North Carolina Department of Secretary of State eClosing Pilot Program

Honorable Elaine F. Marshall
North Carolina Secretary of State

Thursday, August 18th 1 PM – 4 PM
4701 Atlantic Avenue, Suite 116
Raleigh, NC
Welcome & Purpose

Elaine Marshall
N.C. Secretary of State
INTRODUCTIONS
N.C. eCommerce
Legal Infrastructure

Ozie Stallworth
Electronic Notarization Director
N.C. Secretary of State
N.C. eCommerce History

- 1998 NC eCommerce Act
- 2000 NC Uniform Electronic Transactions Act (NCUETA)
- 2005 NC Uniform Real Property Electronic Recording Act (URPERA)
- 2005 Electronic Notarization Act
- 2007 Electronic Notarization Administrative Rules
- 2007 Electronic Recording Standards
eRecording in N.C

Wayne Rash
Caldwell County Register of Deeds
Chair, N.C. Electronic Recording Council
N.C. Registers of Deeds

- Electronic Recording Council
  - 13 member body
    - (7 Registers of Deeds, Bar Assoc., Society of Land Surveyors, Land Title Assoc., Bankers Assoc., Assoc of Assessing officers, Cultural Resources)
    - Provide outreach and education

- N.C. Association of Registers of Deeds
  - District and regional training on eRecording

- 72 Counties are eRecording
  - Represents nearly 90% of the population
  - 6 more counties will go live within 12 months
<table>
<thead>
<tr>
<th>North Carolina Counties</th>
<th>eRecording as of 8/12/16</th>
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<tbody>
<tr>
<td>Alamance</td>
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<td>Avery</td>
<td>Craven</td>
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<td>Cumberland</td>
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<td>Bertie</td>
<td>Currituck</td>
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<td>Bladen</td>
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<td>Brunswick</td>
<td>Davidson</td>
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<td>Buncombe</td>
<td>Duplin</td>
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<td>Burke</td>
<td>Durham</td>
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<td>Robeson</td>
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### eRecording Percentages By County

#### 4/7/2016

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<td>Yadkin</td>
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<td>Orange</td>
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</table>
eClosing Pilot Update

Tim Anderson
Director of eServices
DocMagic, Inc
Director Cordray Address @ Annual MBA Conference

“This is something that we think is the direction industry is intending and wanting to go. It is the future. But the future can be here much sooner than maybe it otherwise would be" and "we are on board with that," Cordray said. "We think the advantages for industry, the efficiencies and accuracy that this kind of process will create can also incorporate some really consumer-friendly aspects, consumer education and the like. And on the whole, [it] can be a win-win on both sides of the closing table."
CFPB eClosing Pilot Results

Time Savings
Closings took measurably less time for homebuyers using the CFPB’s eClosing process compared to those using a paper process.

Minutes at closing table:
- Paper: 20% at >15, 10% at 15-29, 4% at 30-59, 1% at 60-90, 1% at <90
- eClose: 65% at >15, 30% at 15-29, 18% at 30-59, 6% at 60-90, 3% at <90

Source: CFPB
CFPB eClosing Pilot Results

**FIGURE 1:** ECLOSING VS. PAPER SUMMARY ANALYSIS

- **Perceived Empowerment**
  - Net positive score
  - Paper: 48
  - Base/Advance: 55

- **Perceived understanding**
  - Net positive score
  - Paper: 74
  - Base/Advance: 79

- **Actual knowledge quiz**
  - % correct
  - Paper: 44%
  - Base/Advance: 47%

- **Perceived efficiency**
  - Net positive score
  - Paper: 54
  - Base/Advance: 63
eClosing Pilot Takeaways

- eClosings can be successfully performed and lead to a positive consumer experience

- The underlying technology to support eClosings is fully functional

- Using a hybrid approach – some documents wet signed, some eSigned worked but added additional work; an all e process would be better

- Closing agents play a key role in the closing ceremony
General Overview

eMortgage - eClosing

Simon Moir
General Manager, eOriginal
eMortgage is a Reality

• Industry Support
  ◦ Federal and state laws and regulation have evolved
  ◦ GSEs/Investors and other participants are embracing and promoting digital mortgage
  ◦ Technology providers are ready and able

• A look at the numbers:
  ◦ 130,000 + eNotes currently registered w/ MERS
  ◦ Approx. 400 new registrations per week
  ◦ Over 30 companies named as controller, servicer or location
An eClosing is the act of closing a mortgage loan electronically. This occurs through a secure electronic environment where some or all of the closing documents are executed and accessed online.

