

Emergency Administrative Rules for Notaries Public and Remote Notarization

Part 1: Scope

1-1 Personal Appearance.

- a. If a notarial act relates to a statement made in or a signature executed on a record, 26 V.S.A. § 5364(a) requires the individual making the statement or executing the signature to appear personally before the notary public performing the notarial act.
- b. Pursuant to these rules, the requirement for a personal appearance is satisfied if the notary public and the person executing the signature are in the same physical place or the person, if remotely located, is using communication technology, as defined in 26 V.S.A. § 5304(4), to appear before the notary public using the protocols and standards prescribed in this rule.

1-2 Temporary Waiver of Statute.

- a. The requirement in 26 V.S.A. § 5379(a) for a remotely located individual to appear before a notary public with a special endorsement from the Office to perform a notarial act for a remotely located individual is waived until the expiration of the emergency rule.
- b. The requirements in 26 V.S.A. §§ 5341(d) and (e) and 26 V.S.A. § 5379(b) that a notary public shall obtain a special endorsement from the Office to perform a notarial act for a remotely located individual is waived until the expiration of the emergency rule.
- c. These rules do not waive the requirement that a notary public hold a special endorsement to perform notarial acts on electronic records. The performance of notarial acts on an electronic record is prohibited unless the notary public holds a special endorsement issued by the Office.
- d. All other provisions of the Vermont Uniform Act on Notarial Acts, as set forth in 26 V.S.A. Chapter 103 apply.

Part 2: Definitions and Clarification of Terms

The definitions in 26 V.S.A. Chapter 103, Notaries Public, are incorporated into these rules. As used in these Rules, the following terms have the following meanings:

2-1 “Act” means the Vermont Uniform Law on Notarial Acts, 26 V.S.A. Chapter 103.

2-2 “Director” means the Director of the Vermont Office of Professional Regulation.

2-3 “Office” means the Vermont Office of Professional Regulation.

2-4 “Remote Notarial Acts” means a notarial act performed at the request of a remotely

located individual using communication technology, as defined in 26 V.S.A. § 5304(4), with respect to a tangible record that a notary public may perform under the law of this State. The term includes taking an acknowledgment, administering an oath or affirmation, taking a verification on oath or affirmation, attesting a signature, and noting a protest of a negotiable instrument.

2-5 “Remotely Located Individual” means an individual or individuals located in Vermont who is/are not in the physical presence of the notary public who perform(s) a notarial act.

2-6 “Signer” means the individual making the statement or executing the signature for which the notary public must perform the notarial act.

Part 3: Administration

3-1 **Applicable Law.** Notaries public are regulated by the State of Vermont pursuant to 26 V.S.A. Chapter 103. These emergency rules are issued to clarify requirements for personal appearance before a notary, as set forth in 26 V.S.A. § 5364. This emergency rule is issued in accordance with 3 V.S.A § 844. Copies of these and other statutes are available online at www.legislature.vermont.gov/statutes. The Director regulates notaries public in conformity with these and other Vermont laws, to include the Administrative Procedures Act, 3 V.S.A. § 800 *et seq.*; the Public Records Act, 1 V.S.A. § 315 *et seq.*; and the Laws of Professional Regulation, 3 V.S.A. § 121 *et seq.*

3-2 **Resources for Applicants and Registrants.** The Office maintains a website at <https://sos.vermont.gov/opr/> with information and links relevant to all licensed professionals. Information specific to notaries public, including links to forms and online applications, is available from <https://sos.vermont.gov/notaries-public/>.

Part 4: Remote Notarial Acts

4-1 Remote Notarial Acts performed in accordance with these rules fulfill the personal appearance requirements set forth in 26 V.S.A. Chapter 103.

