
 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, ROZZI,
SCHLEGEL CULVER, POLINCHOCK, ISAACSON, STEPHENS, READSHAW,
FRANKEL, DALEY AND MOUL, MARCH 23, 2020

AS AMENDED ON SECOND CONSIDERATION, IN SENATE, JUNE 30, 2020

AN ACT

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

~~CHAPTER 62~~

~~UNIFORM UNSWORN [FOREIGN]~~

~~DECLARATIONS ACT~~

20 ~~§ 6201. Short title of chapter.~~

1 ~~This chapter shall be known and may be cited as the Uniform~~
2 ~~Unsworn [Foreign] Declarations Act.~~

3 ~~§ 6202. Definitions.~~

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

7 ~~{"Boundaries of the United States." The geographic~~
8 ~~boundaries of the United States, Puerto Rico, the Virgin Islands~~
9 ~~and any territory or insular possession subject to the~~
10 ~~jurisdiction of the United States.}~~

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

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

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

20 ~~(1) to execute or adopt a tangible symbol; or~~

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

23 ~~{"State." A state of the United States, the District of~~
24 ~~Columbia, Puerto Rico, the Virgin Islands or any territory or~~
25 ~~insular possession subject to the jurisdiction of the United~~
26 ~~States.}~~

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

30 ~~"Unsworn declaration." A declaration in a signed record~~

1 ~~{that is} not given under oath but {is} given under penalty of~~
2 ~~perjury.~~

3 ~~§ 6203. Applicability.~~

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

13 ~~§ 6206. Form of unsworn declaration.~~

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

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

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

1 ~~Section 2. Section 304 of Title 57 is amended by adding a~~
2 ~~subsection to read:~~

3 SECTION 1. SECTION 304 OF TITLE 57 OF THE PENNSYLVANIA <--
4 CONSOLIDATED STATUTES IS AMENDED BY ADDING A SUBSECTION TO READ:
5 § 304. Authority to perform notarial act.

6 * * *

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

10 Section ~~3~~ 2. Title 57 is amended by adding a section to <--
11 read:

12 ~~§ 314.1.~~ 306.1. Notarial act performed by FOR remotely located <--
13 individual.

14 (a) General rule.--A remotely located individual may comply
15 with section 306 (relating to personal appearance required) by
16 appearing before a notary public by means of communication
17 technology.

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

22 (1) The notary public:

23 (i) has personal knowledge under section 307(a)
24 (relating to identification of individual) of the
25 identity of the individual;

26 (ii) has satisfactory evidence of the identity of
27 the remotely located individual by oath or affirmation
28 from a credible witness appearing before the notary
29 public under section 307(b)(2) or under this section; or

30 (iii) is able to reasonably identify the individual

1 by at least two different types of identity proofing
2 processes or services.

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

5 (i) in which the remotely located individual made
6 the statement; or

7 (ii) on which the remotely located individual
8 executed the signature.

9 (3) The notary public, or a person acting on behalf of
10 the notary public, creates an audio-visual recording of the
11 performance of the notarial act, including all interactions
12 between the notary public and the remotely located
13 individual.

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

16 (i) The record:

17 (A) is to be filed with or relates to a matter
18 before a court, governmental entity, public official
19 or other entity under the jurisdiction of the United
20 States; or

21 (B) involves:

22 (I) property located in the territorial
23 jurisdiction of the United States; or

24 (II) a transaction substantially connected
25 with the United States.

26 (ii) The act of making the statement or signing the
27 record is not prohibited by the foreign state where the
28 remotely located individual is located.

29 (c) Notarial certificate.--If a notarial act is subject to
30 this section, the certificate of notarial act required by

1 section 315 (relating to certificate of notarial act) and the
2 short form certificate under section 316 (relating to short form
3 certificates) must indicate that the notarial act was performed
4 by means of communication technology.

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

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

11 "This notarial act involved the use of communication
12 technology."

13 (2) The certificate complies with the regulations
14 promulgated under subsection (g)(1).

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

16 (1) This subsection applies to:

17 (i) a notary public;

18 (ii) a guardian, a conservator or an agent of a
19 notary public; or

20 (iii) a personal representative of a deceased notary
21 public.

22 (2) A person under paragraph (1) shall retain the audio-
23 visual recording created under subsection (b)(3) or cause the
24 recording to be retained by a repository designated by or on
25 behalf of the notary public. The person shall retain the
26 recording:

27 (i) for at least 10 years after the recording is
28 created; or

29 (ii) as otherwise required by the regulations
30 promulgated under subsection (g)(4).

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

2 (1) Before a notary public performs the notary public's
3 initial notarial act under this section, the notary public
4 must notify the department that the notary public will be
5 performing notarial acts facilitated by communication
6 technology and identify the technology.

7 (2) If the department has established standards for
8 approval of communication technology or identity proofing
9 under subsection (g) and section 327 (relating to
10 regulations), the communication technology and identity
11 proofing must conform to the standards.

12 (g) Regulations.--In addition to matters listed in section
13 327, the department shall promulgate regulations regarding
14 performance of a notarial act performed under this section. The
15 regulations shall do all of the following:

16 (1) Prescribe the means of performing a notarial act
17 involving communication technology to communicate with a
18 remotely located individual.

19 (2) Establish standards for communication technology and
20 identity proofing. This paragraph includes the use of
21 credential analysis, dynamic knowledge-based authentication,
22 biometrics and other means of identification.

23 (3) Establish requirements or procedures to approve
24 providers of communication technology and the process of
25 identity proofing.

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

29 (h) Promotion of uniformity.--Before promulgating, amending
30 or repealing regulations about the performance of a notarial act

1 with respect to a remotely located individual, the department
2 shall consider, if consistent with this chapter, all of the
3 following:

4 (1) The most recent standards regarding the performance
5 of a notarial act with respect to remotely located
6 individuals promulgated by a national standard-setting
7 organization. This paragraph includes the National
8 Association of Secretaries of State.

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

12 (3) The views of governmental officials and entities and
13 other interested persons.

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

17 "Communication technology." An electronic device or process
18 that:

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

22 (2) makes reasonable accommodations for an individual
23 with a vision, hearing or speech impairment in accordance
24 with law.

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

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

1 "Outside the United States." A location outside the
2 geographic boundaries of:

3 (1) the United States;

4 (2) Puerto Rico;

5 (3) the Virgin Islands; and

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

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

11 Section 4 3. Section 320 of Title 57 is amended by adding a <--
12 subsection to read:

13 § 320. Notification regarding performance of notarial act on
14 electronic record; selection of technology.

15 * * *

16 (c) Certification of tangible copies.--A recorder of deeds
17 may accept for recording a tangible copy of an electronic record
18 containing a notarial certificate as satisfying any requirement
19 that the record be an original, if the notarial officer
20 executing the notarial certificate certifies that the tangible
21 copy is an accurate copy of the electronic record.

22 Section 5 4. Upon the effective date of this act, the <--
23 Department of State shall immediately authorize a notary public
24 to conduct notarial acts in the manner authorized by 57 Pa.C.S.
25 § 304(c) if the notary gives notice to the Department of State
26 as required by 57 Pa.C.S. § ~~314.1(f)(1)~~ 306.1(F)(1) and uses a <--
27 communication and identity proofing designated in the Department
28 of State's March 25, 2020, notice of limited suspension of the
29 requirements of 57 Pa.C.S. § 306, or that is designated in a
30 list of additional acceptable technologies subsequently adopted

1 by the Department of State. A notary public may use any other
2 technology within 30 days of giving notice as required under 57
3 Pa.C.S. § ~~314.1(f)(1)~~ 306.1(F)(1), unless the Department of <--
4 State prohibits the use of the technology for good cause for
5 failure to satisfy the requirements of 57 Pa.C.S. § ~~314.1~~ 306.1 <--
6 or determines that the use of the technology should be delayed
7 pending an evaluation of the technology. This section shall
8 expire upon the adoption of regulations by the Department of
9 State as required by 57 Pa.C.S. § ~~314.1(g)(2)~~ 306.1(G)(2). <--
10 Section ~~6~~ 5. This act shall take effect immediately. <--