

New Emergency Legislation in NJ Permits Notarization of Documents Through Remote Communications

Client Alert

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The latest package of emergency bills signed into law by New Jersey Governor Phil Murphy to address COVID-19 issues includes legislation (A3903) that allows notary publics and other officers authorized to take oaths and acknowledgments to acknowledge signatures on documents without requiring the physical presence of the person signing the document. The legislation, which will be effective only for the duration of the current state of emergency, represents a major change in the procedure for notarization of documents.

Notably, the new law does not apply to financial documents governed by the Uniform Commercial Code (UCC) or documents relating to adoptions, divorces and other records in family law matters. It does, however, apply to many significant documents including wills and codicils, deeds, real estate documents and powers of attorney, enabling the notarization of these documents without the physical presence of a notary or other authorized officer.

Under the new law, which takes effect immediately, a notary or other authorized officer may use electronic communication technology to witness an individual who is not in his physical presence if the notary or officer has personal knowledge of the identity of the individual, or satisfactory evidence of identity through at least two different types of identity proofing.

The notarizing officer must also confirm that the document before them is the same document executed by the remotely located individual. The notarizing officer or a person acting on their behalf must also create an audio-visual recording of the performance of the notarial act, must indicate that the notarial act was performed using communication technology, and must retain the audio-visual recording for at least 10 years. The State Treasurer may, at their discretion, also adopt rules to implement the new law and provide further guidance and standards.

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