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§18–214.

(a) A notary public located in this State may perform a notarial act using communication technology for a remotely located individual if:

(1) the notary public:

(i) has personal knowledge under § 18–206(a) of this subtitle of the identity of the remotely located individual;

(ii) has satisfactory evidence of the identity of the remotely located individual by verification on oath or affirmation from a credible witness appearing before and identified by the notary public under § 18–206(b) of this subtitle or as a remotely located individual under this section; or

(iii) has obtained satisfactory evidence of the identity of the remotely located individual by:

1. remote presentation of an identification credential described in § 18–206(b) of this subtitle;

2. credential analysis of the identification credential; and

3. identity proofing of the individual;

(2) the notary public is reasonably able to confirm that a record before the notary public is the same record in which the remotely located individual made a statement or on which the individual executed a signature;

(3) the notary public, or person acting on behalf and at the direction of the notary public, creates an audio–visual recording of the performance of the notarial act; and

(4) for a remotely located individual located outside the United States:

(i) the record:

1. is to be filed with or relates to a matter before a public official or court, governmental entity, or other entity subject to the jurisdiction of the United States; or

2. involves property located in the territorial jurisdiction of the United States or involves a transaction substantially connected with the United States; and

(ii) the notary public has no actual knowledge that the act of making the statement or signing the record is prohibited by the foreign state in which the remotely located individual is located.

(b) A notary public located in this State may use communication technology under subsection (a) of this section to take an acknowledgement of a signature on a tangible record that is physically present before the notary public, if the record is displayed to and identified by the remotely located individual during the audio–visual recording under subsection (a)(3) of this section.

(c) The requirement under subsection (a)(2) of this section for the performance of a notarial act with respect to a tangible record not physically present before the notary public is satisfied if:

(1) the remotely located individual:

(i) signs, during the audio–visual recording under subsection (a)(3) of this section:

1. the tangible record; and

2. a declaration that is part of or securely attached to the record; and

(ii) sends the tangible record and declaration to the notary public not later than 3 days after the notarial act was performed; and

(2) the notary public:

(i) records the individual signing the record and declaration in the audio–visual recording under subsection (a)(3) of this section; and

(ii) after receipt of the tangible record and declaration from the individual, executes a certificate of notarial act required by § 18–215 of this subtitle which must include a statement substantially in the following form:

I (name of notary public) witnessed, by means of communication technology, (name of remotely located individual) sign the attached record and declaration on (date).

(d) A declaration substantially in the following form satisfies the requirements of subsection (c)(1)(i)2 of this section:

I declare under the penalty of perjury that the record of which this declaration is a part or to which it is attached is the same record on which (name of notary public), a notary public, performed a notarial act and before whom I appeared by means of communication technology on (date).

_____
Signature of remotely located individual

_____
Printed name of the remotely located individual

(e) A notarial act performed in compliance with subsection (c) of this section complies with the requirements of subsection (a)(2) of this section and is effective on the date the remotely located individual signed the declaration under subsection (d) of this section.

(f) Subsection (c) of this section does not preclude use of another procedure to satisfy the requirements of subsection (a)(2) of this section for a notarial act performed with respect to a tangible record.

(g) A notary public located in this State may use communication technology under subsection (a) of this section to administer an oath or affirmation to a remotely located individual if, except as otherwise provided by other law of this State, the notary public:

(1) identifies the individual under subsection (a)(1) of this section;

(2) creates or causes the creation under subsection (a)(3) of this section of an audio–visual recording of the individual taking the oath or affirmation; and

(3) retains or causes the retention of such audio–visual recording under subsection (j) of this section.

(h) If a notarial act is performed under subsection (a) of this section, the certificate of notarial act required by § 18–215 of this subtitle must indicate that the

notarial act involved a remotely located individual and was performed using communication technology.

(i) A short–form certificate provided in § 18–216 of this subtitle for a notarial act performed under subsection (a) of this section is sufficient if it:

(1) complies with any regulations adopted under § 18–222 of this subtitle; or

(2) contains a statement substantially as follows: "This notarial act involved a remotely located individual and the use of communication technology.".

(j) (1) A notary public, a guardian, a conservator, or an agent of a notary public or a personal representative of a deceased notary public shall:

(i) retain the audio–visual recording created under subsection (a)(3) of this section; or

(ii) cause the audio–visual recording to be retained by a repository designated by or on behalf of the person required to retain the recording.

(2) A guardian, a conservator, or an agent of a notary public or personal representative of a deceased notary public who assumes authority over audio–visual recordings created under subsection (a)(3) of this section shall:

(i) notify the Secretary of State within 30 days after assuming authority; and

(ii) comply with all requirements in this subtitle regarding the maintenance and storage of the audio–visual recordings.

(3) Unless a different period is required by regulations adopted under § 18–222 of this subtitle, an audio–visual recording created under subsection (a)(3) of this section shall be retained for a period of at least 10 years after the recording is made.

(k) (1) Before a notary public performs the notary public's initial notarial act under subsection (a) of this section, the notary public shall notify the Secretary of State:

(i) that the notary public will be performing notarial acts facilitated by communication technology; and

(ii) of the technologies the notary public intends to use.

(2) If the Secretary of State establishes by regulation the standards for approval of communication technology, credential analysis, or identity proofing under § 18–222 of this subtitle, the communication technology, credential analysis, and identity proofing used by a notary public must comply with the standards.

(l) The validity of a notarial act performed under this section shall be determined under the laws of this State regardless of the physical location of the remotely located individual at the time of the notarial act.

(m) This section shall be construed and applied in a manner consistent with Title 21 of the Commercial Law Article.

(n) (1) Nothing in this section shall require any person to accept, agree to, conduct, or complete a transaction where a notarial act is performed using communication technology for a remotely located individual.

(2) A person that agrees to accept, agree to, conduct, or complete a transaction where a notarial act is performed using communication technology for a remotely located individual may refuse to do so in any other transaction.

(3) Nothing in this section shall require identity proofing or credential analysis when a notary public identifies a remotely located individual in accordance with subsection (a)(1)(i) or (ii) of this section.

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