**Sample Language for Emergency Notarization Order**

*Fill in areas highlighted in yellow as appropriate.*

**WHEREAS,** INSERT STATE SPECIFIC INFORMATION

**NOW, THEREFORE,** I, NAME, Governor of the STATE/COMMONWEALTH of NAME, by the authority vested in me by the Constitution and laws of the State of STATE, do hereby order and direct as follows:

1. In order to provide STATE citizens and businesses with a secure, safe, and legal method by which to execute important legal documents for the duration of the State of Emergency in my PROCLAMATION/EXECUTIVE ORDER dated DATE, providing an alternative to the in-person physical presence requirement under the current notarial process is a necessary measure to combat the COVID-19 emergency. Accordingly, pursuant to STATE LAW REFERENCE for the duration of the State of Emergency and for NUMBER OF DAYS thereafter, notaries public commissioned under the laws of this STATE/COMMONWEALTH may perform a notarization for a remotely located individual if:
2. the remotely located individual appears before the notary public by using communication technology;
3. the notary public:
4. is physically located in the geographic boundaries of this STATE/COMMONWEALTH;
5. has reasonably identified the remotely located individual by one or more of the following:
6. personal knowledge of the individual;
7. at least two different types of identity proofing in compliance with [OPTION 1: the credential analysis and dynamic knowledge-based authentication provisions of the Standards for Remote Online Notarization (Version 1) adopted by The Mortgage Industry Standards Maintenance Organization on August 28, 2019][OPTION 2: any rules, regulations, or guidance issued by the [secretary of state]]; or
8. a government identification credential, which may be remotely presented through communication technology, that is issued to the individual and contains the signature and photograph of the individual; or
9. oath or affirmation of a credible witness who (I) is in the physical presence of either the notary public or the individual or (II) appears before the notary public and the individual by using communication technology, if the credible witness has personal knowledge of the individual and has been reasonably identified by the notary public under clauses (a) (b), or (c);
10. reasonably confirms that a document before the notary public is the same document in which the remotely located individual made a statement on or which the individual executed a signature;
11. either directly or through an agent:
12. creates an audio-visual recording of the performance of the notarial act; and
13. retains such recording for ten years after the notarial act, such obligation to continue and be binding on any guardian or conservator of a notary public or any personal representative of a deceased notary public; and
14. indicates in the notarial certificate that the notarization was performed using communication technology, a certificate in a form provided under the laws of this STATE/COMMONWEALTH being sufficient if it is in the form provided and contains a statement substantially as follows: “This notarial act involved the use of communication technology.”; and

*[Drafters’ Note: A single-factor identification option is provided for in provision B.ii.c.). While this option may be temporarily necessary during emergencies such as COVID-19, state lawmakers and governors are encouraged to support long term remote notarization solutions for residents that embrace the consumer protections and anti-fraud measures obtained through the use of multi-factor, third-party authentication as provided in Option 1 of provision B.ii.b).]*

C. for a remotely located individual physically located outside the geographic boundaries of the United States or any territory or other location subject to the jurisdiction of the United States:

i. the document:

a) is intended for filing with or relates to a matter before a court, governmental entity, public official, or other entity subject to the jurisdiction of the United States; or

b) involves property located in the territorial jurisdiction of the United States or a transaction substantially connected to the United States; and

ii. the notary public has no actual knowledge that the act of making the statement or signing the document is prohibited by the laws of the jurisdiction in which the individual is physically located.

