

Office of the Attorney General (OAG):

The Office of the Governor is in receipt of OAG's request to temporarily suspend section 121.006(c)(1) of the Texas Civil Practice & Remedies Code. OAG asserts that strict compliance with this law could prevent, hinder, or delay efforts to cope with the COVID-19 disaster. Minimizing in-person contact with people who are not members of the same household is necessary to slow the spread of COVID-19. OAG explains that section 121.006(c)(1) could frustrate this public-health goal by requiring in-person appearance before a notary public to acknowledge certain real-estate instruments. OAG's request would temporarily relax the in-person requirement to allow for appearance before a notary public via videoconference, avoiding the need for face-to-face contact during a pandemic.

In accordance with section 418.016 of the Texas Government Code, and subject to the conditions set forth below, the Office of the Governor suspends section 121.006(c)(1) of the Texas Civil Practice & Remedies Code to the extent necessary to allow for appearance before a notary public, for the purpose of acknowledging real-estate instruments, via videoconference. Nothing in this suspension shall prevent a traditional notarization or an online notarization under chapter 406 of the Texas Government Code.

The following conditions shall apply whenever this suspension is invoked:

- A notary public shall use two-way audio-video communication technology that allows for direct and contemporaneous interaction between a person signing a document and the notary public by sight and sound.
- A notary public shall verify the identity of a signatory at the time the signature is taken by using two-way audio-video communication technology. A notary public may verify identity by:
 - personal knowledge of the signatory;
 - analysis based on the signatory's remote presentation of a government-issued identification credential, including a passport or driver's license, that contains the signature and a photograph of the signatory, and is of sufficient quality to allow for identification; or
 - an introduction of the signatory by oath of a credible witness who personally knows the signatory, and who is personally known to the notary public.
- During the two-way audio-video communication:
 - the notary public shall attest to being physically located in Texas;
 - the signatory shall attest to being physically located in Texas;
 - the signatory shall affirmatively state what documents are being signed; and
 - the signatory's act of signing shall be close enough to the camera for the notary public to observe it clearly.
- A recording of the two-way audio-video communication of the notarial act shall be kept by the notary public for two years from the date of the notarial act.
- The signatory shall send the original signed documents by courier, U.S. Mail, or overnight carrier directly to the notary public for the notary public to sign and to affix the official stamp or seal.
- The official date and time of the notarization shall be the date and time when the notary public witnessed the signatory signing the documents during the two-way audio-video communication.
- The documents shall include, whether in a notarial certificate, a jurat, or an acknowledgement, language substantially similar to the following: "This notarization involved the use of two-way audio-video communication pursuant to the suspension granted by the Office of the Governor on April 27, 2020, under section 418.016 of the Texas Government Code."

This suspension, granted by the Office of the Governor on April 27, 2020, is in effect until the earlier of May 30, 2020, or the termination of the March 13, 2020 disaster declaration. Any document acknowledged while this suspension is in effect, and in accordance with its terms, shall be considered duly acknowledged and fully compliant with Texas law after the termination of this suspension. All county clerks in Texas shall accept for recording in the public records all documents signed and notarized by means of the two-way audio-video communication described in this suspension.