

# STATE OF NEW YORK

4673--A

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 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the executive law, in relation to authorizing notarial acts to be performed utilizing audio-video technology; and providing for the repeal of such provisions upon expiration thereof

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

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

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

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

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

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

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

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

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

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

39 § 2. This act shall take effect immediately and shall expire and be  
40 deemed repealed one year after such date.