1. If a law of this STATE/COMMONWEALTH requires an individual to appear personally before or be in the physical presence of a notary public at the time of a notarization, that requirement is satisfied if the individual is a remotely located individual who appears before the notary public by using communication technology.
2. A notary public may select one or more technologies to perform notarial acts for remotely located individuals or with respect to electronic documents under this Order. Nothing in this Order shall require a notary public commissioned under the laws of this STATE/COMMONWEALTH to perform a notarial act:
3. with respect to an electronic document;
4. for a remotely located individual; or
5. using a technology that the notary public has not selected.
6. In the case of a notarial act performed for a remotely located individual with respect to a paper or other tangible document:
7. the notarial act may be performed either:
8. for any notarial act, contemporaneously with the notary public’s witnessing, by using communication technology, of the individual’s execution of the document; or
9. for an acknowledgment or verification on oath or affirmation, after the notary public’s receipt of the executed document from the individual and contemporaneously with the taking of the acknowledgment or verification by using communication technology;
10. if the notarial act is performed under paragraph i of subsection A:
11. the individual shall send the document to the notary public by U.S. mail or courier service immediately after the document is signed by the individual;
12. the notary public shall affix the notary public’s signature and official stamp immediately upon receipt of the document; and
13. the official date and time of the notarial act shall be the date and time the notary public witnessed the individual’s execution of the document; and
14. if the notarial act is performed under paragraph ii of subsection A:
	* 1. the notary public shall affix the notary public’s signature and official stamp contemporaneously with taking the acknowledgment or verification; and
		2. the official date and time of the notarial act shall be the date and time the notary public took the acknowledgment or verification.
15. In the case of a notarization performed for a remotely located individual with respect to an electronic document:
	1. the notary public shall affix the notary public’s electronic signature and official stamp contemporaneously with the performance of the notarial act and after the individual has electronically signed the document; and
	2. the notary public’s electronic signature or official stamp must be attached to or logically associated with the electronic document using a tamper-evident technology.
16. In addition to the (ADD DOLLAR AMOUNT) fee that a notary public may charge for a notarial act pursuant to STATE LAW REFERENCE, a notary public may charge an additional fee of up to ( ADD DOLLAR AMOUNT) for any notarial act performed for a remotely located individual under this Order.
17. In order to facilitate the recording or filing of documents that have been electronically signed and electronically notarized:
18. a notary public may certify that a tangible copy of an electronic document is a true and correct copy by attaching a notarial certificate that is substantially in the form provided in subsection C if the notary public:
19. confirms that the electronic document contains an electronic signature that is capable of independent verification and renders any subsequent changes or modifications to the electronic document evident;
20. personally prints or supervises the printing of the electronic document onto paper; and
21. makes no changes or modifications to the electronic document other than the certification described;
22. a [RECORDER / CLERK / REGISTER OF DEEDS] must accept for recording a tangible copy of an electronic document containing a certificate that is substantially in the form provided in subsection C as satisfying any requirement under the laws of this STATE/COMMONWEALTH that, as a condition for recording, the document be an original or contain an original signature; and
23. a notarial certificate under this subsection must be substantially in the following form:

**CERTIFICATE OF ELECTRONIC DOCUMENT**

I certify that the attached document **(insert title)**, dated**(insert date)**, and containing **(insert number)** pages, is a true and correct copy of an electronic document printed by me or under my supervision. I further certify that, at the time of printing no security features present on the electronic document indicated any changes or errors in an electronic signature or other information in the electronic document after the electronic document's creation or execution.

Singed this the **(insert date)** day of **(insert month)**, 20\_\_.

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 (Signature of Notary Public)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 (Printed Name of Notary Public)

My Commission Expires: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

1. Nothing in this Order shall affect a law of this STATE/COMMONWEALTH governing, authorizing, or prohibiting the practice of law.
2. The failure of a notary public to perform a duty or meet a requirement specified in this Order shall not invalidate a notarial act performed by the notary public under the authority granted in this Order. The validity of a notarial act under this Order does not prevent an aggrieved person from seeking to invalidate the document or transaction that is the subject of the notarial act or from seeking remedies based on the law of this STATE/COMMONWEALTH other than this Order or law of the United States.
3. The validity a notarial act performed under the authority of this Order and during the period hereof shall not be affected by the subsequent expiration, modification, amendment, or revocation of this Order.
4. Any notarial act that has been performed by a notary public commissioned under the laws of another state, commonwealth, territory, district or possession of the United States shall have the same force and effect under the laws of this State, as if performed by a notary public of this State. For purposes of this section, a notarial act may be performed by a notary public commissioned under the laws of another state, commonwealth, territory, district or possession of the United States for a remotely located individual who appears before the notary public by using communication technology.
5. If any provision of this Order or the application of such provision to any person or circumstance is held to be invalid, the remainder of this Order and the application of the provisions thereof to other persons or circumstances shall not be affected thereby.
6. In this Order:
7. The term "communication technology" means an electronic device or process that allows a notary public and a remotely located individual to communicate with each other simultaneously by sight and sound.
8. The term "document" means information that is inscribed on a paper or other tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.
9. The term "electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.
10. The term "electronic document" means a document created, generated, sent, communicated, received, or stored by electronic means.
11. The term "electronic signature" means an electronic symbol, sound, or process attached to or logically associated with a document and executed or adopted by an individual with the intent to sign the document.
12. The term "identity proofing" means 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 public or private data sources.
13. The term "law" includes any statute, regulation, or rule of law.
14. The term "notarial act" means an act, whether performed with respect to a tangible or electronic document, that a notary public may perform under the law of this STATE/COMMONWEALTH. The term includes taking an acknowledgment, administering an oath or affirmation, taking a verification on oath or affirmation, witnessing or attesting a signature, certifying a tangible copy of an electronic document, and noting a protest of a negotiable instrument.
15. The term "official stamp" means a physical image or impression affixed to or embossed on a paper or other tangible document or an electronic image attached to or logically associated with an electronic document.
16. The term "person" means an individual, corporation, business trust, statutory trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government of governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.
17. The term "remotely located individual" means an individual who is not in the physical presence of a notary public who performs a notarial act.
18. The term "sign" means, with present intent to authenticate or adopt a document, to execute or adopt a tangible symbol or to attach or logically associate with a document an electronic sound, symbol, or process.
19. The term "verification on oath or affirmation", commonly known as a "jurat", means a declaration, made by an individual on oath or affirmation before a notary public, that a statement in a document is true.