

New Jersey Adopts Remote Notarization in Response to COVID-19

The State of New Jersey recently passed legislation remedying the issue of remote notarization in light of the COVID-19 pandemic. P.L.2020 c.26. Notaries public and officers “authorized to take oaths, affirmations, and affidavits” or “take acknowledgements” (hereinafter “officers”) may now perform such notarial acts in the state, through the use of communication technology, such as video-conferencing, during the course of the public health emergency and state of emergency caused by COVID-19, as declared in the Governor’s Executive Order 103 of 2020.

Before this legislation was enacted, many in the legal community and other professions were unable to properly execute and notarize various documents, and comply with social distancing restrictions. Now, so long as the “communication technology” utilized permits the notary public or officer, and the remotely located signatory to “communicate with each other simultaneously by sight and sound” remote notarization may be accomplished in New Jersey.

Notaries and officers must still conduct all necessary identity proofing through the use of communication technology, as would otherwise be required pursuant to the Notaries Public Act, N.J.S.A. 52:7-10, et seq., or any other law. They are also required to indicate that the notarial act was performed using communication technology with any acknowledgement or name affixation as required by N.J.S.A. 46:14-2.1 or N.J.S.A. 52:7-19.

Remote notarization, however, is expressly not permitted to the extent it is governed by:

(1) the “Uniform Commercial Code”, N.J.S. 12A:1-101 et seq., other than N.J.S. 12A:1-107, N.J.S.12A:1-206, the title provisions of the “Uniform Commercial Code – Sales,” chapter 2 of Title 12A of the New Jersey Statutes, and the provisions of “Uniform Commercial Code - Leases, chapter 2A of Title 12A of the New Jersey Statutes; or

(2) a statute, regulation or other rule of law governing adoption, divorce or other matters of family law.

Accordingly, execution that requires notarization pursuant to the above referenced sections of the UCC, or that govern family law, must still be notarized in person.

In this challenging and unprecedented time, the Kaufman, Dolowich & Voluck attorneys look forward to assisting employers who are grappling with complex issues in an effort to mitigate the impact of the COVID-19 pandemic on their employees and businesses. KD is continuing to monitor New Jersey directives and will provide updates accordingly. For guidance and/or more information, please contact Iram P. Valentin, partner and co-chair of KD’s Professional Liability practice group, at (201) 708-8233 - email ivalentin@kaufmandolowich.com, or Jennifer Casazza Carter, attorney, at (201) 708-8226 - email jcasazza@kaufmandolowich.com, experienced members from KD’s Professional Liability Practice Group.