



ATG LEGAL
EDUCATION



COVID-19 Solutions for ATG Agents that Conduct the Closing

April 28, 2020

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COVID-19 Solutions for ATG Agents that Conduct the Closing

April 28, 2020

Presented by:

- **Peter Birnbaum**
President and Chief Executive Officer
Attorneys' Title Guaranty Fund, Inc.
- **Christine Sparks**
Senior Vice President and Chief Operating Officer
Attorneys' Title Guaranty Fund, Inc.



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Closing Real Estate Transactions During a Pandemic



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Pre-Sign Seller Documents

- To minimize the number of people in the closing room, consider have seller documents pre-signed.
- If you are representing the buyer, the final ALTA Settlement Statement and Seller CD could be emailed to the seller's attorney/seller for approval during the closing.



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Carhop Closings



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How a Carhop Closing Works – Sellers

- When the seller arrives at your office, the parties stay in their vehicles and call your office.



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How a Carhop Closing Works – Sellers

- The closer or notary delivers printed documents to the seller's vehicle.
- Sellers provide a valid ID, sign the necessary documents, and hand them back to the Closer for notarization.
- The closer emails the seller the final ALTA Settlement Statement and Seller CD.
 - Or they can be signed by the seller via carhop or DocuSign.



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How a Carhop Closing Works – Buyers

- When ATG is the Settlement Agent, we are handling a lot of the buyer's documents with DocuSign.
- ATG has a DocuSign tutorial available on our website.
- If you will be using DocuSign for those documents that do not need to be notarized, the settlement agent must confirm that lender authorizes DocuSign signatures.
 - Documents are sent to the buyer and the buyer's attorney for review.
 - Non-notary documents can be pre-signed electronically.



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How a Carhop Closing Works – Buyers

- **When Arriving at Your Office**

- The Borrower calls your office.
- Closer conducts curbside verification of identity.
- Borrower signs documents that require “wet-ink” signatures.



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How a Carhop Closing Works – Buyers

- Closer notarizes and processes executed documents.
- The closing package is returned via email.



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How a Carhop Closing Works – Buyers

■ Other Options for Notary Documents

- Allow buyers to make an appointment with your office prior to closing to have items notarized (this can be done following Carhop procedures); or
- The buyer delivers pre-signed and notarized documents to closing.



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How a Carhop Closing Works – Buyers

- If the attorney or client prefers that all documents are signed with wet-ink signatures, that could also be accommodated via carhop.



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Electronic Signing with DocuSign



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Electronic Signing with DocuSign – Sellers

- The settlement agent tags seller documents that don't need a wet-ink signature.
- The documents are then sent to the seller (and their attorney, if you do not represent the seller) for signature via DocuSign.



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Electronic Signing with DocuSign – Sellers

- **Wet-ink and notarized documents still need to be executed in person.**
 - Can be done with Carhop.



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Electronic Signing with DocuSign – Buyers

- The settlement agent must first check with the buyer's lender for approval of electronic signing of documents via DocuSign.
- If approval is obtained, will tag buyer documents that don't need a wet-ink signature.
- The documents are then sent to the buyer's attorney and the buyer for signature via DocuSign.



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Electronic Signing with DocuSign – Buyers

- **Wet-ink and notarized documents still need to be executed in person.**
 - Can be done with Carhop.



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Remote Video Signing



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Remote Video Signing – Illinois

- ATG will insure documents notarized using video conference pursuant to Illinois Executive Orders No. 12 and No. 16.
- Those orders allow a party to sign a paper document under the observation of an Illinois notary (through two-way audio-video communication). The notary then later notarizes the same paper document the same way they would notarize any document.
- The notary must be an Illinois licensed notary who is located in Illinois.



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Remote Video Signing – Wisconsin

- **ATG will insure documents notarized using video conference pursuant to the State of Wisconsin Department of Financial Institutions Emergency Guidance on Remote Notarization, which allows for the immediate implementation of 2019 Wisconsin Act 125.**



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Remote Video Signing – ATG Guidelines

- ATG works with the Zoom Business conference application.
- For a monthly fee of \$40, ATG will facilitate our Zoom Business conference application account for any of our agents who are settlement agents.
- ATG will provide Cloud Data Storage for three years minimum.
- ATG will manage the system settings.



