STATE OF NEW YORK

8317--A

IN SENATE

May 11, 2020

Introduced by Sen. BENJAMIN -- read twice and ordered printed, and when printed to be committed to the Committee on Corporations, Authorities and Commissions -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the banking law, the tax law, the executive law, the estates, powers and trusts law, the public health law, the real property law and the general obligations law, in relation to providing for the remote conduct of certain practices and procedures

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

Section 1. Section 11 of the banking law is amended by adding a new subdivision 5 to read as follows:

5. Notwithstanding any provision of law to the contrary, any instrument which is signed and delivered to the superintendent pursuant to any provision of this chapter, and is required to be verified or acknowledged pursuant to the provisions of this chapter, may be verified or acknowledged by including the standard verification or acknowledgment language in such instrument and transmitting a legible copy of the signed instrument by fax or electronic means. The superintendent shall promulgate all rules and regulations necessary for the implementation of the provisions of this subdivision.

§ 2. Section 171 of the tax law is amended by adding a new subdivision twenty-ninth to read as follows:

Twenty-ninth. Have the authority to accept digital signatures in lieu of handwritten signatures on documents related to the determination or collection of tax liability. The commissioner shall promulgate rules and regulations regarding which documents shall be accepted with digital signatures and the requirements for such digital signatures.

§ 3. The executive law is amended by adding a new section 137-a to read as follows:

§ 137-a. Notary services provided utilizing audio-video technology. 1. Notwithstanding any provision of law to the contrary, a notary public may exercise his or her powers utilizing audio-video technology if the following conditions are met:

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

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(a) The person seeking the notary services, if not personally known to the notary public, shall present valid photo identification to the notary public during the audio-video conference.

(b) The audio-video conference shall allow for direct interaction between the person receiving notary services and the notary public.

(c) The person receiving notary services shall affirmatively represent that he or she is physically situated in the state.

(d) The person receiving notary series shall transmit by fax or electronic means a legible copy of the document signed during the audio-video conference directly to the notary public within twenty-four hours of such audio-video conference.

(e) The notary public shall notarize the transmitted copy of the document signed during the audio-video conference and transmit the same back to the person receiving notary services.

2. A notary public may repeat the notarization of the original signed document as of the date of execution provided that the notary public receives such original signed document together with the electronically notarized copy, notarized pursuant to the provisions of subdivision one of this section, within thirty days after the date of execution.

§ 4. Section 3-2.1 of the estates, powers and trusts law is amended by adding a new paragraph (c) to read as follows:

(c) (1) Notwithstanding any provision of this section to the contrary, the attestation of wills may be made utilizing audio-video technology if the following conditions are met:

(A) The testator, if not personally known to the attesting witness, shall present valid photo identification to the attesting witness during the audio-video conference.

(B) The audio-video conference shall allow for direct interaction between the testator and the attesting witness.

(C) The attesting witness shall receive a legible copy of the signature page, or pages, which shall be transmitted via fax or electronic means, within twenty-four hours of such pages being signed by the testator during the audio-video conference.

(D) The attesting witness shall sign the transmitted copy of the signature page, or pages, and transmit the same back to the testator.

(2) An attesting witness may repeat the attestation of the original signature page, or pages, as of the date of execution provided that the attesting witness receives such original signature page, or pages, together with the electronically attested copy, attested to pursuant to the provisions of subparagraph one of this paragraph, within thirty days after the date of execution.

§ 5. Section 7-1.17 of the estates, powers and trusts law is amended by adding a new paragraph (c) to read as follows:

(c) (1) Notwithstanding any provision of this section to the contrary, witnessing pursuant to this section may be made utilizing audio-video technology if the following conditions are met:

(A) The person requesting that his or her signature be witnessed, if not personally known to the witnesses, shall present valid photo identification to the witnesses during the audio-video conference.

(B) The audio-video conference shall allow for direct interaction between the person requesting that his or her signature be witnessed and the witnesses.

(C) The witnesses shall receive a legible copy of the signature page, or pages, which shall be transmitted via fax or electronic means, within twenty-four hours of such pages being signed by the person requesting

that his or her signature be witnessed during the audio-video conference.

(D) The witnesses shall sign the transmitted copy of the signature page, or pages, and transmit the same back to the person requesting that his or her signature be witnessed.

