

# 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:

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

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

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

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

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

21 § 137-a. Notary services provided utilizing audio-video technology. 1.  
22 Notwithstanding any provision of law to the contrary, a notary public  
23 may exercise his or her powers utilizing audio-video technology if the  
24 following conditions are met:

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

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

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

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

8 (d) The person receiving notary series shall transmit by fax or elec-  
9 tronic means a legible copy of the document signed during the audio-vi-  
10 deo conference directly to the notary public within twenty-four hours of  
11 such audio-video conference.

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

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

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

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

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

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

30 (C) The attesting witness shall receive a legible copy of the signa-  
31 ture page, or pages, which shall be transmitted via fax or electronic  
32 means, within twenty-four hours of such pages being signed by the testa-  
33 tor during the audio-video conference.

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

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

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

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

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

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

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

1 that his or her signature be witnessed during the audio-video confer-  
2 ence.

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

6 (2) A witness may repeat the witnessing of the original signature  
7 page, or pages, as of the date of execution provided that the witness  
8 receives such original signature page, or pages, together with the elec-  
9 tronically witnessed copy, witnessed pursuant to the provisions of  
10 subparagraph one of this paragraph, within thirty days after the date of  
11 execution.

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

14 2-a. Alternate procedure for witnessing of health care proxies. (a)  
15 Notwithstanding any provision of this section to the contrary, witness-  
16 ing pursuant to this section may be made utilizing audio-video technolo-  
17 gy if the following conditions are met:

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

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

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

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

32 (b) A witness may repeat the witnessing of the original signature  
33 page, or pages, as of the date of execution provided that the witness  
34 receives such original signature page, or pages, together with the elec-  
35 tronically witnessed copy, witnessed pursuant to the provisions of para-  
36 graph (a) of this subdivision, within thirty days after the date of  
37 execution.

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

40 3-a. (a) Notwithstanding any provision of this section to the contra-  
41 ry, witnessing pursuant to this section may be made utilizing audio-vi-  
42 deo technology if the following conditions are met:

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

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

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

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

1 (b) A witness may repeat the witnessing of the original signature  
2 page, or pages, as of the date of execution provided that the witness  
3 receives such original signature page, or pages, together with the elec-  
4 tronically witnessed copy, witnessed pursuant to the provisions of para-  
5 graph (a) of this subdivision, within thirty days after the date of  
6 execution.

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

9 § 304-a. Witnessing utilizing audio-video technology. 1. Notwith-  
10 standing any provision of this article to the contrary, witnessing  
11 pursuant to this section may be made utilizing audio-video technology if  
12 the following conditions are met:

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

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

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

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

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

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

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

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