This is often a hybrid process in which certain key documents (e.g., Note, Security Instrument) are printed to paper and traditionally wet-signed while other documents throughout the process are signed electronically.

- Fannie Mae eClosings and eMortgages (eNotes) FAQ, 11/2015
An eMortgage is a mortgage loan where the critical loan documentation, specifically the promissory note (eNote), is created electronically, executed electronically, transferred electronically and ultimately stored electronically.

An “eClosing” produces an “eMortgage” only if the promissory note is signed electronically.

- Fannie Mae eClosings and eMortgages (eNotes) FAQ, 11/2015
Integrated eMortgage Ecosystem
UNDERSTANDING THE E-CLOSING PROCESS
Document Prep to the N.C. Closing Table

Matt Hunoval
Hunoval Law Firm
CONSUMER INTERACTION:
TRADITIONAL CLOSING VS. eCLOSING
**Attorney Document Workflow:**

**Buyer/Seller Conventional**

- **Contract Executed**
- **Title Request to Attorney**
- **Title Search**
- **Vendor Pre-Closing**
- **Attorney Pre-Closing**
- **Prepare Closing Documents: eClosing**
  - Settlement Statement
  - Deed
  - 1099's
  - Lien Waivers
  - Power of Attorney
- **Prepare Closing Documents: Traditional Closing**
  - Document Review and Execution
  - Closing
  - Incoming Funds Received
- **Post-Closing**
  - Document Recording
  - Funds Disbursed
Closing Process Comparison: Traditional Paper v. eClosing

Traditional Closing:
- Lender's underwriting complete
- Sends Closing Disclosure (CD) to borrower
- Closing takes place at Attorney’s office
- Closing Attorney prepares seller docs & reviews Lender prepared CD
- Executed loan package sent back to lender via e-mail
- Lender approves executed package – funds loan
- Closing Attorney records & disburses funds

eClosing:
- Lender's underwriting complete
- Sends Closing Disclosure (CD) to borrower
- Closing takes place via electronic platform
- Closing Attorney prepares seller docs & reviews Lender prepared CD
- Executed loan package sent back to lender via secure transmission
- Lender approves executed package – funds loan
- Closing Attorney records & disburses funds
**Efficiencies of eClosings:**

estimated Hours Saved by Closing Participants

<table>
<thead>
<tr>
<th>Traditional Closing*</th>
<th>eClosing</th>
</tr>
</thead>
<tbody>
<tr>
<td>Buyer’s travel time to/from closing:</td>
<td>1 hr(s)</td>
</tr>
<tr>
<td>Seller’s travel time to/from closing:</td>
<td>1 hr(s)</td>
</tr>
<tr>
<td>Lender’s travel time to/from closing:</td>
<td>1 hr(s)</td>
</tr>
<tr>
<td>Buyer’s Agent travel time to/from Closing:</td>
<td>1 hr(s)</td>
</tr>
<tr>
<td>Seller’s Agent travel time to/from Closing:</td>
<td>1 hr(s)</td>
</tr>
<tr>
<td>Total travel time for all parties</td>
<td>5 hr(s)</td>
</tr>
<tr>
<td>Time at Closing</td>
<td>5 hr(s)</td>
</tr>
<tr>
<td>Total time for all parties</td>
<td>6 hr(s)</td>
</tr>
</tbody>
</table>

*All travel times are based on assumption that all parties are located within 20 miles of the Attorney’s office; one way 30 min.
eSignature/eNotary/eRecording/eNote

Tim Anderson
Director of eServices
DocMagic, Inc
eMortgage Process Flow

Origination → Processing & Underwriting → Pre-Closing → Closing → Shipping → Purchase Reviews → Secondary Securitize → Servicing

