

Some Registers Of Deeds Refuse To Record Electronic Documents Despite Executive Order

Despite the clear language in Executive Order 2020-41 that “financial institutions and registers of deeds must not refuse to record a tangible copy of an electronic record merely because it does not bear the original signature of a person, witness, or notary, if the notary . . . certifies that the tangible copy is an accurate copy of the electronic record,” some Registers of Deeds indicate they do not intend to comply.

While certain Registers of Deeds, such as Oakland County, have confirmed they will accept both electronically notarized and remotely notarized documents for recording, others are undecided or have indicated they will not comply with the Executive Order. Regardless of the reasoning behind their decisions, the inconsistent adoption of the Executive Order among Registers of Deeds is problematic and complicates the issue it was designed to alleviate.

The Executive Order affords Michigan residents the opportunity to record and execute electronic documents, which would otherwise be impossible to do under the “Stay Home, Stay Safe” order and social distancing restrictions. Unfortunately, some citizens will not have access to electronic recording if the Register of Deeds in their county refuses to comply with the Executive Order.

Our Bodman attorneys are closely monitoring this issue and recommend confirming with your local Register of Deeds whether electronic documents will be accepted for recording. Contact Gregory Gamalski at (248) 743-6036 or ggamalski@bodmanlaw.com if you have questions or concerns about recording issues at your local Register of Deeds. Bodman cannot respond to your questions or receive information from you without first clearing potential conflicts with other clients. Thank you for your patience and understanding.