AN ACT

Amending Title 57 (Notaries Public) of the Pennsylvania Consolidated Statutes, in revised uniform law on notarial acts, further providing for authority to perform notarial act, providing for notarial act performed by remotely located individual and further providing for notification regarding performance of notarial act on electronic record and selection of technology.

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

Section 1. Section 304 of Title 57 of the Pennsylvania Consolidated Statutes is amended by adding a subsection to read:

§ 304. Authority to perform notarial act.

* * *

(c) Certification of tangible copies.--A notary public may certify that a tangible copy of an electronic record is a true and correct copy of the electronic record.

Section 2. Title 57 is amended by adding a section to read:

§ 314.1. Notarial act performed by remotely located individual.

(a) Definitions.--Terms are defined in subsection (j).

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

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

(1) The notary public:

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

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

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

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

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

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

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

(4) If the remotely located individual is located outside the United States, all of the following subparagraphs apply:
(i) The record:

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

(B) involves:

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

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

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

(d) Notarial certificate.—If a notarial act is subject to
this section, the certificate of notarial act required by
section 315 (relating to certificate of notarial act) and the
short form certificate under section 316 (relating to short form
certificates) must indicate that the notarial act was performed
by means of communication technology.

(e) Sufficiency.—A short form certificate under section 316
for a notarial act subject to this section is sufficient if
either of the following paragraphs apply:

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

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

(2) The certificate complies with the regulations
promulgated under subsection (h)(1).

(f) Audio-visual recording.—
(1) This subsection applies to:

(i) a notary public;

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

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

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

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

(ii) as otherwise required by the regulations promulgated under subsection (h)(4).

(g) Notification.--

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

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

(h) Regulations.--In addition to matters listed in section 327, the department shall promulgate regulations regarding performance of a notarial act performed under this section. The regulations shall do all of the following:
(1) Prescribe the means of performing a notarial act involving communication technology to communicate with a remotely located individual.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) the United States;

(2) Puerto Rico;

(3) the Virgin Islands; and

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

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

Section 3. Section 320 of Title 57 is amended by adding a subsection to read:


* * *
(c) Certification of tangible copies.--A recorder of deeds may accept for recording a tangible copy of an electronic record containing a notarial certificate as satisfying any requirements that the record be an original, if the notarial officer executing the notarial certificate certifies that the tangible copy is a true and correct copy of the electronic record.

Section 4. This act shall take effect as follows:

(1) The addition of 57 Pa.C.S. §§ 304(c), 314.1(h) and (j) and 320(c) shall take effect immediately.

(2) This section shall take effect immediately.

(3) The remainder of this act shall take effect January 1, 2021.