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COVID-19: New Jersey Temporarily Approves Remote Notarization

On April 14, New Jersey Gov. Phil Murphy signed into law Assembly Bill 3903, temporarily allowing remote notarization of documents during the COVID-19 public health emergency. The bill is effective immediately but is set to expire when Gov. Murphy rescinds the public health emergency order, Executive Order 103, currently in effect. The bill permits a New Jersey notary public, or an officer authorized in New Jersey to take oaths and acknowledgments (such as a New Jersey attorney), to notarize documents for an individual who is located remotely, provided that certain requirements are met:

1. The notary or officer and the individual must be able to communicate electronically in real time with sight and sound capabilities. For many, that means using FaceTime or other videoconferencing web- or app-based services such as Zoom or WebEx. The notary or officer must record the signing and maintain this recording for a period of 10 years.
2. The notary or officer must have either personal knowledge of the individual's identity or satisfactory evidence of the individual's identity from sources such as a driver's license, passport or other identifying proof from a third party.
3. The notary or officer can reasonably confirm that the document before the notary or officer is the same one that the individual signed.
4. The notary or officer must also include a special annotation in the acknowledgment section of the document indicating that the document was signed using "communication technology."

For individuals located outside the U.S. during this period, remote notarization can be used if (i) the document is related to matters that fall within the jurisdiction of the U.S. or involve property located within the U.S., and (ii) the act of signing the document is not prohibited by the foreign jurisdiction where the individual is located.

Remote notarization can be used for most documents, including estate planning documents, but cannot be used for certain documents governed by the Uniform Commercial Code or for any documents related to adoption, divorce or other family law matters.

While remote notarization may be convenient in some cases, an in-person document execution while observing social distancing may be a better option in many others. The new law has no provision authorizing remote witnessing of documents, such as wills, that require witnesses rather than a notary. Original signatures are still required on documents intended for recording, such as deeds—which means that even with a remote notarization, pieces of paper still must be transmitted from a signer to a notary and then elsewhere. If you have questions about whether remote notarization is advisable in particular circumstances, 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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