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Remote Video Signing – ATG Guidelines

- The notary and signor must both be located in Illinois.
- The signors must be U.S. citizens with either a valid driver's license or state identification card.
- If the notary will be notarizing signatures on a mortgage, then the lender must approve the video conference in advance, in writing, as the method of notarizing the signatures on the mortgage.
 - Written authorization may be contained in loan closing instructions or by separate email.



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Remote Video Signing – ATG Guidelines

- Documents to be signed and notarized during the video conference must be provided to the signor in advance of the video conference.
 - Documents will be provided by email, fax, FedEx, UPS, USPS mail, or courier.
 - Instruct the signor to **NOT** sign the documents until the video conference.
 - A prepaid overnight mail label should be included so the signor can return the signed documents after the video conference for delivery the next day.



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Remote Video Signing – ATG Guidelines

- The signor must understand the documents that will be signed and have an opportunity to review with counsel.
 - Opportunity to review can either occur before the video conference or signor’s counsel should be included in the video conference.



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Remote Video Signing – ATG Guidelines

- **During the Video Conference**

- The recording video will be started.
- The resolution of the video recording will be checked to ensure there is enough clarity for the notary to examine identification and every page of the document.



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Remote Video Signing – ATG Guidelines

- **All signors must provide a U.S. state-issued driver's license or other state-issued identification.**
 - The front and back of the identification must be shown to the camera so that both sides are able to be seen clearly.



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Remote Video Signing – ATG Guidelines

- All signors must also verify their identity by one of the following options:
 - The notary can text a random 6-digit number (www.numbergenerator.org) to a known safe phone number for the signor; then, the signor reads the number back during the video conference.
 - A safe phone number is one that has been confirmed prior to closing by a communication other than by email.
 - The file will be noted with the 6-digit number and phone number texted.



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Remote Video Signing – ATG Guidelines

- All signors must also verify their identity by one of the following options:
 - The notary can ask the signor a question during the video conference regarding personal data contained in the loan file or attorney’s file that only the signor would know.
 - A Social Security Number should *not* be used to verify the identity of the signor.



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Remote Video Signing – ATG Guidelines

- **All signors must also verify their identity by one of the following options:**
 - For a borrower in a refinance transaction or a seller in a sale transaction, during the video conference, the signor can show a copy of a utility bill, in the name of the signor, dated within the last 30 days for the signor’s known address.
 - A third-party identification service can also be used.



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Remote Video Signing – ATG Guidelines

- The signor will be asked to identify each document being signed and will be asked to hold up each document to the camera for inspection.
- The signor will be asked to review and initial every page of every signed document and hold up each page to the camera for inspection.



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Remote Video Signing – ATG Guidelines

- The signor will be asked to date each document with the date of the video conference.
- The signor will then be asked to sign each document.
- Once all of that is complete, the video conference recording will be ended.



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Remote Video Signing – ATG Guidelines

- The signor must return all the pages of all the documents to the notary by overnight delivery.
- The notary must notarize the signatures, signing and using the Illinois Notary Acknowledgement Under Gubernatorial Executive Orders 2020-14 and 2020-18 (ATG Form 4262).
- The notary should use the date of the video conference for the date of the notary certificate.



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Illinois Notary Acknowledgment Under Gubernatorial Executive Orders 2020-14 and 2020-18

ATG Form 4262

SAMPLE ILLINOIS NOTARY ACKNOWLEDGEMENT
UNDER GUBERNATORIAL EXECUTIVE ORDERS 2020-14 and 2020-18

STATE OF ILLINOIS)
COUNTY* OF _____) SS
* Illinois County in which notary is located at time of notarial act

Commitment No.: _____

I, _____, a notary public in the State and County aforesaid, hereby certify that on this day while I
Name of Notary or Other Officer Taking Acknowledgment
was physically present in the State of Illinois, _____, also physically present in the
Name of Acknowledging Party
State of Illinois, personally appeared before me by means of an interactive two-way audio and video communication, which allowed this notary and the person(s) executing the document to communicate with each other simultaneously in accordance with Illinois Gubernatorial Executive Order in Response to COVID-19 2020-14 and Executive Order in Response to COVID-19 2020-18, and who is either known to me, or has provided satisfactory evidence of identity to be the person whose name is subscribed to the _____, consisting of _____ pages, to which this Acknowledgement page is attached
Document Name/Type to Which Acknowledgment is Attached
and made a part thereof, acknowledged to me that they executed the same as their free and voluntary act and acknowledged to me their presence in the State of Illinois.

