

AN ACT

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the Revised Uniform Law on Notarial Acts Act of 2018 to authorize a notary public to certify that a paper copy of an electronic record is an accurate copy of that record, to accept a paper copy of an electronic record that is certified by a notarial officer, and to perform a notarial act for an individual who is not physically present before the notary public, , through the use of synchronous communication technology to verify the identity of the remote individual, evidenced by an audio-visual recording, or by remote administration of oaths and remote notarization of tangible records evidenced by an audio-visual recording.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Revised Uniform Law on Notarial Acts Amendment Act of 2022”.

Sec. 2. The Revised Uniform Law on Notarial Acts Act of 2018, effective December 4, 2018 (D.C. Law 22-189; D.C. Official Code § 1-1231.01 *et seq.*), is amended as follows:

(a) Section 3 (D.C. Official Code § 1-1231.02) is amended by striking the phrase “sections 20(i),” and inserting the phrase “sections 14a, 20(i),” in its place.

(b) Section 4 (D.C. Official Code § 1-1231.03) is amended by adding a new subsection (d) to read as follows:

“(d) A notarial officer may certify that a tangible copy of an electronic record is an accurate copy of the electronic record.”.

(c) Section 6 (D.C. Official Code § 1-1231.05) is amended by striking the phrase “before the notarial officer.” and inserting the phrase “before the notarial officer, including an appearance that conforms with section 14a.” in its place.

(d) A new section 14a is added to read as follows:

“Sec. 14a. Notarial act performed for remotely located individual.

“(a) A remotely located individual may comply with section 6 by using communication technology to appear before a notary public.

“(b) A notary public located in the District may use communication technology to perform a notarial act for a remotely located individual if:

“(1) The notary public:

“(A) Has personal knowledge pursuant to section 6(a) of the identity of the remotely located individual;

“(B) Has satisfactory evidence of the identity of the remotely located individual by oath or affirmation from a credible witness appearing before the notary public under section 6(b) or this section; or

“(C) Has obtained satisfactory evidence of the identity of the remotely located individual by using at least 2 different types of identity proofing;

“(2) The notary public is able reasonably to confirm that a record before the notary public is the same record in which the remotely located individual made a statement or on which the individual executed a signature;

“(3) The notary public, or a person acting on behalf of the notary public, creates an audio-visual recording of the performance of the notarial act; and

“(4) For a remotely located individual located outside a state:

“(A) The record:

“(i) Is to be filed with or relates to a matter before a public official or court, governmental entity, or other entity subject to the jurisdiction of a state; or

“(ii) Involves property located in the territorial jurisdiction of the United States or involves a transaction substantially connected with a state; and

“(B) The act of making the statement or signing the record is not prohibited by the foreign state in which the remotely located individual is located.

“(c) A notary public located in the District may use communication technology under subsection (b) of this section to take an acknowledgment of a signature on a tangible record physically present before the notary public if the record is displayed to, and identified by, the remotely located individual during the audio-visual recording under subsection (b)(3) of this section.

“(d) The requirement under subsection (b)(2) of this section for the performance of a notarial act with respect to a tangible record not physically present before the notary public is satisfied if:

“(1) The remotely located individual:

“(A) During the audio-visual recording under subsection (c)(3) of this section signs:

“(i) The record; and

“(ii) A declaration, in substantially the following form, that is part of or securely attached to the record:

“I declare under penalty of perjury that the record of which this declaration is a part or to which it is attached is the same record on which (name of notary public), a notary public, performed a notarial act and before whom I appeared by means of communication technology on (date).

“

“Signature of remotely located individual

“

“Printed name of remotely located individual”; and

“(B) Sends the record and declaration to the notary public, by first-class United States Mail or delivery by common-carrier or commercial delivery service, not later than 3 days after the notarial act was performed; and

“(2) The notary public:

“(A) In the audio-visual recording under subsection (b)(3) of this section, records the individual signing the record and declaration; and

“(B) After receipt of the record and declaration from the individual, executes a certificate of notarial act under section 15 that includes a statement in substantially the following form:

“I (name of notary public) witnessed, by means of communication technology, (name of remotely located individual) sign the attached record and declaration on (date).”.

“(e) A notarial act performed in compliance with subsection (d) of this section complies with section 15(a)(1) and is effective on the date the remotely located individual signed the declaration under subsection (d)(1)(A)(ii) of this section.

“(f) Subsection (d) of this section shall not preclude use of another procedure to satisfy subsection (b)(2) of this section for a notarial act performed with respect to a tangible record.

“(g) Except as otherwise provided by another law of the District, a notary public located in the District may use communication technology under subsection (b) of this section to administer an oath to a remotely located individual if the notary public:

“(1) Identifies the individual under subsection (b)(1) of this section;

“(2) Creates or causes the creation under subsection (b)(3) of this section of an audio-visual recording of the individual taking the oath; and

“(3) Retains or causes the retention under subsection (j) of this section of the recording.

“(h) If a notarial act is performed under this section, the certificate of notarial act under section 15 and the short-form certificate under section 16 must indicate that the notarial act was performed using communication technology.

