

**RESOLUTION
OF THE
EXECUTIVE COMMITTEE
OF THE
REAL PROPERTY LAW SECTION
OF THE
NEW YORK STATE BAR ASSOCIATION
CONCERNING
REAL ESTATE CLOSINGS
DURING COVID 19**

At a meeting of the Executive Committee of the Real Property Law Section of the New York State Bar Association, held on January 13, 2021, upon due notice at which a quorum was present and acted throughout, the following Resolution was adopted:

WHEREAS, the Section recognizes that the conduct of real property closings during the COVID 19 Emergency has created misunderstanding, confusion, and conditions that are potentially dangerous to clients, practitioners and others;

WHEREAS, the Section is authorized by Article I, Section 2 of its By-Laws to draw attention to problems, abuses and issues in real property law and recommend improvements in procedures and practices;

WHEREAS, the Title and Transfer Committee of the Section proposes that the Section adopt and recommend the following suggested closing practices during the COVID 19 emergency;

WHEREAS, the Officers of the Section reviewed the suggested closing practices; and recommend that the Executive Committee adopt the practices on behalf of the Section;

WHEREAS, the Section directs its Officers and administrator to notify its members, and other interested parties, of the following recommended practices;

NOW THEREFORE, the Section RESOLVES that during the COVID 19 emergency that real property closings should be conducted in accordance with the following:

- A. New York State has designated Real Estate as an essential business and **Executive Order 202.6 (14)** directs that all real estate transactions should be conducted “as remotely as possible” and any in person interaction “should be limited to the extent necessary.”
- B. In an effort to comply with the Executive Order, the Real Property Law Section of the New York State Bar Association recommends that while continuing our practices and representing our clients, when possible, conduct a real property closing by mail and/ or in escrow.
- C. However, if closing in escrow is not possible, the following closing practices are recommended:
 - 1. Limit the number of people in attendance. Among other things, Real Estate Brokers should not attend.
 - 2. Be organized and prepared in advance of closing.
 - 3. To the extent possible, minimize time spent in the closing and the number of persons attending the closing by having seller documents signed and acknowledged prior to the closing, along with any other documents that can be signed (and acknowledged) in advance. However, bear in mind that not all title companies will accept (a) remote notarizations or (b) pre-signed documents delivered by an attorney if the attorney is not given a power of attorney or is not holding the documents in escrow. Accordingly, confirm the title company’s requirements prior to closing.
 - 4. All parties should be screened prior to entering the closing room, including temperature checks and completion a of COVID questionnaire.
 - 5. The office where the closing is being held should keep a record of all who attend the closing for contact tracing purposes, including contact information for each person attending the closing.

6. Limit the number of people in any room. Separate those in attendance to the extent possible, including separating the Purchasers and their attorney from the Bank's attorney and title closer, if possible.
 7. All parties must bring their own pens. For those who forget, make pens available for their use and then give the pens to the users or dispose of them.
 8. All parties must adhere to appropriate social distancing and wear a properly fitted mask at all times.
 9. Ventilate the room(s) in use as best as possible, including by opening windows if possible.
 10. Handshaking and other personal contact should be avoided. In this the attorney should set the example by welcoming people without handshaking or other personal contact.
 11. Consider having bottled water available for attendees. Do not permit attendees to use the kitchen, use coffee makers or other shared appliances, or obtain food from shared containers.
 12. Have hand sanitizers readily available.
 13. Do not use rooms for back-to-back closings and thoroughly ventilate room if possible (including by opening windows).
 14. Be respectful and courteous to the individual personal and/or medical needs and comfort levels of each party.
 15. Remember that patience is a virtue. All parties should be aware that title companies and county clerk's offices are subject to COVID guidelines and COVID related closures; therefore, obtaining documents and title reports will most likely take longer than anticipated.
- D. In general, during this difficult time, as attorneys we are tasked with not only the professional obligation of protecting our clients' interests,

but also with the civil responsibility of ensuring the safety and well-being of each other. Please be sure to employ common sense to meet all of the necessary health, safety and legal requirements that are presented in each transaction.

RESOLUTION SO ADOPTED:

As certified by:

Gilbert M. Hoffman

Gilbert Hoffman, Secretary
Real Property Law Section