Given under my hand and seal of office this
____ day of _____, _____
Day Month Year

Notary Public

ATG FORM 4262
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Remote Video Signing – ATG Guidelines

- **Lenders may not permit the mortgage to include any change to the notary certificate on the lender's mortgage. If that occurs, we will use the notary certificate the lender provides in its mortgage.**
 - In this situation, we will require a completed Certification of Acknowledgement by Audio-Visual Means (ATG Form 4261).



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Certification of Acknowledgement by Audio-Visual Means

ATG Form 4261

SAMPLE ATTORNEYS' TITLE GUARANTY FUND, INC.
CERTIFICATION OF ACKNOWLEDGEMENT BY AUDIO-VISUAL MEANS
Pursuant to Illinois Gubernatorial Executive Orders:
[COVID-19 Executive Order No. 12](#), which is Executive Order 2020-14
[COVID-19 Executive Order No. 16](#), which is Executive Order 2020-18

_____ hereby certifies as follows:

Name

1. On _____, I was physically situated in the State of Illinois, County of _____, when I executed the following documents during an audio-video conference, which was not pre-recorded:

Date County

a. _____
b. _____
c. _____
d. _____
e. _____

2. I presented the Notary with the following forms of valid photo identification during the audio-video conference:

a. _____
b. _____
c. _____
d. _____
e. _____

3. I used one or more of the following methods to verify my identity:

a. I verified a random six-digit number that had been sent to me on a known safe phone number, which phone number had been confirmed prior to closing by means other than email, by repeating the number to the notary during the video conference;

b. I answered a question asked of me by the notary during the video conference, the answer to which only I would know;

c. I displayed a copy of a utility bill in my name and for my present address dated within the last 30 days;

d. I used the following third-party identity verification service: _____
Name of Service

I make this Certification under the penalties of perjury and upon personal knowledge that the statements in this Certification are true and that this Certification is executed in order to induce Attorneys' Title Guaranty Fund, Inc., to issue its policy or policies of title insurance based upon the statements made herein.

_____ Date _____ Signature

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Remote Online Notarization (RON)



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Remote Online Notarization (RON) – Illinois

- **ATG will insure transactions that utilize an out-of-state notary for the remote online notarization.**
 - Pursuant to Section 20 of the Conveyances Act (765 ILCS 5/20).
 - The out-of-state notary must complete the notarization through one of the approved platforms.



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Remote Online Notarization (RON) – Wisconsin

- **On March 3, 2020, Wisconsin enacted legislation that authorized Remote Online Notarization.**
 - The legislation provided the framework for RON, but there was additional rulemaking to take place before it was to go into effect.
- **On March 18, 2020, in response to the COVID-19 pandemic, the Wisconsin Department of Financial Institutions issued emergency guidance to allow RON transactions.**



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Remote Online Notarization (RON)

■ How Remote Online Notarization Works

- Online notary and borrower(s) meet and electronically sign entire loan package and title documents via secure webchat.
- Lenders authorizing RON will establish a relationship with a RON provider for handling their documents.



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Remote Online Notarization (RON)

- **Settlement Agents coordinate with lender and RON provider to upload all documents prior to transaction for review prior to notary appointment.**



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Remote Online Notarization (RON)

- Borrower(s) log into RON provider platform, authenticate identity, and complete signing in an online session with remote notary.
 - Some RON platforms allow additional parties to join these sessions, others do not.



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Remote Online Notarization (RON)

- When online signing is complete, all parties are notified and have access to executed documents.
- Settlement Agent proceeds and disburses as usual.



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Remote Online Notarization (RON)

- Full RON transactions can take place only in counties that accept e-recording transactions.
 - All others will follow a hybrid model requiring wet-ink signatures on recording documents.



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Remote Online Notarization (RON)

- **ATG has approved the following platforms for RON**
 - Notarize
 - NotaryCam
 - Pavaso
 - Nexsys



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Remote Online Notarization (RON)

- Each person whose signature will be notarized through RON must be a U.S. citizen or permanent resident.
- Each person whose signature will be notarized must successfully pass the identity-proving process using multi-factor authentication administered by the RON vendor.



