



# New Jersey Enacts Legislation Permanently Authorizing Remote Notarizations and Requiring Education Courses for Notary Publics

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On July 22, 2021, New Jersey Governor Phil Murphy signed into law A-4250/S-2508, which permanently authorizes remote online notarizations and requires education courses for notary publics. The law takes effect on October 20, 2021.

New Jersey previously enacted A-3903/S-2336, which temporarily authorized remote notarizations during the COVID-19 Public Health Emergency and State of Emergency declared by Governor Murphy in Executive Order 103 on March 9, 2020.<sup>1</sup> Although Governor Phil Murphy signed into law A-5820/S-3866 and Executive Order No. 244 on June 4, 2021, ending the COVID-19 Public Health Emergency, the State of Emergency remains in effect.

Like A-3903/S-2336, the Act authorizes a notary located in New Jersey to notarize the signing of a document or perform any other notarial act using “communication technology”<sup>2</sup> for “a remotely located individual,” provided that: (1) the notary has “personal knowledge” or has obtained satisfactory evidence of the signatory’s identity either by (a) oath or affirmation from a credible witness appearing before the notary, or (b) using at least two different types of “identity proofing”; (2) the notary is reasonably able to confirm that a record before him/her is the same record the remote individual signed or in which the remote individual made a statement; and (3) the notary, or a third party on his/her behalf, creates an audio-visual recording of the performance of the notarial act, which must be retained by the notary public for a period of ten years.

A notary may verify the identity of a remotely located individual through “identity proofing” by means of: (1) a

passport, driver's license, or government-issued, non-driver identification card, which is current or expired not more than three years prior to the remote notarization; or (2) another form of government-issued, non-driver identification card, which is current or expired not more than three years prior to the remote notarization, and which contains the individual's signature or photograph and is satisfactory to the notary.

Further, it is important to note that if a notarial act is performed using communication technology, the notary certificate on the document must indicate that the notarial act was performed using communication technology.

For a remotely located individual located outside the United States, the Act requires that: (a) the record: (1) be filed with or must relate to a matter before a public official or court, governmental entity or other entity subject to U.S. jurisdiction; or (2) involve property located in the territorial jurisdiction of the United States, or involve a transaction substantially connected with the United States; and (b) the act of making the statement or signing the record must not be prohibited by the foreign state in which the remote individual is located.

The Act does not, however, apply to the notarization of a record to the extent such record is governed by: (1) a law governing the creation and execution of wills and codicils; (2) the Uniform Commercial Code of New Jersey, N.J.S. 12A:1-101 et seq., other than N.J.S. 12A:1-107 ("Section Captions"), N.J.S. 12A:1-206 ("Presumptions"), the provisions of the "Uniform Commercial Code – Sales" (chapter 2 of Title 12A of the New Jersey Statutes), and the provisions of the "Uniform Commercial Code – Leases" (chapter 2A of Title 12A of the New Jersey Statutes); or (3) a statute, regulation or other rule of law governing adoption, divorce or other matters of family law.

New Jersey joins a growing list of states that have enacted some form of permanent remote online notarization legislation. As of July 26, 2021, those other states include: Alaska, Arizona, Arkansas, Colorado, Florida, Hawaii, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin and Wyoming.

Finally, the Act also sets forth new education requirements for notary publics. Specifically, an individual applying for an initial commission as a notary must now complete a six-hour course, within the six-month period immediately preceding the application, prescribed and approved by the State Treasurer. An individual applying to renew his/her notary public commission who has previously completed the six-hour course must complete a three-hour continuing education course.

For a copy of A-4250/S-2508, please contact Michael O'Donnell at [modonnell@riker.com](mailto:modonnell@riker.com), Michael Crowley at [mcrowley@riker.com](mailto:mcrowley@riker.com), Desiree McDonald at [dmcdonald@riker.com](mailto:dmcdonald@riker.com), or Andrew Raimondi at [araimondi@riker.com](mailto:araimondi@riker.com).

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<sup>1</sup> Our prior alert on A3903/S-2336, which passed the New Jersey Legislature on April 14, 2020 is available [here](#).

<sup>2</sup> “Communication technology” is defined as an electronic device or process that allows a notarial officer and a remotely located individual to communicate with each other simultaneously by sight and sound.

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