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:

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

§ 137. Statement as to authority of notaries public. **1.** In exercising [~~his~~] **their** powers pursuant to this article, a notary public, in addition to the venue of [~~his~~] **their** act and [~~his~~] **their** signature, shall print, typewrite, or stamp beneath [~~his~~] **their** signature in black ink, [~~his~~] **their** name, the words "Notary Public State of New York," the name of the county in which [~~he~~] **they** originally qualified, and the date upon which [~~his~~] **their** commission expires and, in addition, wherever required, a notary public shall also include the name of any county in which [~~his~~] **their** certificate of official character is filed, using the words "Certificate filed ..... County." A notary public who is duly licensed as an attorney and counsellor at law in this state may in [~~his~~] **their** discretion, substitute the words "Attorney and Counsellor at Law" for the words "Notary Public." A notary public who has qualified or who has filed a certificate of official character in the office of the clerk in a county or counties within the city of New York must also affix to each instrument [~~his~~] **their** official number or numbers in black ink, as given to [~~him~~] **them** by the clerk or clerks of such county or counties at the time such notary qualified in such county or counties and, if the instrument is to be recorded in an office of the register of the city of New York in any county within such city and the notary has been given a 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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county or counties, when [~~his~~] their autographed signature and certificate are filed in such office or offices pursuant to this chapter, [~~he~~] they shall also affix such number or numbers. No official act of such notary public shall be held invalid on account of the failure to comply with these provisions. If any notary public shall [~~wilfully~~] willfully fail to comply with any of the provisions of this section, [~~he~~] they shall be subject to disciplinary action by the secretary of state. In all the courts within this state the certificate of a notary public, over [~~his~~] their signature, shall be received as presumptive evidence of the facts contained in such certificate; provided, that any person interested as a party to a suit may contradict, by other evidence, the certificate of a notary public.

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

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

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

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

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

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

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

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