-eSigned Tamper Sealed

eVault Secure File Retention  [Source data, documents & audit trail]
eMortgage Process Flow

eRecording

Origination → Processing & Underwriting → Pre-Closing → Closing → Secondary Funding → Servicing

eRecord

eSigned Tamper Sealed

eVault  Secure File Retention  [Source data, documents & audit trail]
TRID Update

• Big concern on what CFPB is going to verify for compliance audit
  ◦ Penalties $5,000, $25,000, $1,000,000 million a day

• Need ability to show proof of compliance
  ◦ Initial LE & final CD
  ◦ Intent to Proceed
  ◦ Change of Circumstances
  ◦ Receipt of three day delivery & acknowledgement
  ◦ Date & time stamp audit trail
  ◦ Very hard to do in a paper based process world

• Why implementing an electronic Compliance Management System, (CMS) is critical
eMortgage Process Flow
Coming in 2017

Origination → Processing & Underwriting → Pre-Closing → Closing → Shipping → Post-Purchase Reviews → Secondary Securitize → Servicing

Loan Estimate
- Intent to proceed
- eDisclosure
- eConsent
- List of settlement services providers

Uniform Residential Loan Application
- MISMO 3.3

Uniform Closing Dataset, (UCD)
- MISMO 3.4

eVault Secure File Retention [Source data, documents & audit trail]

Compliance Management System (CMS)
Documentihttp://wwnotary.com/ng proof of compliance
Investor Compliance Management System (CMS)

Correspondent Originators/Sellers

Origination

LE Intent to proceed
CofC CD Proof of Delivery Closing Documents

Compliance Cloud

eClosed

eVault Secure File Retention [Source data, documents & audit trail]

All data, documents & electronic audit trail stored for future compliance audits & electronic proof of compliance
Investor Compliance Management System (CMS)

Correspondent Originators/Sellers

Origination

LE Intent to proceed

CofC

CD

Proof of Delivery

Closing Documents

eVault Secure File Retention
[Source data, documents & audit trail]

All data, documents & electronic audit trail stored for future compliance audits & electronic proof of compliance

No lost eNotes
No trailing doc issues
Full electronic evidence
Full file record kept for life of loan
BREAK
10 MINUTES
GSE’s Investing in eMortgages

Jennifer Parker
eMortgage Manager
FannieMae
Delivering to the GSEs

After closing, register the eNote on MERS eRegistry and deliver GSEs via MERS eDelivery

Authoritative Copy Remains in our Vault (Unless Life of Loan Event)

GSE Receives eNote in our eVault (Authoritative Copy in GSE eVault)

GSEs Are Custodians for eNotes

Certification and Funding

Life of loan events include: loan mod, charge off, pay off, etc.
eMortgage Update

The Right Time - The Market Landscape

2016 FHFA Scorecard
- Assess and, as appropriate, implement strategies to improve the lending industry’s ability to originate and deliver eMortgages to the Enterprises
- Survey, industry feedback/outreach, and strategies - focused in 2016

CFPB Pilot Proved
- Better consumer understanding
- More efficient process
- Greater feeling of consumer empowerment

Compliance
- eClosing technology providers support and ensure compliance
- TRID is driving data standards - delivering docs early in the process

Servicing
- Customers are asking for it – more servicers entering the space
- GSEs updated sub-servicing strategy - opened the market
# eMortgage Update

## The Right Time - The Market Landscape

| GSE Support | • Have been purchasing eNotes for 12 years  
|             | • Teams in place to support integration/implementation  
|             | • Clear and concise guidelines  
|             | • Educational efforts |
| Mini-Aggregators | • Multi-tenant eVault – game changer  
|                  | • Two more organizations building this model - competitive ‘e’ edge solution  
|                  | • Some offering pricing incentives to persuade correspondents to do “e” |
| Technology Solutions | • Becoming more and more sophisticated  
|                      | • Technology organizations teaming up to gain market share  
|                      | • More testing to become operationally enabled than ever before |
| Baby Boomers | • By 2016, 80% of the workforce will be made up of millennials  
|             | • They will buy 2- 4 houses in their lifetime – customer retention is key |
The Benefits

Customer Satisfaction – Competitive Edge

- Consumers demand faster, better, and more reliable service/processes
- Customer retention efforts are key
- Creates educated and empowered consumers
- Closings go from 1 hour to 15 minutes

