

New Jersey Notary Public Manual

New Jersey Department of the Treasury
Division of Revenue and Enterprise Services

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FORWARD

The office of the notary public is a vital public function. Notaries public are called upon to perform many valuable services for New Jersey's business, legal and financial communities. Effective notary services help to ensure that documents are properly executed, that facts are duly certified, and above all, that the public is protected from fraud. Notarization is essential for many official documents including mortgages, deeds, contracts, and various corporate transactions. This manual is designed to provide notaries public with practical guidance on how to perform notary services.

By following the manual's guidelines, notaries public will operate on a structured procedural foundation and thereby help foster the levels of diligence and accuracy required for the on-going success of the office. The Division of Revenue and Enterprise Service's Business Services Bureau serves as the administrative unit for the Notary Public program in New Jersey.

Write to the Bureau via e-mail at <https://www.nj.gov/treasury/revenue/revgencode.shtml>

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CHAPTER 1. PURPOSE

This manual is designed to implement the provisions of P.L. 2021, c.179 and N.J.A.C. 17:50. The rules streamline the commissioning process, clarify, and expand upon the requirements for notarial acts, provide for the use of new technologies for notarization and enhance the transparency and accountability of the office. In implementing these improvements, the Department of the Treasury intends to: foster improved notarial service levels State-wide; place New Jersey on a strong footing in the notarial practice space nationally; and bolster the reliability and integrity of New Jersey notarial practices in general. The ultimate beneficiaries of these advancements will be New Jersey citizens and the State's business and legal communities that rely on notarial services.

Note: As outlined above, the focus of this document is on the commissioning process and notarial practices. For more information on commercial and legal uses/acceptance of records notarized by New Jersey notaries public, please consult the governing statute found here: <https://www.njleg.state.nj.us/2020/Bills/PL21/179> .PDF. Finally, note that the content of this manual does not constitute legal advice relative to the application of the law to specific legal transactions.

CHAPTER 2. DEFINITIONS

The following words and terms, when used in this Chapter, shall have the following meanings, unless the context clearly indicates otherwise.

“Acknowledgment” means a declaration by an individual before a notarial officer that the individual has signed a record for the purpose stated in the record and, if the record is signed in a representative capacity, that the individual signed the record with proper authority and signed it as the act of the individual or entity identified in the record.

“Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

“Electronic signature” means an electronic symbol, sound, or process attached to, or logically associated with, a record and executed or adopted by an individual with the intent to sign the record.

“In a representative capacity” means acting as:

1. An authorized officer agent, partner, trustee, or other representative for a person other than an individual;
2. A public officer, personal representative, guardian, or other representative, in the capacity stated in a record;
3. An agent or attorney-in-fact for a principal; or
4. An authorized representative of another in any other capacity.

“Non-attorney applicant” means an applicant for an initial or renewal commission as a notary public who is not also a licensed attorney-at-law in this State.

“Notarial act” means an act, whether performed with respect to a tangible or electronic record, that a notarial officer may perform under the laws of New Jersey. The term includes:

1. Taking an acknowledgment,
2. Administering an oath or affirmation,
3. Taking a verification on oath or affirmation,
4. Witnessing or attesting a signature,
5. Certifying or attesting a copy or deposition, and
6. Noting a protest of a negotiable instrument.

“Notarial officer” means a notary public or other individual authorized by law to perform a notarial act.

“Notary public” means an individual commissioned by the State Treasurer to perform a notarial act.

“Official stamp” means a physical image affixed to or embossed on a tangible record or an electronic image attached to, or logically associated with, an electronic record.

“Person” has the meaning ascribed to it in N.J.S.A. 1:1-2:

“Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

“Sign” means, with present intent to authenticate or adopt a record:

1. To execute or adopt a tangible symbol; or
2. To attach to or logically associate with the record an electronic symbol, sound, or process.

“Signature” means a tangible symbol or an electronic signature that evidences the signing of a record.

“Stamping device” means:

1. A physical device capable of affixing to or embossing on a tangible record an official stamp; or
2. An electronic device or process capable of attaching to or logically associating with an electronic record an official stamp.

“State” means the State of New Jersey; “other state” or “another state” means any state, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, and any other insular possession or territory of the United States other than the State of New Jersey.

“Verification on oath or affirmation” means a declaration, made by an individual on oath or affirmation before a notarial officer, that a statement in a record is true.

