

Remote Practice of Real Estate Law 2024 Drake Real Estate Transactions CLE

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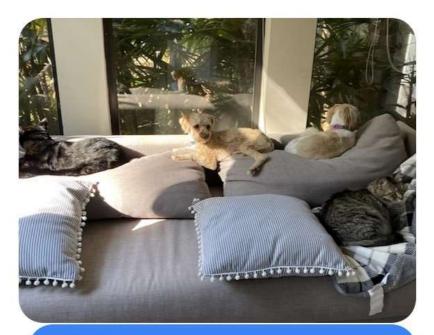
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Agenda - Practical, legal, and ethical implications of remote practice

- I. Remote Work in General
- II. Remote Practice of Law
- III. Remote Practice of Real Estate Law

This is why people don't want to work in offices



This is supposed to be a place of business!

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Remote Work in the United States and Iowa

"Telecommuting" to "work from home" to "hybrid"

• Business Record, May 12, 2023:

- Nearly 80% of private-sector business establishments in Iowa said their employees teleworked rarely or not at all during the last half of 2022, the report showed. That figure climbed from 70.4% the previous year and is nearing 82.4%, the level it was at in the months leading up to the pandemic.
- Nationally, 72.5% of establishments said that in the last half of 2022 their employees rarely or never teleworked, according to the report. Before the pandemic, which began in March 2020, 76.7% of establishments said their workers rarely or never teleworked.
- Bureau of Labor Statistics, U.S. Department of Labor, The Economics Daily, About 1 in 3 workers in management, professional, and related occupations teleworked, November 2023 at <u>https://www.bls.gov/opub/ted/2023/about-1-in-3-workers-in-management-professional-and-related-occupations-teleworkednovember-2023.htm</u> (visited April 02, 2024).

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Remote Work in the United States and Iowa-Cont.

Effect of remote work on real estate market

- Commercial leasing vacancies
- Reduction in corporate travel
- Less foot traffic in central business districts

Market response

- Reconfiguring space
- Repurposing buildings
 - Commercial to residential conversions
 - Sale/lease to public entities
- New development in outlying neighborhoods



Remote Practice of Law

Temporary remote practice

- Not unauthorized practice of law while temporarily working from another state
- Confidentiality/security issues while working in public places, hotels, etc.
- Ethical issues duty to be competent



Remote Practice of Law-Cont.

Permanent remote practice

- Unauthorized practice?
 - Florida Supreme Court Advisory Opinion No. SC20-1220: out of state attorney working remotely from Florida home: <u>https://www-</u> <u>media.floridabar.org/uploads/2021/06/Order-on-FAO-2019-4-O-O-S-Atty.-Working-Remotely-From-Florida-Home.pdf</u>
 - ABA reaches same conclusion: <u>https://www.americanbar.org/content/dam/aba/administrative/professional_responsibili</u> <u>ty/ethics-opinions/aba-formal-opinion-495.pdf</u>
- Getting licensed in another state
 - Character and fitness
 - Annual fees
 - CLE
 - Trust account
 - Sit for bar exam and MPRE???



Remote Practice of Law-Cont.

Remote practice toolkit

- High-speed Internet
- Confidentiality and security technology and support
- Quality printer
- Computer camera
- Headset/Earpods
- Dedicated office
- Access to shipping services
- Quiet dogs
- Zoom/Teams or similar video conferencing (blurred background feature a must)
- Calendar/scheduling

"I'm very comfortable working out of the house. I have a phone. There's a Kinko's nearby."

-Morty Seinfeld in *Seinfeld* Episode 146, "The Money" Original Air Date January 16, 1997



Remote Practice of Iowa Real Estate Law

Abstract examination

• Scanning not always an option

E-SIGN/Iowa Uniform Electronic Transactions Act

- A signature shall not be denied legal effect or enforceability solely because it is in electronic form.
- But potential consent requirements for use of e-signatures.
- Iowa Code Chapter 554D

Electronic Notary Laws

- Iowa Code Sections 9B.14A and 9B.14B
- Iowa Code Section 9B.20: Recorder may accept for recording a tangible copy of an electronic record of an instrument affecting real property if electronic record is evidenced by a certificate pursuant to 9B.15.
- Ethical Obligations and ALTA/ITG Best Practices



Concluding Remarks

Technology has come a long way very quickly.

- Improvements in technology itself.
- Cultural adoption of the technology.

Potential future trends in remote practice of law:

- Increased use of electronic signatures and notarization.
- Consolidation of closing work in escrow companies or specialty firms.
- More cross-border practice and licensing in multiple jurisdictions.
- Electronic abstracts.
- Expanded business hours.

• Pros and Cons as with anything.

- Flexibility, resiliency, expanded opportunities
- Ethical/security risks, increased competition, loss of human element



Questions/Discussion?

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Thank You

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