“(i) A short-form certificate under section 16 for a notarial act subject to this section is sufficient if it:

“(1) Complies with rules issued under subsection (l)(1) of this section; or

“(2) Is in the form under section 16 and contains a statement in substantially the following form:

“This notarial act involved the use of communication technology.”.

“(j) A notary public, a guardian, conservator, or agent of a notary public, or a personal representative of a deceased notary public shall retain the audio-visual recording created under subsection (b)(3) of this section or cause the recording to be retained by a repository designated by or on behalf of the person required to retain the recording. The recording shall be retained for at least 10 years.

“(k) Before a notary public performs the notary public’s initial notarial act under this section, the notary public must notify the Mayor that the notary public will be performing

notarial acts with respect to remotely located individuals and identify the technologies the notary public intends to use. If the Mayor has established standards under subsection (l) of this section and section 27 for approval of communication technology or identity proofing, the communication technology and identity proofing used by the notary public must conform to those standards.

“(l) The Mayor, pursuant to Title I of the District of Columbia Administrative procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), may issue rules to :

“(1) Prescribe the means of performing a notarial act involving a remotely located individual using communication technology;

“(2) Establish standards for communication technology and identity proofing;

“(3) Establish requirements or procedures to approve providers of communication technology and the process of identity proofing;

“(4) Establish standards and a period for the retention of an audio-visual recording under subsection (b)(3) of this section; and

“(5) Prescribe methods for a notary public to confirm under subsections (c) and (d) of this section the identity of a tangible record.

“(m) Before adopting, amending, or repealing a rule governing performance of a notarial act with respect to a remotely located individual, the Mayor shall consider:

“(1) The most recent standards regarding the performance of a notarial act with respect to a remotely located individual promulgated by national standard-setting organizations and the recommendations of the National Association of Secretaries of State;

“(2) Standards, practices, and customs of other jurisdictions that have laws substantially similar to this section; and

“(3) The views of governmental officials and entities and other interested persons.

“(n) By allowing its communication technology or identity proofing to facilitate a notarial act for a remotely located individual or by providing storage of the audio-visual recording under subsection (c)(3) of this section, the provider of the communication technology, identity proofing, or storage shall be deemed to appoint the Mayor as the provider’s agent for service of process in any civil action in the District related to the notarial act.

“(o) The Office of the Recorder of Deeds may accept for recording a tangible copy of an electronic record containing a notarial certificate as satisfying any requirement that a record accepted for recording be an original, if the notarial officer executing the notarial certificate certifies that the tangible copy is an accurate copy of the electronic record.

“(p) For the purposes of this section, the term:

“(1) “Communication technology” means an electronic device or process that:

“(A) Allows a notary public and a remotely located individual to communicate with each other simultaneously by sight and sound; and

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“(B) When necessary and consistent with other applicable law, facilitates communication with a remotely located individual who has a vision, hearing, or speech impairment.

“(2) “Identity proofing” means a process or service by which a third person provides a notary public with a means to verify the identity of a remotely located individual by a review of personal information from public or private data sources.

“(3) “Remotely located individual” means an individual who is not in the physical presence of the notary public who performs a notarial act under subsection (b) of this section.”.

Sec. 3. Conforming amendments.

An Act To establish a code of law for the District of Columbia, approved March 3, 1901, 31 Stat. 1189, Chapter 854; D.C. Official Code § 42-101 *passim*), is amended as follows:

(a) Section 499 (D.C. Official Code § 42-401) is amended to read as follows:

“Sec. 499. Effective date of deeds; exception.

“Any deed conveying real property in the District, or interest therein, or declaring or limiting any use or trust thereof, executed and acknowledged and certified as provided in sections 497 (D.C. Official Code § 42-602), 498 (D.C. Official Code § 42-101), and 512 (D.C. Official Code § 42-306), and the Revised Uniform Law on Notarial Acts Act of 2018, effective December 4, 2018 (D.C. Law 22-189; D.C. Official Code § 1-1231.01 *et seq.*), and delivered to the person in whose favor the same is executed shall be held to take effect from the date of the delivery; except, that as to creditors and subsequent bona fide purchasers and mortgagees without notice of said deed, and others interested in the property, it shall only take effect from the time of its delivery to the Recorder of Deeds for record.”.

(b) Section 499b (D.C. Official Code § 42-403) is amended to read as follows:

“Sec. 499b. Defective grants recorded on or after the effective date of the Revised Uniform Law on Notarial Acts Amendment Act of 2022.

“Any instrument recorded in the Office of the Recorder of Deeds on or after the effective date of the Revised Uniform Law on Notarial Acts Amendment Act of 2022, passed on 2nd reading on July 12 (Enrolled version of Bill 24-457), shall be effective notwithstanding the existence of any failures in the formal requisites listed in section 499c.”.

(c) Section 499c(a)(1) (D.C. Official Code § 42-404) is amended to read as follows:

“(1) An omission of an acknowledgment, defective or improper acknowledgment, or any failure to meet a requirement in the taking of an acknowledgment;”.

Sec. 4. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

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Sec. 5. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia