
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2370 Session of
2020

INTRODUCED BY M. K. KELLER, GREINER, GALLOWAY, RYAN,
SCHLOSSBERG, STRUZZI, GROVE, SANCHEZ, DeLUCA, WILLIAMS,
BARRAR, JAMES, KEEFER, HILL-EVANS, MACKENZIE, GREGORY AND
ROZZI, MARCH 23, 2020

REFERRED TO COMMITTEE ON COMMERCE, MARCH 23, 2020

AN ACT

1 Amending Titles 42 (Judiciary and Judicial Procedure) and 57
2 (Notaries Public) of the Pennsylvania Consolidated Statutes,
3 in Uniform Unsworn Foreign Declarations Act, further
4 providing for heading of chapter, for short title of chapter,
5 for definitions, for applicability and for form of unsworn
6 declaration; and, in Revised Uniform Law on Notarial Acts,
7 further providing for authority to perform notarial act,
8 providing for notarial act performed by remotely located
9 individual and further providing for notification regarding
10 performance of notarial act on electronic record and
11 selection of technology.

12 The General Assembly of the Commonwealth of Pennsylvania
13 hereby enacts as follows:

14 Section 1. Chapter 62 heading and sections 6201, 6202, 6203
15 and 6206 of Title 42 of the Pennsylvania Consolidated Statutes
16 are amended to read:

17 CHAPTER 62

18 UNIFORM UNSWORN [FOREIGN]

19 DECLARATIONS ACT

20 § 6201. Short title of chapter.

21 This chapter shall be known and may be cited as the Uniform

1 Unsworn [Foreign] Declarations Act.

2 § 6202. Definitions.

3 The following words and phrases when used in this chapter
4 shall have the meanings given to them in this section unless the
5 context clearly indicates otherwise:

6 ["Boundaries of the United States." The geographic
7 boundaries of the United States, Puerto Rico, the Virgin Islands
8 and any territory or insular possession subject to the
9 jurisdiction of the United States.]

10 "Law." Includes [the Federal or a state constitution, a
11 Federal or state] a statute, [a] judicial decision or order, [a]
12 rule of court, [an] executive order and [an] administrative
13 rule, regulation or order.

14 "Record." Information that is inscribed on a tangible medium
15 or that is stored in an electronic or other medium and is
16 retrievable in perceivable form.

17 "Sign." With present intent to authenticate or adopt a
18 record:

19 (1) to execute or adopt a tangible symbol; or

20 (2) to attach to or logically associate with the record
21 an electronic symbol, sound or process.

22 ["State." A state of the United States, the District of
23 Columbia, Puerto Rico, the Virgin Islands or any territory or
24 insular possession subject to the jurisdiction of the United
25 States.]

26 "Sworn declaration." A declaration in a signed record given
27 under oath. The term includes a sworn statement, verification,
28 certificate and affidavit.

29 "Unsworn declaration." A declaration in a signed record
30 [that is] not given under oath but [is] given under penalty of

1 perjury.

2 § 6203. Applicability.

3 This chapter applies to an unsworn declaration by a declarant
4 who at the time of making the declaration is physically located
5 within or outside the boundaries of the United States whether or
6 not the location is subject to the jurisdiction of the United
7 States. [This chapter does not apply to a declaration by a
8 declarant who is physically located on property that is within
9 the boundaries of the United States and subject to the
10 jurisdiction of another country or a federally recognized Indian
11 tribe.]

12 § 6206. Form of unsworn declaration.

13 An unsworn declaration under this chapter must be in
14 substantially the following form:

15 I declare under penalty of perjury under the law of the
16 Commonwealth of Pennsylvania that the foregoing is true
17 and correct[, and that I am physically located outside
18 the geographic boundaries of the United States, Puerto
19 Rico, the Virgin Islands and any territory or insular
20 possession subject to the jurisdiction of the United
21 States].

22 [Executed] Signed on the.....day of.....,.....,
23 at.....,
24 (date)..... (month)..... (year).....
25 ([city] county or other location, and state).....
26
27 (country).....
28 (printed name).....
29 (signature).....

30 Section 2. Section 304 of Title 57 is amended by adding a

1 subsection to read:

2 § 304. Authority to perform notarial act.

3 * * *

4 (c) Certification of tangible copies.--A notarial officer
5 may certify that a tangible copy of an electronic record is a
6 true and correct copy of the electronic record.

7 Section 3. Title 57 is amended by adding a section to read:

8 § 314.1. Notarial act performed by remotely located individual.

9 (a) General rule.--A remotely located individual may comply
10 with section 306 (relating to personal appearance required) by
11 appearing before a notary public by means of communication
12 technology.

13 (b) Use of communication technology.--A notary public
14 located in this Commonwealth may perform a notarial act
15 facilitated by communication technology for a remotely located
16 individual if all of the following apply:

17 (1) The notary public:

18 (i) has personal knowledge under section 307(a)
19 (relating to identification of individual) of the
20 identity of the individual;

21 (ii) has satisfactory evidence of the identity of
22 the remotely located individual by oath or affirmation
23 from a credible witness appearing before the notary
24 public under section 307(b)(2) or under this section; or

25 (iii) is able to reasonably identify the individual
26 by at least two different types of identity proofing
27 processes or services.

28 (2) The notary public is able to reasonably identify a
29 record before the notary public as the same record:

30 (i) in which the remotely located individual made

1 the statement; or

2 (ii) on which the remotely located individual
3 executed the signature.