CHAPTER 3. QUALIFICATIONS FOR OFFICE, SCOPE OF AUTHORITY AND PROHIBITED ACTS

Eligibility Criteria

A person commissioned as a notary public in this State shall be at the time of appointment:

1. Be at least 18 years of age;
2. Be a legal resident of this State or have a place of employment or practice in this State; and
3. Not be disqualified to receive a commission under Chapter 5 (CHAPTER 5. Denial, Revocation, Suspension or Limitation of a Commission).

Scope of Authority

A notary public who has been duly commissioned and qualified is authorized to perform the duties of a notary public throughout the State.

Prohibitions

A notarial officer may not perform a notarial act with respect to a record to which the officer or the officer’s spouse or civil union partner is a party, or in which either of them has a direct beneficial interest. An act that violates this provision is voidable.

A notary public who is not licensed as an attorney-at-law shall not use or advertise the title of lawyer or attorney-at-law, or equivalent terms, in any other language, which mean or imply that the notary public is licensed as an attorney-at-law in the State of New Jersey or in any other jurisdiction of the United States.

A notary public who advertises their services in any language is required to provide with such advertisement a notice which contains the following statement or translation of the following statement if the advertisement is not in English: "I am not an attorney licensed to practice law and may not give legal advice about immigration or any other legal matter or accept fees for legal advice."

CHAPTER 4. NOTARY COMMISSIONING PROCESS

Application Procedures

An applicant for commission as a notary public shall make application to the State Treasurer on a form prescribed by the State Treasurer and endorsed by a member of the Legislature.

Renewals shall be made in the same manner as the original application. All applications shall be submitted electronically through a means provided by the State Treasurer at www.nj.gov/njbgs.

The fee for each application for a commission is \$25.00 and is non-refundable.

Initial Commission. **(NOTE: The educational and testing requirements for initial commissions become effective in July 2022)** A non-attorney applicant for an initial commission as a notary public shall provide satisfactory proof that the applicant has:

1. Completed a six-hour course of study approved by the State Treasurer; and
2. Passed an examination prescribed by the State Treasurer.

The State Treasurer may charge up to a \$15.00 fee for each test administered online.

The Treasurer shall set forth the procedures for compliance with the above provisions and provide certificates of approval evidencing completion of the required education and testing online at www.nj.gov/njbgs.

Renewed Commission. **(NOTE: The educational requirement for renewed commissions becomes effective in July 2022)** A commissioned notary public applying to renew a commission who has satisfactorily completed the six-hour course of study and passed an examination prescribed by the State Treasurer at least one time, or who was commissioned for the first time before the effective date of P.L. 2021, c.179, shall complete a three-hour continuing education course. The Treasurer shall set forth the procedures for compliance with this provision and provide certificates of approval evidencing completion of the required education and testing online at www.nj.gov/njbgs.

Swearing in. Within three months of the receipt of an initial or renewed commission, each notary public shall take and subscribe an oath before the clerk of the county in which the notary public resides to faithfully and honestly discharge the duties of the office and make and keep a true record of all such matters as are required by law. The oath shall be filed with said clerk.

The oath of office of a nonresident notary public shall be taken and subscribed before the clerk of the county in which the nonresident notary public maintains the notary public's office or the county in which the nonresident notary public is an employee of a business with its domicile or primary place of business in this State.

Upon the administration of the oath, the clerk shall cause the notary public to endorse the certificate of commission and qualification and shall transmit the certificate to the State Treasurer within 10 days of the administration of the oath, via an electronic method provided by the Treasurer.

After the administration of the oath, the clerk shall provide a notice to the person that a notary public who is not licensed as an attorney-at-law shall not use or advertise the title of lawyer or attorney-at-law, or equivalent terms, in any language, which mean or imply that the notary public is licensed as an attorney-at-law in the State of New Jersey or in any other jurisdiction of the United States. The notice shall also state that a notary public who advertises the notary public's services in any language, is required to provide with such advertisement a notice in the language of the advertisement which contains the following statement or translation of the following statement if the advertisement is not in English:

"I am not an attorney licensed to practice law and may not give legal advice about immigration or any other legal matter or accept fees for legal advice."

The State Treasurer shall cancel and revoke the appointment of any notary public who fails to take and subscribe the oath within three months of the receipt of the commission and any appointment so canceled and revoked shall be null, void and of no effect.

Commissioning of Nonresidents, Additional Requirements

A person who is not a legal resident of the State of New Jersey, but maintains, or is regularly employed in, an office in this State or is an employee of a business with its domicile or primary place of business in this State and performs his employment duties remotely from a home office or a co-working space may apply for a commission by complying with the Application Procedures of this Chapter and certifying the following additional information via the online commissioning site at www.nj.gov/njbgs:

1. The residence and the address of the applicant, and the office or place of employment of the applicant in this State; and
2. Once commissioned, any such nonresident notary public shall file online with the State Treasurer at www.nj.gov/njbgs a certificate showing any change of residence or change of the office or place of employment of the notary public in this State.

Name Change, Filing Evidence of Continuance of Powers and Privileges

If a notary public adopts a name different from that which the notary public used at the time the notary public was commissioned, before the notary public provides a signature to any record which the notary public is authorized or required to sign as notary public, the notary public shall make, sign and file a statement in writing and under oath, on a form prescribed and furnished online at www.nj.gov/njbgs by the State Treasurer, setting out the circumstances under which the notary public has adopted the new name.

The statement shall indicate whether the new name has been adopted through marriage or civil union or by a change of name proceeding or otherwise, and such other information as the State Treasurer shall require. Such statement shall be evidence of the right of the notary public to continue to exercise the powers and privileges and perform the duties of a notary public in the changed or new name.

CHAPTER 5. DENIAL, REVOCATION, SUSPENSION OR LIMITATION OF A COMMISSION

Reasons for Denial, Revocation, Suspension or Limitation

- (a) The State Treasurer may deny an application for a new or renewed notary public commission, or suspend, revoke, or otherwise limit the commission of a notary public for any act or omission that demonstrates the individual lacks the honesty, integrity, competence, or reliability necessary to act as a notary public. These acts and omission include:
1. Failure to comply with P.L. 2021, c. 179 (N.J.S.A. 52:7-10 et seq.);
 2. A fraudulent, dishonest, or deceitful misstatement or omission in the application for commission as a notary public submitted to the State Treasurer;
 3. A finding against, or admission of liability by, the applicant or notary public in any legal proceeding or disciplinary action based on fraud, dishonesty, or deceit, including but not limited to a violation of section 1 of P.L.1997, c.1 (N.J.S.A. 2C:21-31) or section 1 of P.L.1994, c.47 (N.J.S.A. 2C:21-22), but nothing in this paragraph shall be deemed to supersede P.L.1968, c.282 (N.J.S.A. 2A:168A-1 et seq.);
 4. A conviction of a crime of the second degree or above, but nothing in this paragraph shall be deemed to supersede P.L.1968, 21 c.282 (N.J.S.A.2A:168A-1 et seq.);
 5. Failure by the notary public to discharge any duty required by any law, including P.L. 2021, c.179 (N.J.S.A. 52:7-10 et seq.), any rules or regulations promulgated thereunder by the State Treasurer, and any other State or federal law;
 6. Use of false or misleading advertising or representation by the notary public representing that the notary is commissioned, licensed, or authorized to practice or engage in work that the notary is not commissioned, licensed, or authorized to engage in;
 7. In the case of a notary public who is not an attorney licensed to practice law, any of the following:
 - i. Giving legal advice;
 - ii. Acting as an immigration consultant or an expert on immigration matters;
 - iii. Otherwise performing the duties of an attorney licensed to practice law in New Jersey;
 - iv. A disciplinary or other administrative action resulting in a finding of culpability if the applicant holds any professional license regulated by the State; or
 - v. Creating or reinforcing, by any means, a false impression that the person is licensed to engage in the practice of law in this State or any other state, including, but not limited to, committing a violation of P.L.1994, c.47 (N.J.S.A. 2C:21-22) or P.L.1997, 44 c.1 (N.J.S.A. 2C:21-31);
 8. Failure to take and subscribe to the oath pursuant to P.L. 2021, c.179 (N.J.S.A. 52:7 et. seq.) within three months of the receipt of a notary public commission;
 9. Withholding access to or possession of an original record or photocopy provided by a person who seeks performance of a notarial act by the notary public, except if allowed

by law; or

10. The denial of an application for notary public in another state; the refusal to renew in another state; or the suspension, revocation, or other limitation of the commission of the notary public in another state.

(b) When the State Treasurer determines to deny an application for notary public; refuses to renew a commission of a notary public; or suspends, revokes, or otherwise limits the commission of a notary public, the Treasurer shall provide written notice to the applicant or commissioner holder.

(c) The written notice shall include:

1. The name, email address, and telephone number of a contact person at the Division of Revenue and Enterprise Services and a description of the proposed action.
2. The specific details concerning the violations that are the basis for the determination.
3. Notification that the person can request a hearing by submitting the request in writing to the name and address provided on the notice. The request for a hearing must be received within 20 calendar days from the date the person received the notice of the proposed action.
4. The request for a fair hearing must include a detailed statement of the reasons that the person believes the Treasurer's determination is improper together with supporting documentation, if any. It should also include a statement as to whether the person is represented by legal counsel, and if so, the name, address and telephone number of counsel.

(d) Upon the Division's timely receipt of the items set forth in (c) above, it shall determine whether a contested case exists, and if it does, the Division shall transmit the matter to the Office of Administrative Law for hearing as a contested case.

(e) If the person has either failed to file a timely appeal or has expressly waived its right to appeal, the decision shall become a final decision.

(f) All hearings pursuant to this section shall be conducted in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(g) Any appeal of the final agency decision shall be solely to the Appellate Division of the Superior Court within time limits allowed by New Jersey Court Rule 2:2-3. The final agency decision shall include notice to the appellant of the right to file an appeal to the Appellate Division, the time frames and related procedures.

CHAPTER 6. GENERAL REQUIREMENTS FOR NOTARIAL ACTS

Certificates and Stamps

All notarial acts shall be evidenced by a certificate and be stamped by the notary public.

Certificates shall:

1. Be executed contemporaneously with the performance of the notarial act;
2. Be signed and dated by the notarial officer;

3. Identify the jurisdiction in which the notarial act is performed;
4. Contain the title of office of the notarial officer; and
5. If the notarial officer is a notary public, indicate the date of expiration of the officer's commission.

A certificate of a notarial act is sufficient if it meets the requirements outlined in the preceding section and:

1. Is in a short form set forth in this Chapter;
2. Is in a form otherwise permitted by the law of this State; and
3. Is in a form permitted by the law applicable in the jurisdiction in which the notarial act was performed.

A notarial officer may not affix the officer's signature to, or logically associate it with, a certificate until the notarial act has been performed.

If a notarial act regarding a tangible record is performed, a certificate shall be part of, or attached to, the record.

If a notarial act regarding an electronic record is performed, the certificate shall be affixed to, or logically associated with, the electronic record.

The official stamp of a notary public shall:

1. Include the name of the notary public, the title "Notary Public, State of New Jersey," and the notary public's commission expiration date; and
2. Be capable of being copied together with the record to which it is affixed or attached or with which it is logically associated.

If a notarial act regarding a tangible record is performed by a notary public, an official stamp shall be affixed to or embossed on the certificate near the signature of the notary public to be clear and readable.

If a notarial act regarding an electronic record is performed by a notary public, an official stamp must be attached to or logically associated with the certificate.

A notary public is responsible for the security of the stamping device used by the notary public and may not allow another individual to use the device to perform a notarial act, except at the specific instruction of a notary public who cannot physically use the stamping device.

The stamping device is the property of the notary public and not of the notary public's employer, even if the employer paid for the stamping device.

If the stamping device used by the notary public is lost or stolen, the notary public or the notary public's personal representative shall notify the State Treasurer at <https://www.nj.gov/treasury/revenue/revgencode.shtml> of the loss or theft within 10 calendar days.

Requirement for Individuals Unable to Sign

If an individual is physically unable to sign a record, the individual may direct an individual other than the notarial officer to sign the record with the individual's name. The notarial officer shall insert "Signature affixed by (name of other individual) at the direction of (name of individual)" or words of similar import.

Certificate Forms

The following short form certificates of notarial acts are sufficient for the purposes indicated if the requirements of this Chapter are satisfied.

1. For an acknowledgment in an individual capacity:

State of _____

County of _____

This record was acknowledged before me on _____ (date) by

(Name(s) of individual(s))

Signature of notarial officer

Stamp

Name of Notary Public

Notary Public, State of New Jersey Title of office

My commission expires (date)

2. For an acknowledgment in a representative capacity:

State of _____

County of _____

This record was acknowledged before me on _____ (date) by

(Name(s) of individual(s))

On _____ (date)

As _____ (type of authority, such as officer or trustee) of (name of party on behalf of whom record was executed).

Signature of notarial officer

Stamp

Name of Notary Public

Notary Public, State of New Jersey Title of office

My commission expires (date)

3. For a verification on oath or affirmation:

State of _____

County of _____

Signed and sworn to (or affirmed) before me on _____ (date) by

(Name(s) of individual(s) making statement)

Signature of notarial officer

Stamp

Name of Notary Public

Notary Public, State of New Jersey Title of office

My commission expires (date)

4. For witnessing or attesting a signature:

State of _____

County of _____

Signed (or attested) before me on (date) _____

(Name(s) of individual(s))

Signature of notarial officer

Stamp

Name of Notary Public

Notary Public, State of New Jersey Title of office

My commission expires (date)

5. For certifying a copy of a record:

State of _____

County of _____

I certify that this is a true and correct copy of a record in the possession of _____ (name).

Dated _____ (date)

Signature of notarial officer

Stamp

Name of Notary Public

Notary Public, State of New Jersey Title of office

My commission expires (date)

Journal Requirement

A notary public shall maintain a journal of all notarial acts performed.

1. The journal may be created and maintained on a tangible medium or in an electronic format.
2. A notary public shall maintain only one journal at a time to chronicle all notarial acts, whether those notarial acts are performed regarding tangible or electronic records.
3. If the journal is maintained on a tangible medium, it shall be a permanent, bound register with consecutively numbered lines and consecutively numbered pages.
4. If the journal is maintained in an electronic format, it shall be in a permanent, tamper-evident electronic format.

For each notarial act, the notary public shall record in the journal:

1. The date and time of the notarial act;
2. The type of notarial act, including but not limited to the taking of an acknowledgment, the taking of a proof of a deed, the administration of an oath, or the taking of an affidavit;
3. The name and address of each person for whom the notarial act is performed;
4. If the identity of the individual is based on personal knowledge, a statement to that effect;
5. If the identity of the individual is based on satisfactory evidence, a brief description of the method of identification and the identification credential presented, if any, including, if applicable, the type, date of issuance, and date of expiration of an identification document, or the name and signature of any identifying witness and, if applicable, the type, date of issuance, and date of expiration of a document identifying the witness; and
6. An itemized list of all fees charged for the notarial act.

If a notary public's journal is lost or stolen, the notary public shall notify the State Treasurer within 10 days of the loss or theft at <https://www.nj.gov/treasury/revenue/revgencode.shtml> (select Notary application).

The notary public shall:

1. Retain the journal for 10 years after the performance of the last notarial act chronicled in the journal; or
2. Write to the State Treasurer <https://www.nj.gov/treasury/revenue/revgencode.shtml> for instructions on how to send or transmit the manual securely to the Division.

On resignation from, or the revocation or suspension of, a notary public's commission, the notary public shall either:

1. Retain the journal for 10 years after the performance of the last notarial act chronicled in the journal; or
2. Write to the State Treasurer <https://www.nj.gov/treasury/revenue/revgencode.shtml> for instructions on how to send or transmit the manual securely to the Division.

On the death or adjudication of incompetency of a current or former notary public, the notary public's personal representative or guardian or any other person knowingly in possession of the journal shall, within 45 days, write to the State Treasurer at <https://www.nj.gov/treasury/revenue/revgencode.shtml> for instructions on how to send or transmit the manual securely

In lieu of maintaining a journal, a notary public who is an attorney-at-law admitted to practice in this State or who is employed by an attorney-at-law, or who is employed by or acting as an agent for a title insurance company licensed to do business in this State pursuant to P.L.2001, c.210 (N.J.S.A. 17:22A-26 et seq.), may maintain a record of notarial acts in the form of files regularly maintained for the attorney's law practice or the title insurance company's business activities, as the case may be.

CHAPTER 7. FORMS OF IDENTIFICATION AND COPY CERTIFICATION REQUIREMENTS

Copy Certification Requirements

A notarial officer who certifies or attests to a copy of a record or an item that was copied shall determine that the copy is a full, true, and accurate transcription or reproduction of the record or item.

Forms of Identification

A notarial officer who takes an acknowledgment or verification of a record or who witnesses or attests to a signature, shall determine, from personal knowledge or satisfactory evidence of the identity of the individual, that the individual appearing before the officer and making the acknowledgment has the identity claimed and that the signature on the record is the signature of the individual.

Satisfactory forms of identification are as follows:

1. Personal Knowledge - A notarial officer has personal knowledge of the identity of an individual appearing before the notarial officer if the individual is personally known to the notarial officer through dealings sufficient to provide reasonable certainty that the individual has the identity claimed.
2. Documentation - A notarial officer has satisfactory evidence of the identity of an individual appearing before the notarial officer if the notarial officer can identify the individual by means of:
 - i. A passport, driver's license, or government-issued, non-driver identification card, which is current or expired not more than three years before the performance of the notarial act; or
 - ii. Another form of government-issued identification, which is current or expired not more than three years before the performance of the notarial act, and which:
 - 1.) Contains the individual's signature or a photograph of the individual's face; and
 - 2.) Is satisfactory to the notarial officer; or
 - iii. A verification of oath or affirmation of a credible witness personally appearing before the notarial officer or using communication technology to appear before the notarial officer and personally known to the notarial officer or whom the notarial officer can identify based on a passport, driver's license, or government-issued, non-driver identification card, which is current or expired not more than three years before the performance of the notarial act.

