarization of documents during our current State of Emergency Order in North Carolina, which in turn requires social distancing to promote health and safety during the COVID-19 outbreak, even for essential services such as real estate transactions. This bill permits notarial officers in North Carolina to perform emergency notarizations until August 1, 2020, unless the bill is then extended by the General Assembly.

This was accomplished by General Assembly amending N.C.G.S. § 10B-3 to add new paragraph 7(a) which now reads:

"(7a) Emergency video notarization. – An acknowledgement, affirmation, or oath notarization completed by a notary in compliance with the requirements of G.S. 10B-25. ... "

The requirements of new N.C.G.S. § 10B-25 are extensive and only its highlights will be discussed here. However, if you desire to examine the statutory requirements in detail we commend the Act to you as set out on the General Assembly's website at:

<https://www.ncleg.gov/EnactedLegislation/SessionLaws/PDF/2019-2020/SL2020-3.pdf>

Another valuable resource available for understanding and applying the Act can be viewed at:

[https://www.sosnc.gov/divisions/notary/Emergency\\_Video\\_Notarization](https://www.sosnc.gov/divisions/notary/Emergency_Video_Notarization)

However, here are some highlights to consider in light of our Underwriting Standards, which will be listed below:

- The notary must use video conferencing technology which permits her or him to observe each principal signing each document to be notarized.
- The notary must be satisfied that the principal(s)' identity has been satisfactorily proven.
- None of the requirements for recordation or filing of a document with the Register of Deeds, Clerk of Court, or other governmental office have changed.

- When videoconferencing technology is used for emergency notarizations, it must:
  - Occur in real time.
  - Allow for direct interaction between the parties so they may communicate simultaneously both seeing and hearing one another sufficiently.
  - Not be pre-recorded.
  - Be capable of being recorded.
- Satisfactory evidence of identification of the principal can be based on one or more documents which show that it:
  - Is current or, if expired, did not expire prior to March 10, 2020.
  - Is issued by a federal, state, or federal or state-recognized tribal government agency.
  - Bears a photographic image of the principal's face.
  - Has both the principal's signature and a physical description of the principal.
- The principal must state for the record which documents are being signed.
- If for whatever reason an original wet-signed notarization is not required on an original wet-signed document, then the principal must transmit a copy to the notary but may do so by fax or “other electronic means.”
- If an original wet-signed notarization is required on an original wet-signed document, then the principal must transmit a copy by fax or other electronic means on the same day AND deliver the original to the notary by mail or other physical method. The notary must compare the two and if the documents are the same, notarize the wet signature on the original, and transmit the original back to the principal(s) or principal(s)' designee (for instance a Register of Deeds, or lender) by mail or other physical means of delivery.
- Any principal signing the documents to be notarized, and the notary must be present in North Carolina at the time new 10B-25 is utilized (this must be apparent in the acknowledgment).
- A statement that the notarial certificate is being made pursuant to the emergency video notarization requirements contained in N.C.G.S. § 10B-25.
- The notary is required to retain a journal recording the use of emergency video notarizations, and must keep that journal for the required length of time set out in the statute.

## **UNDERWRITING STANDARDS<sup>i</sup>**

During the effective timeframe for Emergency Video Notarizations, First American will insure transactions which involve the use of Emergency Video Notarization under N.C.G.S. § 10B-25, whether commercial or residential, so long as the elements of the above statute are followed and the below criteria are met:

1. Authorization: All parties must authorize in writing the use of Emergency Video Notarization under N.C.G.S. § 10B-25 with which to execute any documents to which they are a signatory or a beneficiary. Examples of appropriate written authorization may include closing instructions, authorization forms, email, etc.
2. Location and Commissioning:
  - a. The notary providing Emergency Video Notarization services must be physically located within the jurisdictional boundaries of North Carolina at the time of providing the services.
  - b. The notary performing an Emergency Video Notarization service must be properly commissioned in North Carolina, be located in North Carolina at the time the service is

performed, and affirm that the notarial certificate is being made pursuant to the emergency video notarization requirements contained in N.C.G.S. § 10B-25.

- c. A principal signing any documents for which an Emergency Video Notarization is being provided must affirm that he or she is physically located within North Carolina at the time of such Emergency Video Notarization.

If a coverage is desired for an eMortgage transaction utilizing the Emergency Video Notarization process described herein please call or email Underwriting Counsel for further guidance.

### Contact Information for Questions:

If you have any questions, please feel free to contact the State Office at (336) 668-7233 or email us at [NCUnderwriting@firstam.com](mailto:NCUnderwriting@firstam.com). Thank You.

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<sup>i</sup> This Underwriting Standard and its protocol will expire August 1, 2020, unless authority to perform Emergency Video Notarizations is extended by the General Assembly.