Reduce Operational Costs by:

- Validating Data Earlier in the Process
- Eliminate Missing Documents and Document Signing Errors
- No Shipping, Storage or Retrieval Costs
- No Lost Note Affidavits

Improved Data Integrity/Transparency (Day One Certainty)

Post-Closing Activities Significantly Reduced/Eliminated

Faster Delivery into the Secondary Market

Eliminates Inefficient Workflows – Less Errors in “e”

Reduction in Loan Origination Cycle Times – Time is Money
Case Law & Court Decisions

Matt Hunoval
Hunoval Law Firm
New York’s 2nd Appellate Division:

**New York Community Bank v. Daphne McClendon et al. (April 13, 2016)**

Held Bank had proper standing on e-Signed e-Note in foreclosure context: an eNote is a “transferable record,” as that term is defined under 15 USC § 7021(a)(1). “Except as otherwise agreed, a person having control of a transferable record is the holder.” 15 USC § 7021[d]…The transfer history (establishes) that…the (bank) obtained control and became the owner of the eNote. Thus the transfer history, together with the copy of the eNote itself, were sufficient…“to establish the identity of the person [or entity] having control of the transferable record.” 15 USC § 7021[f]. This evidence was sufficient to establish the (bank)’s standing as the holder of the eNote and rendered the lack of proof of valid assignment irrelevant.” NOTE: Citations omitted.
Florida’s 4th District Court of Appeals:
Rivera and Santiago v. Wells Fargo Bank N.A. et al. (April 20, 2016)
Also held Bank, on behalf of FNMA, had proper standing to foreclose on e-Signed e-Note, in foreclosure context, citing conforming Florida statute to U.S. Code on definition of “transferable record”: The e-note, on its face, is a “transferable record....” The bank’s evidence proved that Fannie Mae had control of the e-note by showing that the bank... employed a system reliably establishing Fannie Mae as the entity to which the e-note was transferred.... Because the bank proved that Fannie Mae had control of the e-note...the bank is the e-note’s holder (citations omitted) and has the same rights as a holder of an equivalent record or writing under the UCC...."
Why North Carolina is Ready

Ozie Stallworth
N.C. Secretary of State
Why This is the Right Time To Move

- Complete legal infrastructure
- Supportive State Government
  - First state to secure eSignature service for all state agencies/municipalities/townships etc.
- 72 counties eRecording – nearly 90% of the population served
- 1000+ eNotary active
- Community colleges ready to accommodate the demand for additional eNotaries
- Cut cost, save trees and millions of dollars in postage alone
Questions/Discussion/Next Steps

Lenders/Stakeholders/Ozie Stallworth
WHAT QUESTIONS DO YOU HAVE?
So What’s Next?

- Independent detailed discussion
- eClosing Vendor Capabilities and Demonstrations
- Technical Considerations (integrations, testing etc.)
- Discussions about doc prep (SMARTDoc eNote)
- Cost Considerations
- Commitment to participate
- Determine volume of loans
- Timeline for Pilot
- Schedule next meeting
Getting Started

- Need MERS Org ID #
- LOS needs data field to identify document package type, (eMortgage)
- Qualifying Questions. Do you:
  - Only originate and sell serviced release
  - Originate and retain
  - Self fund or use warehouse credit line
  - Who do you primarily sell to
  - If to Fannie or Freddie direct will need to fill out seller questionnaire to get approved
- Who is going to do the closing?
  - Will need to set them up for training and access
Closing Remarks & Adjournment

Rodney Maddox
Chief Deputy
N.C. Secretary of State
References

- **Fannie Mae**  [https://www.fanniemae.com/singlefamily/emortgage](https://www.fanniemae.com/singlefamily/emortgage)
- **Freddie Mac**  [http://www.freddiemac.com/singlefamily/sell/e_mortgages.html](http://www.freddiemac.com/singlefamily/sell/e_mortgages.html)
- **MERS**  [http://www.mersinc.org/about-us/faq#whatisthemerseregistry](http://www.mersinc.org/about-us/faq#whatisthemerseregistry)

- Court Wins Set Important Precedent for Paperless Mortgages
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