A notarial officer may require an individual to provide additional information or identification credentials necessary to assure the notarial officer of the identity of the individual.

CHAPTER 8. USE OF COMMUNICATION TECHNOLOGY

General Provisions and Definitions

If a notarial act relates to a statement made in, or a signature executed on, a record, the individual making the statement or executing the signature shall appear personally before the notarial officer or shall use communication technology to appear before the notarial officer.

This Chapter does not apply to a record to the extent it is governed by a law governing the creation and execution of wills or codicils, except as to tangible records that are governed by a law governing the creation or execution of wills and codicils, in which this chapter shall apply.

1. As used in this Chapter:
2. "Biometric identification" means using a human's physical or behavioral human features to digitally identify a person. Examples of biometric identification includes systems that use fingerprints and facial and voice patterns.
3. "Communication technology" means an electronic device or process that:

- i. allows a notarial officer and a remotely located individual to communicate with each other simultaneously by sight and sound; and
 - ii. when necessary and consistent with other applicable law, facilitates communication with a remotely located individual who has a vision, hearing, or speech impairment.
- 4. “Digital Public key certificate” means an electronic credential issued by a trusted third party that is used to identify a person who signed an electronic record.
- 5. “Dynamic knowledge-based authentication assessment” means identifying a person by asking the person a set of questions derived from public or private data sources for which the person has not been provided prior answers.
- 6. “Foreign state” means a jurisdiction other than the United States, a state, or a federally recognized Indian tribe.
- 7. “Identity proofing” means a process or service by which a third person provides a notarial officer with a means to verify the identity of a remotely located individual by a review of personal information from public or private data sources.
- 8. “Outside the United States” means a location outside the geographic boundaries of the United States, Puerto Rico, the United States Virgin Islands, and any territory, insular possession, or other location subject to the jurisdiction of the United States.
- 9. “Remotely located individual” means an individual who is not in the physical presence of a notarial officer performing a notarial act.

Before a notary public performs the notary public’s initial notarial act under this section, the notary public must notify the State Treasurer electronically at www.nj.gov/njbgs that the notary public will be performing such notarial acts and identify the technologies the notary public intends to use.

A remotely located individual may comply with this Chapter and subsections a. and b. of N.J.S.A. 46:14 -2.1 (officers authorized to take acknowledgements and proofs) by using communication technology to appear before a notarial officer.

A notarial act performed using communication technology for a remotely located individual is deemed performed in New Jersey and is governed by New Jersey law.

Requirements for Notarial Acts Using Communication Technology

A notarial officer located in this State may perform a notarial act using a communication technology for a remotely located individual, regardless of whether the individual is physically located in this State if the notarial officer:

- 1. Ensures the remote session is interactive and secure, meaning the notary and person are viewing each other directly in real time and that the session cannot not be viewed and/or recorded by an unauthorized party. The notarial officer must follow the security procedures of the National Notary Association as supplemented and amended (https://www.nass.org/sites/default/files/resolutions/2018-02/nass-support-revised-enotarization-standards-winter18_0.pdf).

2. Is able reasonably to confirm that a record before the notarial officer is the same record in which the remotely located individual made a statement or on which the remotely located individual executed a signature;
3. Obtains satisfactory identification for the remotely located individual, which means the notary public:
 - i. Visually verifies a proof of identity document set forth in Chapter 7 (Forms of Identification); and
 - ii. Uses one of the following methods of identity proofing to authenticate the individual's identity:
 - 1.) Dynamic Knowledge-Based Authentication that is provided online by a third party and that substantially follows recommended practices for this form of identification, as set forth, and supplemented and amended, by any of the three following authorities:
 - National Notary Association (<https://www.nationalnotary.org/file%20library/nna/reference-library/model-enotarization-act.pdf>);
 - National Association of Secretaries of State (https://www.nass.org/sites/default/files/resolutions/2018-02/nass-support-revised-enotarization-standards-winter18_0.pdf); or
 - Mortgage Industry Standards Maintenance Organization (*MISMO Remote Online Notarization Standards, Final Candidate Recommendation (CR) Version, Version 1. (2019)*). The Mortgage Industry Standards Maintenance Organization. Washington, D.C.)
 - 2.) Biometric Identity Verification that is in substantial compliance with National Institute of Standards and Technology requirements as set forth, and supplemented and amended, in Special Publication 800-76-2 (<https://nvlpubs.nist.gov/nistpubs/SpecialPublications/NIST.SP.800-76-2.pdf>).
 - 3.) Digital Public Key Certificate issued by a trusted third party in substantial compliance with the National Notary Association's recommended practice as set forth, and as supplemented and amended (<https://www.nationalnotary.org/file%20library/nna/reference-library/model-enotarization-act.pdf>), Appendix II/Rule2, Public Key Certificate.
 - iii. For a remotely located individual who is located outside the United States, ensures the record:
 - 1.) Is to be filed with or relates to a matter before a public official or court, governmental entity, or other entity subject to the jurisdiction of the United States; or
 - 2.) Involves property located in the territorial jurisdiction of the United States or involves a transaction substantially connected with the United States; and