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Remote Online Notarization (RON)

- The lender must approve the transaction to close using RON and must approve the platform to be used.
- The approval must be in the closing instructions or another written communication.



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Remote Online Notarization (RON)

- At this time, all the ATG-approved platforms are using out-of-state notaries.
- ATG continues to evaluate other platforms to increase the options available to our customers.



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Closing in Your Office



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Closing in Your Office

■ Closing Table Items

- Non-essential items have been removed from our closing locations.
 - Pens
 - Paper
 - Extra reading glasses
 - Other items normally found on the closing tables
- Distribute new pens to all those who need to sign at closings.
 - Dispose or send home with clients.
 - Do not re-use.



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Closing in Your Office

- **Remove unnecessary items from your lobby:**
 - Reading materials
 - Ceramic mugs
 - Other re-usable items
 - Children’s play areas



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Closing in Your Office

- **Encourage your customers to use hand sanitizer and/or wash hands when entering your office.**
- **Symptomatic Clients**
 - Have procedures in place for symptomatic clients.
- **Unnecessary Parties**
 - Consider asking parties who do not need to be at a closing to refrain from attending.



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Closing in Your Office

- **Social Distancing**
 - Stay six feet from others.



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Closing in Your Office

- **Post-Closing Disinfecting**
 - Chairs
 - Table
 - Door handle



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Closing in Your Office

- **General Environmental Cleaning**
 - After-hours cleaning with germ-killing solutions



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ATG GO Video Conferencing



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ATGO Video Conferencing

Powered by

zoom



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ATG GO Video Conferencing

- **New Service for Active ATG Member Agents**
- **Benefits**
 - Instantly schedule private meetings with clients.
 - Meet face-to-face in a secure, safe environment.
 - Explain and review closing documents.
 - When applicable, advise clients to e-sign documents via DocuSign or wet-sign using Carhop services.
 - Attend from anywhere.



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ATG GO Video Conferencing

■ Overview of How It Works

- Schedule a time using the ATG Video Conferencing Center.
 - <https://conference.atgf.com>
 - 30-, 60-, and 90-minute time slots available
- You and your clients will receive email notification with meeting link.
- Click link at the scheduled meeting time and follow prompts.



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Use ATG GO Video Conferencing to Meet with Clients and Review Documents



Request Your Meeting



Receive Email Invites



Connect to Your Client



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Recording Office Closings and Underwriting Standards



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Recording Office Closings and Underwriting Standards

- **E-Recording or Drop-Off**

- If you can complete the recording process through e-recording or drop-off, you can close your transaction as normal.



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Recording Office Closings and Underwriting Standards

- **If E-Recording or Drop-Off are Not Available, ATG will require:**
 - The parties execute the COVID-19 Indemnity and Hold Harmless Agreement (ATG Form 3077).
 - This agreement indicates that all parties, including lenders, acknowledge that neither ATG nor its title agents can provide any estimate as to the date of recordation of such title documents.
 - Satisfactory acknowledgments by lenders may be indicated through closing instructions or by email confirmation.



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COVID-19 Indemnity and Hold Harmless Agreement

ATG Form 3077 (page 1 of 2)

SAMPLE ATTORNEYS' TITLE GUARANTY FUND, INC.
COVID-19 INDEMNITY AND HOLD HARMLESS AGREEMENT

Property Address: _____ Buyer(s): _____
City, State, Zip: _____ Seller(s): _____
Date of Closing: _____ Lender: _____
Commitment No.: _____

As a result of the COVID-19 Pandemic, several State, County, and Municipal governmental offices have closed. The recording and processing of deeds, mortgages, and other documents has been impacted. In addition, the purchase of municipal revenue stamps may be impacted.

Although Attorneys' Title Guaranty Fund, Inc., ("ATG") is willing to continue to insure title for purchasers and lenders through the ultimate recording date of the deed, mortgage, or other insured title document, neither ATG nor its members can provide any estimate as to the date of recordation of such title documents.