(2) A witness may repeat the witnessing of the original signature page, or pages, as of the date of execution provided that the witness receives such original signature page, or pages, together with the electronically witnessed copy, witnessed pursuant to the provisions of subparagraph one of this paragraph, within thirty days after the date of execution.

§ 6. Section 2981 of the public health law is amended by adding a new subdivision 2-a to read as follows:

2-a. Alternate procedure for witnessing of health care proxies. (a) Notwithstanding any provision of this section to the contrary, witnessing pursuant to this section may be made utilizing audio-video technology if the following conditions are met:

(i) The person requesting that his or her signature be witnessed, if not personally known to the witnesses, shall present valid photo identification to the witnesses during the audio-video conference.

(ii) The audio-video conference shall allow for direct interaction between the person requesting that his or her signature be witnessed and the witnesses.

(iii) The witnesses shall receive a legible copy of the signature page, or pages, which shall be transmitted via fax or electronic means, within twenty-four hours of such pages being signed by the person requesting that his or her signature be witnessed during the audio-video conference.

(iv) The witnesses shall sign the transmitted copy of the signature page, or pages, and transmit the same back to the person requesting that his or her signature be witnessed.

(b) A witness may repeat the witnessing of the original signature page, or pages, as of the date of execution provided that the witness receives such original signature page, or pages, together with the electronically witnessed copy, witnessed pursuant to the provisions of paragraph (a) of this subdivision, within thirty days after the date of execution.

§ 7. Section 4201 of the public health law is amended by adding a new subdivision 3-a to read as follows:

3-a. (a) Notwithstanding any provision of this section to the contrary, witnessing pursuant to this section may be made utilizing audio-video technology if the following conditions are met:

(i) The person requesting that his or her signature be witnessed, if not personally known to the witnesses, shall present valid photo identification to the witnesses during the audio-video conference.

(ii) The audio-video conference shall allow for direct interaction between the person requesting that his or her signature be witnessed and the witnesses.

(iii) The witnesses shall receive a legible copy of the signature page, or pages, which shall be transmitted via fax or electronic means, within twenty-four hours of such pages being signed by the person requesting that his or her signature be witnessed during the audio-video conference.

(iv) The witnesses shall sign the transmitted copy of the signature page, or pages, and transmit the same back to the person requesting that his or her signature be witnessed.

(b) A witness may repeat the witnessing of the original signature page, or pages, as of the date of execution provided that the witness receives such original signature page, or pages, together with the electronically witnessed copy, witnessed pursuant to the provisions of paragraph (a) of this subdivision, within thirty days after the date of execution.

§ 8. The real property law is amended by adding a new section 304-a to read as follows:

§ 304-a. Witnessing utilizing audio-video technology. 1. Notwithstanding any provision of this article to the contrary, witnessing pursuant to this section may be made utilizing audio-video technology if the following conditions are met:

(a) The person requesting that his or her signature be witnessed, if not personally known to the witness, shall present valid photo identification to the witness during the audio-video conference.

(b) The audio-video conference shall allow for direct interaction between the person requesting that his or her signature be witnessed and the witness.

(c) The witnesses shall receive a legible copy of the signature page, or pages, which shall be transmitted via fax or electronic means, within twenty-four hours of such pages being signed by the person requesting that his or her signature be witnessed during the audio-video conference.

(d) The witness shall sign the transmitted copy of the signature page, or pages, and transmit the same back to the person requesting that his or her signature be witnessed.

2. A witness may repeat the witnessing of the original signature page, or pages, as of the date of execution provided that the witness receives such original signature page, or pages, together with the electronically witnessed copy, witnessed pursuant to the provisions of subdivision one of this section, within thirty days after the date of execution.

§ 9. Paragraph (b) of subdivision 9 of section 5-1514 of the general obligations law, as amended by chapter 340 of the laws of 2010, is amended to read as follows:

(b) Be signed and dated by a principal with capacity, with the signature of the principal duly acknowledged in the manner prescribed for the acknowledgment of a conveyance of real property, and witnessed by two persons who are not named in the instrument as permissible recipients of gifts, in the manner described in subparagraph two of paragraph (a) or paragraph (c) of section 3-2.1 of the estates, powers and trusts law. The person who takes the acknowledgment, under this paragraph, may also serve as one of the witnesses.

§ 10. This act shall take effect on the thirtieth day after it shall have become a law.