4-2 Notaries public holding a commission to perform notarial acts in Vermont may perform a Remote Notarial Act while physically located in Vermont and only under the following conditions:

4-2-1 The notarial officer: has personal knowledge of the identity of the individual; has satisfactory evidence of the identity of the remotely located individual by oath or affirmation from a credible witness appearing before the notarial officer; or has obtained satisfactory evidence of the identity of the remotely located individual by using at least two different types of identification.

- 4-2-2 The notarial officer 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;
 - 4-2-3 The notarial act is performed on a tangible record submitted to the notary public in its original paper format by the remotely located individual; or transmitted electronically to the notary public by the remotely located individual and printed by the notary public prior to the notarial act being evidenced by a certificate.
 - 4-2-4 The document presented to or signed before the notary public meets the definition of “original” in the Vermont Rules of Evidence.
 - 4-2-5 The notarial officer, or a person acting on behalf of the notarial officer, creates an audio-visual recording of the performance of the notarial act, to be retained for at least 7 years;
 - 4-2-6 The Remote Notarial Act complies with all other requirements for notarial acts set forth in the Act.
 - 4-2-7 The executed document including the notarial act contains the certificate language set forth in these Rules.
- 4-3 Certificate – Remote Notarial Acts shall be evidenced by a certificate, which shall be hand-written, imprinted by a stamp or embosser, or both, containing the following information:
- 4-3-1 the signature of the notary public executed in the same manner as on file with the Office;
 - 4-3-2 the legibly printed name of the notary public;
 - 4-3-3 the commission number of the notary public;
 - 4-3-4 the date of expiration of the notary public’s commission;

- 4-3-5 the title of the notary public, which shall be “Notary Public”;
- 4-3-6 the date the document is signed by the notary public;
- 4-3-7 the date the document is signed by the Signer;
- 4-3-8 the jurisdiction, including the county and state, in which the notarial act is performed;
- 4-3-9 a statement that the notarial act was performed remotely.

4-4 The following sample certificates shall be sufficient for the purposes of performing a Remote Notarial Act:

4-4-1 For an acknowledgement

State of Vermont, County of _____
 This record was remotely acknowledged before me on
 _____ [date] by _____ [Name of Signer]
 Executed by _____ [Name of Signer] on _____ [date Signer signed]. This notarial act
 involved the use of communication technology.
 Signature of notary public _____
 Printed name of notary public _____
 Commission number _____
 Commission expiration date _____
 Title of office is Notary Public

4-4-2 For an acknowledgement in a representative capacity

State of Vermont, County of _____
 This record was remotely acknowledged before me
 on _____ [date] by _____ [Name of Signer] as the
 _____ [type of authority, such as officer, trustee, power of attorney] of _____ [name of
 party on behalf of whom the document was executed] _____. This notarial act
 involved the use of communication technology.
 Executed by _____ [Name of Signer] on _____ [date Signer signed] .
 Signature of notary public _____
 Printed name of notary public _____
 Commission number _____
 Commission expiration date _____
 Title of office is Notary Public

4-4-3 For verification of an oath or affirmation

State of Vermont, County of _____

Sign or sworn remotely before me on
_____[date]____ by _____[Name of Signer]_____
Executed by _____[Name of Signer]_____ on _____[date Signer signed]____.
This notarial act involved the use of communication technology. _
Signature of notary public _____
Printed name of notary public _____
Commission number _____
Commission expiration date _____
Title of office is Notary Public

4-4-4 For attesting a signature

State of Vermont, County of _____
Signed or attested remotely before me on
_____[date]____ by _____[Name of Signer]_____
Executed by _____[Name of Signer]_____ on _____[date Signer signed]____.
This notarial act involved the use of communication technology.
Signature of notary public _____
Printed name of notary public _____
Commission number _____
Commission expiration date _____
Title of office is Notary Public

Part 5: Effective Dates; Expiration

These Emergency Rules shall take effect when filed with the Secretary of State in accordance with the Administrative Procedures Act, 3 V.S.A. § 800 *et seq* and shall remain in effect for 180 days thereafter.