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The State of Remote Online Notarization

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As a result of the COVID-19 pandemic, many states implemented temporary measures allowing public notaries to perform notarial acts virtually. Over a year and a half after the initial states of emergency were instituted, some states have allowed these temporary measures to lapse, while others have codified them into law. Here is how New Jersey, New York, Pennsylvania and Florida have addressed the usage of remote online notarization (RON) as these emergency permissions have expired:

New Jersey: On July 22, 2021, New Jersey governor Phil Murphy signed A-4250/S-2508 into law, permanently allowing RON. The new law permits the use of communication technology to perform notarial acts. Communication technology is defined as an electronic device or process that (a) allows a notarial officer and a remotely located individual to communicate with each other simultaneously by sight and sound; and (b) when necessary and consistent with other applicable law, facilitates communication with a remotely located individual who has a vision, hearing, or speech impairment. The notary publics obligations are fulfilled when using such communication technology, subject to the following: (1) the remotely located individual (A) signs the document and a declaration under penalty of perjury during the course of an audio-visual session, and (B) sends that document and declaration to the notary by no later than three days after the signing, and (2) the notary records the audio-visual session of the individual signing the document and declaration and, after receiving the record and declaration, executes the certificate of notarial act as otherwise required by the statute. This law goes into effect on October 20, 2021.

Pennsylvania: Pennsylvania enacted a permanent RON statute effective October 29, 2020 that has remained intact since. We provided an overview of this law in our prior Legal Alert, Remote Online Notarization: One Year Later.

Florida: Florida presciently implemented a RON statute that became effective on January 1, 2020 and is codified at Fl. Stat. 117.295. Florida has not implemented any additional statutes addressing RON since then. Notably, Florida notaries must complete an additional registration to be permitted to conduct RON services. The registration process is explained in Section 1N-7001 of Floridas Administrative Code, and involves paying a $10 fee, and submission of an application to the Florida Department of State. We provided an overview of this law in our prior Legal Alert, Remote Online Notarization: One Year Later.

New York: Former New York Governor Andrew Cuomo enacted temporary RON authorization in March 2020 which expired on June 24, 2021. To date, the New York legislature has declined to codify these temporary RON measures and, as a result, the previous notarization rules established in Article 6 of the Consolidated Law Service of New York govern.

Before you virtually notarize any document, make sure you are in compliance with your states virtual notary rules. If you or your business need legal advice, please consider contacting any member of Flaster Greenbergs Business & Corporate Department.