

Pennsylvania and Maryland Permit Use of Remote Notarization During COVID-19 Emergency

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Pennsylvania. Due to the COVID-19 emergency, and pending the passage of Senate Bill 1092, or an amendment to H.B. 1564 to allow remote notarization of documents, the Pennsylvania Department of State has issued a temporary and limited suspension of the provisions of the current notary statute which requires, among other things, in person appearances before the notary for notarizations “relating to a statement or signature on a record”. 57 Pa.C.S. § 306.

On March 25, 2020, Governor Wolf authorized remote notarization for personal real estate transactions already in process and for commercial real estate transactions. On April 2, 2020 the Department of State expanded the limited suspension of Section 306 to authorize remote notarization for (i) Powers of attorney (20 Pa.C.S. § 5601), (ii) Self-executing wills (20 Pa.C.S. § 3132.1), (iii) Temporary guardianship (23 Pa.C.S. § 5621), (iv) Advance health care directives/health care powers of attorney (20 Pa.C.S. § 5452), (v) Living wills (20 Pa.C.S. § 5442), and (vi) standby and temporary guardianship (23 Pa.C.S. § 5611).

Notaries will be permitted to use audio visual communication technology that is tamper proof and which can generate a recording as an alternative to a personal appearance. All other requirements of the Revised Uniform Law on Notarial Acts must be adhered to. Other requirements for a notary to be able to do audio-visual remote notarizations are that 1) Notaries who wish to do remote notarizations must become approved electronic notaries without fee by completing an online application with the Department of State, 2) notaries must use an e-notary solution already approved by the Department that offer remote notarization technology such as Doc-Verify, Safe-Docs or Pasavo, and 3) notaries must state in the notary certificate that the notarial act was performed by means of communication technology by stating “This notarial act involved the use of communication technology”.

Maryland. Maryland has a similar process. On March 30, 2020, Governor Hogan of Maryland issued an emergency order waiving in person appearance requirements for the notarization of documents in Maryland. Notaries can submit a Remote Notary Notification Form to the Secretary of State. The guidelines for Maryland notaries to do remote notarizations are 1) the Notary must be a current notary in good standing, 2) the notary must notify the Office of the Secretary of State of intent to use remote notarizations, 3) the notary must identify the communications technology vendor that will be used and confirm that the vendor will allow notary to, in real time, (i) view the remotely located individual and (ii) compare for consistency the information and photos presented as identification credentials, (5) the notary must create and retain an audio visual recording of the remote notarization, (6) the notary must note in each notarial certificate and in the notary log or journal that the notarial act was performed for a remotely located individual using communications technology, and (7) the notary’s fee is capped at the \$4 for each act (which is the cap for in person notarizations).

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