- 3.) The act of making the statement or signing the record is not prohibited by the foreign state in which the remotely located individual is located.
- iv. Completes a certificate and stamps the certificate in accordance with the requirements set forth in Chapter 6; and
- v. Creates an audio-visual recording of the performance of the notarial act.

Before a notary public performs an initial notarial act using communications technology, the notary public must notify the State Treasurer electronically in accordance with instructions published at www.nj.gov/njbgs that the notary public will be performing such notarial acts and identify the technologies the notary public intends to use.

Taking an Acknowledgement When a Record is in the Possession of the Notary Public

A notarial officer in this State may use communication technology to take an acknowledgement of a signature on a tangible record that is in the possession of the notary public if the record is displayed to and identified by the remotely located individual during the audio-visual session.

Performing a Notarial Act When a Record is Not Physically Present Before the Notary Public

A notarial officer may perform a notarial act with respect to a tangible record not physically present before the notarial officer if:

1. During the audio-visual session, the remotely located individual:
 - i. Signs the record; and
 - ii. Makes a declaration, substantially in the following form, which is part of or securely attached to the record:

“I declare under penalty of perjury that the record to which this declaration is attached is the same record on which [name of notarial officer] performed a notarial act and before whom I appeared by means of communication technology on [date].

[Printed name of remotely located individual]

[Signature of remotely located individual”]; and
 - iii. Sends the record and declaration to the notarial officer not later than three days after the notarial act was performed; and
2. The notarial officer:
 - i. In the required audio-visual recording records the individual signing the record and declaration; and
 - ii. After receipt of the record and declaration from the individual, executes the notarial certificate and provides the stamp specified in Chapter 6; and
 - iii. Includes the following statement or words of similar import:

“I [name of the notarial officer] witnessed, by means of communication technology, [name of remotely located individual] sign the attached record and declaration on [date]”.

Date of Effectiveness

A notarial act performed in compliance with this Chapter is effective as of the date on which the declaration was signed by the remotely located individual.

Administering Oaths to Remotely Located Individuals

A notarial officer in this State may administer an oath to a remotely located individual using communication technology. The notarial officer shall identify the remotely located individual by obtaining satisfactory forms of identification pursuant to this Chapter, creating an audio-visual recording of the individual taking the oath and preserving a copy of the audio-visual recording for 10 years.

Additional Certificate Wording

If a notarial act is performed under this Chapter, the certificate of notarial act as required by this Chapter or the certificate required by section c. of N.J.S.A. 46:14-2.1 must indicate that the notarial act was performed using communication technology.

Retention of Audio-Visual Recordings

A notarial officer, a guardian, conservator, or agent of a notarial officer, or a personal representative of a deceased notarial officer shall retain the audio-visual recording created under this Chapter or cause the recording to be retained by a repository designated by or on behalf of the person required to retain the recording, for a period of 10 years.

CHAPTER 9. ELECTRONIC NOTARIZATION

General Provisions and Definitions

A notarial officer may select one or more tamper-evident technologies to perform notarial acts with respect to electronic records. A person may not require a notarial officer to perform a notarial act with respect to an electronic record with a technology that the notarial officer has not selected.

As used in this Chapter:

1. "Tamper-evident" means that any change to a record shall provide evidence of the change.
2. "Logically associated with" means connecting, cross-referencing, or otherwise linking a certificate with a notarized record accurately and reliably, in a tamper-evident manner.