4 (3) The notary public, or a person acting on behalf of
5 the notary public, creates an audio-visual recording of the
6 performance of the notarial act.

7 (4) If the remotely located individual is located
8 outside the United States, all of the following apply:

9 (i) The record:

10 (A) is to be filed with or relates to a matter
11 before a court, governmental entity, public official
12 or other entity under the jurisdiction of the United
13 States; or

14 (B) involves:

15 (I) property located in the territorial
16 jurisdiction of the United States; or

17 (II) a transaction substantially connected
18 with the United States.

19 (ii) The act of making the statement or signing the
20 record is not prohibited by the foreign state where the
21 remotely located individual is located.

22 (c) Notarial certificate.--If a notarial act is subject to
23 this section, the certificate of notarial act required by
24 section 315 (relating to certificate of notarial act) and the
25 short form certificate under section 316 (relating to short form
26 certificates) must indicate that the notarial act was performed
27 by means of communication technology.

28 (d) Sufficiency.--A short form certificate under section 316
29 for a notarial act subject to this section is sufficient if
30 either of the following apply:

1 (1) The short form certificate is in the form provided
2 by section 316 and contains a statement substantially as
3 follows:

4 "This notarial act involved the use of communication
5 technology."

6 (2) The certificate complies with the regulations
7 promulgated under subsection (g) (1).

8 (e) Audio-visual recording.--The following apply:

9 (1) This subsection applies to:

10 (i) a notary public;

11 (ii) a guardian, a conservator or an agent of a
12 notary public; or

13 (iii) a personal representative of a deceased notary
14 public.

15 (2) A person under paragraph (1) shall retain the audio-
16 visual recording created under subsection (b) (3) or cause the
17 recording to be retained by a repository designated by or on
18 behalf of the notary public. The person shall retain the
19 recording:

20 (i) for at least 10 years after the recording is
21 created; or

22 (ii) as otherwise required by the regulations
23 promulgated under subsection (g) (4).

24 (f) Notification.--The following apply:

25 (1) Before a notary public performs the notary public's
26 initial notarial act under this section, the notary public
27 must notify the department that the notary public will be
28 performing notarial acts facilitated by communication
29 technology and identify the technology.

30 (2) If the department has established standards for

1 approval of communication technology or identity proofing
2 under subsection (g) and section 327 (relating to
3 regulations), the communication technology and identity
4 proofing must conform to the standards.

5 (g) Regulations.--In addition to matters listed in section
6 327, the department may promulgate regulations regarding
7 performance of a notarial act performed under this section. The
8 regulations may do all of the following:

9 (1) Prescribe the means of performing a notarial act
10 involving communication technology to communicate with a
11 remotely located individual.

12 (2) Establish standards for communication technology and
13 identity proofing. This paragraph includes the use of
14 credential analysis, dynamic knowledge-based authentication,
15 biometrics and other means of identification.

16 (3) Establish requirements or procedures to approve
17 providers of communication technology and the process of
18 identity proofing.

19 (4) Establish standards and periods for the retention of
20 an audio-visual recording created under subsection (b) (3) of
21 the performance of a notarial act.

22 (h) Promotion of uniformity.--Before promulgating, amending
23 or repealing regulations about the performance of a notarial act
24 with respect to a remotely located individual, the department
25 shall consider, if consistent with this chapter, all of the
26 following:

27 (1) The most recent standards regarding the performance
28 of a notarial act with respect to remotely located
29 individuals promulgated by a national standard-setting
30 organization. This paragraph includes the National

1 Association of Secretaries of State.

2 (2) Standards, practices and customs of other
3 jurisdictions that enact a statutory provision substantially
4 similar to this section.

5 (3) The views of governmental officials and entities and
6 other interested persons.

7 (i) Definitions.--As used in this section, the following
8 words and phrases shall have the meanings given to them in this
9 subsection unless the context clearly indicates otherwise:

10 "Communication technology." An electronic device or process
11 that:

12 (1) allows a notary public located in this Commonwealth
13 and a remotely located individual to communicate with each
14 other simultaneously by sight and sound; and

15 (2) makes reasonable accommodations for an individual
16 with a vision, hearing or speech impairment in accordance
17 with law.

18 "Foreign state." A jurisdiction other than the United
19 States, a state or a federally recognized Indian tribe.

20 "Identity proofing." A process or service by which a third
21 person provides a notary public with a means to verify the
22 identity of a remotely located individual by a review of
23 personal information from public or private data sources.

24 "Outside the United States." A location outside the
25 geographic boundaries of:

26 (1) the United States;

27 (2) Puerto Rico;

28 (3) the Virgin Islands; and

29 (4) any territory, insular possession or other location
30 subject to the jurisdiction of the United States.

1 "Remotely located individual." An individual who is not in
2 the physical presence of the notary public performing a notarial
3 act under subsection (b).

4 Section 4. Section 320 of Title 57 is amended by adding a
5 subsection to read:

6 § 320. Notification regarding performance of notarial act on
7 electronic record; selection of technology.

8 * * *

9 (c) Certification of tangible copies.--A recorder of deeds
10 may accept for recording a tangible copy of an electronic record
11 containing a notarial certificate as satisfying any requirement
12 that the record be an original, if the notarial officer
13 executing the notarial certificate certifies that the tangible
14 copy is an accurate copy of the electronic record.

15 Section 5. This act shall take effect immediately.