



Business Presence Defined
[Applies to Houston-area counties *only*]

Definitions

- **Agents or representatives:** anyone who performs a portion of a real estate closing (including a sign-up) for a title company, including notaries, Online Notary Publics, mobile notaries, signing services, other title companies, lenders and attorneys.
- **Houston-area Title Plant:** Title Data’s Brazoria, Chambers, Fort Bend, Galveston, Harris, Jefferson, Liberty, Montgomery, and Waller County Title Plants.
- **Out-of-county co-op:** furnishing a title insurance commitment (prepared, in whole or in part, from a Houston-area Title Plant) to an out-of-county title company when the Title Data customer retains less than 100% of the premium.
- **Out-of-county title company:** a title company which has *not* contracted with Title Data to access a county’s Title Plant.
- **Real estate closing:** includes full closings [sign-up and funding] and partial closings [sign-up only].
- **Sign-up:** when a seller, purchaser or borrower signs the closing or loan documents; also called signature-only closings, accommodation closings, courtesy closings, and witness-only closings.
- **Title Data customer:** a title company which has contracted with Title Data to access a county’s Title Plant.

Business Presence Defined

“Business presence” is defined in all of Title Data’s contracts to mean the performance of any portion of a real estate closing (including a sign-up, a witness-only closing, an accommodation closing, a courtesy closing and similar) in the county where the real property is located, by an out-of-county title company, acting through its employees, agents or representatives, within the last 90 days, where the out-of-county title company retained or will retain any portion of the title insurance paid (or to be paid) by the purchaser, borrower, seller or lender in such real estate closing.

Permitted Out-of-County Co-op

A Title Data customer can always use a Houston-area Title Plant to furnish a title insurance commitment to an out-of-county title company, *provided* that the out-of-county title company has not established in the last 90 days (and will not establish, by virtue of

the real estate transaction associated with the title insurance commitment to be furnished) a business presence in the county to which the commitment pertains.

Prohibited Out-of-County Co-op

A Title Data customer can *not* use a Houston-area Title Plant to furnish a title insurance commitment to an out-of-county title company (when the Title Data customer will retain less than 100% of the premium) if the out-of-county title company has established in the last 90 days (or will establish, by virtue of the real estate transaction associated with the title insurance commitment to be furnished) a business presence in the county to which the commitment pertains.

Rule of Thumb

In order to avoid a business presence violation, Title Data's customer and the out-of-county title company may wish to use the following rule of thumb: "No closing documents can be signed (by a party to the real estate transaction) in the county where the property is located, regardless of how such documents get signed." See [Mail-aways Defined](#) for an explanation of the limited exception to this rule.

Special Note Regarding Remote Online Notarizations

Texas HB 1217, effective July 1, 2018, allows notaries to apply for an online notary commission and perform electronic notarizations by means of audio-video communication. The determining factors as to whether a remote online notarization (RON) constitutes a business presence violation are:

1. Did the out-of-county title company receive a portion of the premium? If the answer is "No," there's no violation; if the answer is "Yes," proceed to factor number 2.
2. Did the party to the transaction participate in the RON (i.e., sign one or more of the closing documents) while physically located in the county where the real property is located? If the answer is "No," there's no violation; if the answer is "Yes," proceed to factor number 3.
3. Did the party to the transaction *independently* select the Online Notary Public? If the answer is "Yes," there's no violation; if the answer is "No" (i.e., the party was directed to use a specific Online Notary Public by the out-of-county title company, acting through its employees, agents or representatives), a business presence violation occurred.

Other Restrictions: Out-of-County Title Company

A Title Data customer can *not* furnish an out-of-county title company run sheets, print-outs, title reports, ownership and encumbrance reports, nothing further certificates, or any other information product prepared, in whole or in part, from a Houston-area Title Plant. The *only* product a Title Data customer can provide to an out-of-county title company is a title insurance commitment.