Requirements for Electronic Notarization

Before a notary public performs an initial electronic notarization, the notary public shall notify the State Treasurer electronically in accordance with instructions published at www.nj.gov.njbgs that the notary public will be performing notarial acts with respect to electronic records and identify the technology that the notary public intends to use.

A notarial officer performing an electronic notarization for an individual shall:

1. Obtain satisfactory identification for the individual pursuant to chapter 7 (Forms of Identification); and
2. After executing the notarial act, complete an electronic certificate with an electronic signature and stamp including all elements required by Chapter 6, and attaches the certificate, signature and stamp to, or logically associates the certificate and stamp with, the notarized record.

The notarial officer shall ensure that the officer's electronic signature and stamp are reliable. To be considered reliable, an electronic signature and stamp must be:

1. Unique to the notarial officer;
2. Capable of independent verification;
3. Retained under the notary public's sole control; and
4. Attached to or logically associated with the electronic document in a tamper-evident manner.

The notary public shall not disclose any access information used to affix the electronic notary's signature and stamp except when requested by law enforcement, the courts, and with reasonable precautions, electronic document preparation and transmission vendors.

CHAPTER 10. RIGHT TO REFUSE TO PERFORM A NOTARIAL ACT

Criteria for Refusal

A notarial officer may refuse to perform a notarial act if the officer is not satisfied that:

1. The individual executing the record is competent or has the capacity to execute the record;
2. The individual's signature is knowingly and voluntarily made;
3. The individual's signature on the record or statement substantially conforms to the signature on a form of identification used to determine the identity of the individual; or
4. The physical appearance of the individual signing the record or statement substantially conforms to the photograph on a form of identification used to determine the identity of the individual.

A notarial officer may refuse to perform a notarial act unless the individual presenting the record provides the officer with proof that refusal is prohibited by a State of New Jersey law other than P.L.2021(N.J.S.A. 52:7-10 et seq.).

CHAPTER 11. FEES FOR NOTARIAL SERVICES

Fees for Services

Notarial officers may collect the following fees for services rendered:

1. For administering oaths, taking affidavits, taking proofs of a deed, and taking acknowledgements, \$2.50 per act.
2. For administering oaths, taking affidavits, taking proofs of a deed, and taking acknowledgments of the grantors in the transfer of real estate, regardless of the number of such services performed in a single transaction to transfer real estate, \$15.00.
3. For administering oaths, taking affidavits, and taking acknowledgments of the mortgagors in the financing of real estate, regardless of the number of such services performed in a single transaction to finance real estate, \$25.00

RESOURCES

Following are the State laws that relate to the office of notary public and notarial practices, as well as several professional organizations that offer publications, guidance and forums concerning the notarial practice space.

State Laws

The laws governing notary practices can be found in Titles 2A, 22A, 46 and P.L. 2021, c.179 (N.J.S.A. 52:7-10 et seq.). The New Jersey State Library and county libraries can help locate these titles. They are also available on the Internet at www.njleg.state.nj.us.

Professional Associations

There are various professional associations that provide advice publications and forums for discussing notary practices and issues. Following are several of these organizations.

American Society of Notaries

P.O. Box 5707, Tallahassee, Fl. 32314-5707

Telephone: 1.850.671.5164

Web Site: www.asnnotary.org

National Notary Association

9350 De Soto Ave. Chatsworth, CA 91313-2402

Telephone: 800.876.6827

Web Site: www.nationalnotary.org

Mortgage Industry Standards Maintenance Organization

1919 M Street NW, 5th Floor

Washington, DC 20036

Telephone: (202) 557- 2880

Web Site: Info@mismo.org

National Association of Secretaries of State

444 North Capitol Street NW, Suite 401

Washington, DC 20001

Telephone: (202) 624-3525

Web Site: nass@sso.org

REFERENCES

*The Division of Revenue and Enterprise Services will add more references as the implementation of New Jersey's updated notary statute, P.L. 2021, c.179 (N.J.S.A. 52:7-10 et seq.) progresses.

MISMO Remote Online Notarization Standards, Final Candidate Recommendation (CR) Version, Version 1. (2019). The Mortgage Industry Standards Maintenance Organization. Washington, D.C.

The Model Electronic Notarization Act. (2017). The National Notary Association. Retrieved from <https://www.nationalnotary.org/file%20library/nna/reference-library/model-enotarization-act.pdf>

NASS Support for the Revised National Electronic Notarization Standards. (2018). National Association of Secretaries of State. Retrieved from https://www.nass.org/sites/default/files/resolutions/2018-02/nass-support-revised-enotarization-standards-winter18_0.pdf

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