

Act 15 Authorizes Remote Notarization in Pennsylvania for All Transactions on a Temporary Basis During COVID-19 Crisis

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In an effort to keep clients apprised of emerging law changes regarding remote notarization legislation in Pennsylvania, I wanted to provide an update to my April 15, 2020 post on Firm social media. As you will recall, remote notarization is when a signer appears before a Notary at the time of a notarization using audio-visual technology over the internet rather than being physically present in the same room.

When we last left off, the Department of State had authorized remote notarization on an emergency basis for a number of limited transactions, including the execution of Powers of Attorney, Advanced Healthcare Directives and Last Wills and Testaments. Though this authorization was helpful, attorneys and many other professionals across the State were waiting for broader legislation to address the issue at large, namely the inability to execute important documents (that require notarization) where “Stay at Home” orders are in effect.

On April 20, 2020, Governor Wolf signed into law **Act 15 of 2020**, which, among other things, formalizes and expands upon the Department of State’s earlier authorization by temporarily authorizing remote notarization in Pennsylvania for all notarial transactions. This authorization will expire 60 days after termination or expiration of the COVID-19 disaster emergency issued by Governor Wolf.

Practitioners should review and understand Act 15 in its entirety, however, generally speaking, the Act provides guidance for how notaries are to notify the State that they will be performing remote notarization and identifies communication and identity proofing technology that is currently deemed acceptable for remote notarization. In addition, under Act 15, notaries performing remote notarizations must indicate in their notarial certificate that the notarial act was performed by means of communication technology. Finally, Act 15 includes the burdensome requirement that the notary public, or a person acting on behalf of the notary public, create an audio-visual recording of the notarial act and retain that recording for at least 10 years.

Though not perfect, Act 15 is a step in the right direction and, with this legislation, Pennsylvania (temporarily at least) joins 23 other states that permit remote notarization.