

STATE OF NEW YORK

4673

2021-2022 Regular Sessions

IN ASSEMBLY

February 4, 2021

Introduced by M. of A. McMAHON -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the executive law, in relation to authorizing notarial acts to be performed utilizing audio-video technology

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 137 of the executive law is amended to read as
2 follows:

3 § 137. Statement as to authority of notaries public. 1. In exercising
4 ~~his~~ their powers pursuant to this article, a notary public, in addition
5 to the venue of ~~his~~ their act and ~~his~~ their signature, shall
6 print, typewrite, or stamp beneath ~~his~~ their signature in black ink,
7 ~~his~~ their name, the words "Notary Public State of New York," the name
8 of the county in which ~~he~~ they originally qualified, and the date
9 upon which ~~his~~ their commission expires and, in addition, wherever
10 required, a notary public shall also include the name of any county in
11 which ~~his~~ their certificate of official character is filed, using the
12 words "Certificate filed County." A notary public who is duly
13 licensed as an attorney and counsellor at law in this state may in ~~his~~
14 their discretion, substitute the words "Attorney and Counsellor at Law"
15 for the words "Notary Public." A notary public who has qualified or who
16 has filed a certificate of official character in the office of the clerk
17 in a county or counties within the city of New York must also affix to
18 each instrument ~~his~~ their official number or numbers in black ink, as
19 given to ~~him~~ them by the clerk or clerks of such county or counties at
20 the time such notary qualified in such county or counties and, if the
21 instrument is to be recorded in an office of the register of the city of
22 New York in any county within such city and the notary has been given a
23 number or numbers by such register or ~~his~~ their predecessors in any
24 county or counties, when ~~his~~ their autographed signature and certificate
25 are filed in such office or offices pursuant to this chapter, ~~he~~

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 ~~they~~ shall also affix such number or numbers. No official act of such
2 notary public shall be held invalid on account of the failure to comply
3 with these provisions. If any notary public shall ~~[wilfully]~~ willfully
4 fail to comply with any of the provisions of this section, ~~[he]~~ they
5 shall be subject to disciplinary action by the secretary of state. In
6 all the courts within this state the certificate of a notary public,
7 over ~~[his]~~ their signature, shall be received as presumptive evidence of
8 the facts contained in such certificate; provided, that any person
9 interested as a party to a suit may contradict, by other evidence, the
10 certificate of a notary public.

11 2. In addition to the provisions of subdivision one of this section,
12 any notarial act that is required under New York state law shall be
13 authorized to be performed utilizing audio-video technology provided
14 that the following conditions are met:

15 (a) A person seeking a notary's services, if not personally known to
16 such notary, shall present valid photo identification to such notary
17 during a video conference. Presentation of such photo identification
18 before or after such video conference shall not satisfy the requirements
19 of this paragraph;

20 (b) The video conference shall allow for direct interaction between
21 the person seeking the notary's services and the notary. A pre-recorded
22 video of the person seeking the notary's services shall not satisfy the
23 requirements of this paragraph;

24 (c) The person seeking the notary's services shall affirmatively
25 represent that they are physically situated in New York state at the
26 time of the video conference;

27 (d) The person seeking the notary's services shall transmit by facsim-
28 ile or electronic means a copy of the signed document directly to the
29 notary on the same date such document was signed;

30 (e) The notary may notarize the transmitted copy of the document and
31 transmit such notarized document back to the person seeking such nota-
32 ry's services by facsimile or electronic means; and

33 (f) The notary may repeat the notarization of the original signed
34 document as of the date of execution, provided such notary receives such
35 original signed document together with the electronically notarized copy
36 within thirty days after the date of execution.

37 § 2. This act shall take effect immediately.