# The eMortgage Makeover

## Renovating a dated system will take time and energy

By Brenda B. Clem


Photo illustration by Paula Douglass

Fans of home-makeover shows know how exciting it is to watch a mundane house get completely transformed into a showcase property worthy of Sunset magazine. This excitement is heightened by the fact that these transformations take place within the span of a one-hour episode. Of course, we all know that home makeovers require an extraordinary amount of money, planning, coordination and hard work, which is what keeps most of us from getting our own.

Right now, however, many mortgage companies are considering when and how to get their own makeovers to "spruce up" their systems to accommodate digital mortgages. As with a home makeover, upgrading a company's mortgage process from a dated pen-and-paper process to a snazzy, new digital process that runs on tablets and cell phones will take time and resources, but in the end, it will be well worth the hard work.

Many mortgage professionals are excited about what they see and hear from early adopters of digital mortgages. They know that a completely paperless mortgage process and electronic closings, or eClosings, would reduce costs and improve efficiency.

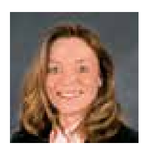
But change of this magnitude is never easy. Many originators and their warehouse lending partners are wary about taking any step forward, and maybe a little afraid of the amount of work involved. But should they be afraid — and is a digital makeover actually as difficult as they think? The answer to both questions is, "No."

### Setting the foundation

The legal "foundation" for eMortgages began some time ago with the Electronic Signatures in Global and National Commerce Act (ESIGN) and the Uniform Electronic Transactions Act (UETA). ESIGN was passed by Congress in 2000 to remove barriers to electronic commerce by establishing equal legal status between electronic and paper transactions.

The ESIGN provisions were designed to co-exist with the provisions of UETA, which was passed in 1999 to create legal consistency among the U.S. states. Both UETA and ESIGN authorize but do not require county recorders

Continued >>



**Brenda B. Clem** is the eWarehouse director at Street Resource Group Inc. and an industry advocate who provides education and awareness for eNote and eMortgage adoption. She is a certified mortgage banker with more than 30 years of experience in secondary maketing, loan delivery, warehouse lending, post-closing and investor relations. Clem is an instructor and frequent speaker for the Mortgage Bankers Association and MISMO workgroups and serves as co-chair of the eWarehouse Workgroup. Reach her at bclem@streetresource.com.



Reprinted from *Scotsman Guide* Residential Edition and **ScotsmanGuide.com**, August 2017

<< Continued

to accept electronic records. To date, nearly every state has adopted UETA, either largely unchanged or with some revisions.

Both ESIGN and UETA preserve the features of notarization as mandated by state laws, which require that signatories appear in person, confirm their identities and attest that they are signing under their own free will. Certain types of transactions under ESIGN are still subject to special rules, however, which impact the adoption of electronic signatures. For real estate transactions, there are rules regarding how documents are recorded, notarized and submitted to government authorities.

In 2004, the National Conference of Commissioners on Uniform State Law approved the Uniform Real Property Electronic Recording Act (URPERA), which further clarified the authority of recording officials to receive, record and retrieve electronic land records and information. Unfortunately, to this day, many secretaries of state are unaware of URPERA.

Since these laws were created, 1,679 counties nationwide have accepted electronically recorded documents, or eRecording. Although this is less than half of all counties nationwide, collectively, these 1,600-plus counties account for about 80 percent of the U.S. population. A further leap forward took place this year, when the government-sponsored enterprises (GSEs) Fannie Mae and Freddie Mac updated their seller guides to permit originators to electronically store all digitally recorded documents, rather than maintain paper copies.

In addition, the National Association of Secretaries of State has developed detailed eNotarization standards that were not incorporated under UETA and E-SIGN. The new standards promote use of eSignatures that utilize more advanced technology than was contemplated by UETA or ESIGN. An implementation guide for these standards was published earlier this year.

Finally, although most states still require that all participants and the notary be physically present at the time of signing, even that is beginning to change. In 2012, Virginia became the first state to authorize a signer to be in a remote location and have a document notarized electronically by an eNotary using audio-visual or webcam technology. Other states are considering similar legislation, which could ultimately have a huge impact on how consumers buy and sell homes in the future.

## Locating resources

For originators, eMortgages hold enormous benefits from both financial and compliance standpoints. To create them, however, originators and mortgage companies will need partners, tools and resources. One critical tool is the Mortgage Industry Standards Maintenance Organization (MISMO) data standards, which have been required by the GSEs and incorporated into the new Loan Estimate and Closing Disclosure documents mandated under the TRID consumer-protection regulations. Other tools include automated-verification technologies that gather data about a borrower's financial information electronically.

Although some documents still require ink signatures — predominately the note and any documents requiring notarization — originators should be preparing for fully paperless electronic closings, otherwise known as eClosings. An eClosing involves a SMARTDoc note, or eNote, which incorporates a tamper-evident seal, and conforms to the MISMO specification standards.

These eNotes are then registered on the MERS eRegistry — a utility which stores the registration, transfer and delivery of individual eNotes — while the authoritative copy is stored in an electronic vault, or eVault, which is a secure electronic storage solution and the legal system of record for eNotes. eClosings eliminate the problem of paper documents getting lost or misplaced in transit, reduce time and cost of overnight delivery, and enable investors and warehouse lenders to achieve better data integrity and lower risk.

Still, eNotes will require time and effort to put into place. Originators should contact their document providers to ask if they support a SMARTDoc eNote, or find a SMARTDoc vendor and develop processes for originating eNotes with help and training from the SMARTDoc vendor. For a time, originators also may need to use eClosings simultaneously with paper-based processes. This is an added expense, but over the long term, it will be worth the investment.

Another important partner for moving into eMortgages is the warehouse lender. Electronic warehouse (eWarehouse) lending can provide a more efficient delivery of the SMARTDoc eNote to the warehouse lender and investor through MERS eDelivery. This process also can transfer the location and control of the eNote via the eVault, speeding the process of selling to the secondary market.

Right now, only a handful of warehouse lenders accept eNotes, but that is quickly beginning to change. Dozens of warehouse lenders are participating in the eWarehouse Workgroup, which is an industry collaborative that also includes originators, investors and others. The goal of the group is to help these companies understand the benefits of eNotes and what it takes to make eNotes work.

## Preparing to implement

The first step in implementing eMortgages is to research the network of available, approved business partners. The Fannie and Freddie websites are a good starting point because they maintain an eMortgage Technology Solution Provider list. The companies on the list will be able to provide a seamless integration into your mortgage network.

Originators should then speak to their brokers and correspondents to gauge their interest in and readiness for implementing an electronic exchange of data and documents. Getting these partners involved early in the planning process is critical to a successful rollout of an eMortgage program. The next step is to start having the same discussions

Continued >>

<< Continued

with settlement agents, title companies, investors, warehouse lenders and servicers.

From there, originators and their mortgage companies need to identify their goals and objectives for developing an eMortgage capability. What do they hope to accomplish? During this process, it is important to engage support from senior management and begin to identify those who will form an eMortgage team. The members of that team will create a plan for reaching the company's objectives and fine tune its strategy as you move forward.

■ ■ ■

With the mortgage industry in a constant state of flux, it may seem difficult — if not impossible — to pull away from daily business requirements and plan for the future. But it is important. Awesome home makeovers may be expensive and time-consuming, but we all know what happens when any home, big or small, is neglected. It decays and becomes functionally obsolete. Then, when the owner tries to sell, nobody wants it. Fortunately, an eMortgage makeover doesn't have to be pretty or include lots of bells and whistles to be successful. It just needs to work. ■