NOW THEREFORE, as a result of the aforementioned closures to State, County, and Municipal offices and access restrictions to the same, and as an inducement to _____ ("Member") or ATG to close the transaction and to ATG to issue its policy or policies of title insurance, the undersigned agree as follows:

Buyer(s)/Borrower(s) affirm:

- Buyers/Borrowers have received no written notice of a proposed or pending special assessment or a pending taking of any portion of the Property by any governmental body; Buyers/Borrowers have no knowledge that work has been or will be performed by any governmental body including, but not limited to, the installation of water or sewer lines or of other utilities, or for improvements such as paving or repaving of streets or alleys, or the installation of curbs and sidewalks.
- Buyers/Borrowers agree that, except for the current mortgage(s) to be insured under the above title commitment, Buyers/Borrowers will neither allow nor take any action following settlement that may result in a lien, encumbrance, or other matter adversely affecting title being placed against the title to the Property. In the event any such defect, lien, or encumbrance falling within the coverage of the Policy arises or occurs between the date of settlement and the date of the recording of the mortgage, deed, or other title document, Buyers/Borrowers agree to immediately take action to clear and discharge the same and further agree to hold harmless and indemnify Member and ATG against all expenses, costs, and attorneys' fees that may arise out of Buyers/Borrowers' failure to so remove or otherwise dispose of any such liens, encumbrances, or adverse matters of title to the satisfaction of ATG.

Seller(s) affirm:

- Sellers have received no written notice of a proposed or pending special assessment or a pending taking of any portion of the Property by any governmental body; Sellers have no knowledge that work has been or will be performed by any governmental body including, but not limited to, the installation of water or sewer lines or of other utilities, or for improvements such as paving or repaving of streets or alleys, or the installation of curbs and sidewalks.
- Sellers agree to neither allow nor take any action following settlement that may result in a lien, encumbrance, or other matter adversely affecting title being placed against the title to the Property. In the event any defect, lien, or encumbrance falling within the coverage of the Policy arises or occurs between the date of settlement and the date of the recording of the deed or other title document, Sellers agree to immediately take action to clear and discharge the same and further agree to hold harmless and indemnify Member and ATG against all expenses, costs, and attorneys' fees that may arise out of Sellers' failure to so remove or otherwise dispose of any such liens, encumbrances, or adverse matters of title to the satisfaction of ATG.

Buyer(s)/Borrower(s) understand and agree:

- Neither Member nor ATG can provide any estimate as to the time of recordation of the deed, mortgage, or other title documents.
- Among other things, Buyers/Borrowers may not be able to refinance or sell the Property or provide recorded evidence of title to the Property until the time that the deed or title document is recorded.

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Page 1 of 2



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Recording Office Closings and Underwriting Standards

■ If E-Recording or Drop-Off are Not Available

- The following Requirement will be added to Schedule B-1 of the Commitment:
 - *Execution of COVID-19 Indemnity and Hold Harmless Agreement by the parties to the transaction.*
- The following Exception will be added to Schedule B of the Commitment:
 - *ATG reserves the right to raise additional exceptions, requirements, or to decline to issue a title policy based on changes in recording and title searching capabilities due to the COVID-19 Pandemic.*



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Recording Office Closings and Underwriting Standards

- Please contact an ATG Underwriter for guidance if you are unable to obtain payoff letters or other title clearance due to government or municipality office closures.



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Recording Office Closings and Underwriting Standards

- **Significant Increase in Title Insurance Risk Factors**
 - Give careful consideration to:
 - bankruptcy risk
 - lack of constructive notice to third parties
 - enforceability of the gap indemnification
 - Where there is significant risk associated with the gap period, contact an ATG Underwriter.



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Recording Office Closings and Underwriting Standards

■ For All Transactions

- Continue to follow all other underwriting guidelines, including conducting a gap search before closing.
- All other Requirements must be satisfied prior to or upon closing.



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Stay Updated

- Watch your email and go to www.atgf.com for procedural updates and breaking news.



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COVID-19 Updates

- <https://www.atgf.com/tools-publications/covid-19-updates>



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Thank you for attending today's program.

- **Please complete the Survey/Certification for CLE credit.**
 - When you close this meeting, a new tab will open containing the survey (approximately 5 seconds).
 - Complete the survey and you will be notified by email when your certificate is ready. The process takes about three days and your account will show “missed” until that time.
 - If you do not receive the survey, visit ATG Legal Education and click “Help” to inform our support staff. They will provide the survey via email link.

