

May 7, 2020

COVID-19: Massachusetts Approves Temporary Remote Notarization

Massachusetts has adopted an emergency law to allow the remote notarization of documents within the commonwealth. On April 27, Gov. Charlie Baker signed [An Act Providing for Virtual Notarization to Address Challenges Related to COVID-19](#) (the act) into law. The act is effective immediately but set to expire three days after the termination of the state of emergency declared by the governor on March 10. The act permits notarizations through electronic videoconferencing, provided certain requirements are met:

- The notary, client and witnesses (if appropriate) all must be able to communicate electronically in real time with sight and sound capabilities (for example, through Zoom or WebEx). The notary must record the conference and maintain the recording for a period of 10 years.
- All participants must be located within the commonwealth at the time of the videoconference.
- If the documents being notarized are estate planning or real estate documents, the notary also must be a licensed attorney or paralegal acting under supervision of an attorney.
- The notary must have either personal knowledge of each participant's identity or see proof of identity in the form of a government-issued identification during the videoconference.
- If the documents being signed relate to real estate, two videoconferences are necessary to provide certainty for deeds, mortgages and the like.
- The standard notary declaration must be revised to reflect that the document was notarized remotely pursuant to the act and must include the county in which the notary was located at the time of notarization.
- The notarization cannot be done on a scan or other image. The notary must receive the original "wet" signatures from all conference participants. Each participant must have the ability to transmit (by mail, courier or private delivery service) his or her original counterpart to the notary.
- Documents that require witness signatures can be remotely witnessed if the signatures of the witnesses are notarized.

Documents properly executed in accordance with the act will remain valid after the act's expiration, repeal or amendment. A will notarized remotely will be valid for probate just as it would be if all persons had been physically present at the time of signing.

For participants who do not use videoconferencing regularly, the process may necessitate one or more practice runs and additional preparation. As a result, while remote notarization may be convenient or necessary in some cases, an in-person document execution conference, during which all parties observe social distancing, often may be the preferred option. If you have questions about whether remote notarization is advisable in a particular circumstance, please contact your Day Pitney attorney.

For more Day Pitney alerts and articles related to the impact of COVID-19, as well as information from other reliable sources, please visit our [COVID-19 Resource Center](#).

COVID-19 DISCLAIMER: As you are aware, as a result of the COVID-19 pandemic, things are changing quickly and the effect, enforceability and interpretation of laws may be affected by future events. The material set forth in this document is not an unequivocal statement of law, but instead represents our best interpretation of where things stand as of the date of first publication. We have not attempted to address the potential impacts of all local, state and federal orders that may have been issued in response to the COVID-19 pandemic.

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