

May 4, 2020

ASSEMBLY BILL NO. 3864

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I herewith return Assembly Bill No. 3864 without my approval.

This bill would permit notarial acts to be performed remotely provided the notarial official has personal knowledge or satisfactory evidence of the identity of the remotely located individual and is reasonably able to confirm the authenticity of the record to be notarized. The notary or the notary's agent or representative would be required to retain an audio-visual recording of the performance of the notarial act for at least 10 years.

The bill was introduced and passed by the Assembly on March 16, 2020 and by the Senate on March 19, 2020. It was one of several bills that was introduced and quickly moved through the Legislature in response to the emerging COVID-19 public health emergency. Although the bill was prioritized as a result of the COVID-19 outbreak, its text dates back several legislative sessions and is not specifically aimed at alleviating the unique burden social distancing orders impose on notaries and the individuals and businesses in need of their services. Significantly, the bill would not take effect until ninety days following enactment, severely limiting any relief it could provide during the COVID-19 emergency.

Following the passage of Assembly Bill No. 3864, my colleagues in the Legislature and I worked closely on legislation which is more precisely tailored to address the practical obstacles to the provision of needed notarial services during the present crisis. P.L.2020, c.26 largely tracks the language contained in

Assembly Bill No. 3864, with several important exceptions. First, P.L.2020, c.26 took effect immediately when I signed it on April 14, 2020. Next, this law permits officers authorized to take oaths, affirmations and affidavits, as well as notaries public, to perform their services remotely for the duration of the public health emergency. Finally, this law also permits remote notarization of wills and codicils, in contrast to Assembly Bill No. 3864's express prohibition of that option. I fully appreciate and share the sponsors' recognition of the critical role notarial services play in preventing fraud and abuse in the particular context of wills and related bequests. However, the circumstances of the pandemic creates an urgency in these types of matters - where people may not have wills, or need to make changes to ensure that their loved ones are properly taken care of, while living in the shadow of this deadly virus - that shifts the balance to justify a temporary departure from the normal practice of requiring an individual's physical presence before a notarial officer which, due to social distancing, would otherwise make it impossible to complete these needed tasks.

Accordingly, I herewith return Assembly Bill No. 3864 without my approval.

Respectfully,

[seal]

/s/ Philip D. Murphy

Governor

Attest:

/s/ Matthew J. Platkin

Chief Counsel to the Governor