

**SENATE, No. 3147**

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**STATE OF NEW JERSEY**  
**218th LEGISLATURE**

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INTRODUCED OCTOBER 22, 2018

**Sponsored by:**  
**Senator TROY SINGLETON**  
**District 7 (Burlington)**

**SYNOPSIS**

Concerns remote online notaries public; provides for acknowledgment and proof via communication technology; creates criminal offense.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning remote online notaries public and  
2 supplementing the “Uniform Electronic Transactions Act,”  
3 P.L.2001, c.116 (C.12A:12-1 et seq.).  
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:  
7

8 1. This act shall be known and may be cited as the “Remote  
9 Online Notaries Public Act.”  
10

11 2. As used in this act:

12 a. “Appear” or “personally appear” or “in the presence of”  
13 means:

14 (1) being in the same physical location as another person and  
15 close enough to see, hear, communicate with, and exchange tangible  
16 identification credentials with that individual; or

17 (2) interacting with another individual by means of  
18 communication technology that complies with the provisions of this  
19 act.

20 b. “Communication technology” means an electronic device or  
21 process that allows a notary public physically located in this state  
22 and a remotely located individual to communicate with each other  
23 simultaneously by sight and sound, and which, as necessary, makes  
24 reasonable accommodations for individuals with vision, hearing, or  
25 speech impairments.

26 c. “Credential analysis” means a process or service that meets  
27 the standards established by the Secretary of State through which a  
28 third person affirms the validity of a government-issued  
29 identification credential through review of public and proprietary  
30 data sources.

31 d. “Electronic” means relating to technology having electrical,  
32 digital, magnetic, wireless, optical, electromagnetic, or similar  
33 capabilities.

34 e. “Electronic record” means information that is created,  
35 generated, sent, communicated, received, or stored by electronic  
36 means.

37 f. “Electronic seal” means information within a notarized  
38 electronic record that confirms the remote online notary public's  
39 name, jurisdiction, identifying number, and commission expiration  
40 date and generally corresponds to information in notary seals used  
41 on paper documents.

42 g. “Electronic signature” means an electronic sound, symbol, or  
43 process attached to or logically associated with an electronic record  
44 and executed or adopted by a person with the intent to sign the  
45 electronic document.

**EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

- 1 h. "Identity proofing" means a process or service operating  
2 according to standards established by the Secretary of State through  
3 which a third person affirms the identity of an individual:
- 4 (1) by means of dynamic knowledge based authentication such as  
5 a review of personal information from public or proprietary data  
6 sources; or  
7 (2) by means of analysis of biometric data such as, but not  
8 limited to, facial recognition, voiceprint analysis, or fingerprint  
9 analysis,
- 10 i. "Notarial act" means an act, whether performed with respect  
11 to a tangible or electronic record, that a notarial officer may  
12 perform under the laws of this State. The term includes taking an  
13 acknowledgment, administering an oath or affirmation, taking a  
14 verification on oath or affirmation, witnessing or attesting a  
15 signature, certifying or attesting a copy, and noting a protest of a  
16 negotiable instrument.
- 17 j. "Outside the United States" means outside the geographic  
18 boundaries of a state or commonwealth of the United States, the  
19 District of Columbia, Puerto Rico, the United States Virgin Islands,  
20 and any territory or insular possession subject to the jurisdiction of  
21 the United States.
- 22 k. "Principal" means an individual:
- 23 (1) whose electronic signature is notarized in a remote online  
24 notarization; or  
25 (2) making an oath or affirmation or an acknowledgement other  
26 than in the capacity of a witness for the remote online notarization.
- 27 l. "Remote online notarial certificate" is the form of an  
28 acknowledgement; jurat, verification on oath or affirmation, or  
29 verification of witness or attestation that is completed by a remote  
30 online notary public and:
- 31 (1) contains the online notary public's electronic signature,  
32 electronic seal, title, and commission expiration date;  
33 (2) contains other required information concerning the date and  
34 place of the remote online notarization; and  
35 (3) otherwise conforms to the requirements for an  
36 acknowledgement, jurat, verification on oath or affirmation, or  
37 verification of witness or attestation under the laws of this State;  
38 and  
39 (4) indicates that the person making the acknowledgement, oath  
40 or affirmation appeared remotely online.
- 41 m. "Remote online notarization" or "remote online notarial act"  
42 means a notarial act performed by means of communication  
43 technology that meets the standards adopted under this act.
- 44 n. "Remote online notary public" means a notary public who  
45 has been authorized by the State Treasurer to perform remote online  
46 notarizations under this act.
- 47 o. "Remote presentation" means transmission to the remote  
48 online notary public through communication technology of an

1 image of a government-issued identification credential that is of  
2 sufficient quality to enable the remote online notary public to:

3 (1) identify the individual seeking the remote online notary  
4 public's services; and

5 (2) perform credential analysis.

6 p. "Remotely located individual" means an individual who is  
7 not in the physical presence of the notary.

8

9 3. The State Treasurer is authorized to adopt rules necessary to  
10 implement P.L., c. (C. )(now pending as this bill), including  
11 rules to facilitate remote online notarizations and develop standards  
12 as set forth in section 4 of this act.

13

14 4. a. The State Treasurer by rule shall develop and maintain  
15 standards for remote online notarization in accordance with this act,  
16 including but not limited to standards for credential analysis and  
17 identity proofing.

18 b. In developing standards for remote online notarization, the  
19 State Treasurer shall review and consider standards established by  
20 the National Association of Secretaries of State (NASS), and  
21 national standard setting bodies such as the Mortgage Industry  
22 Standards and Maintenance Organization (MISMO).

23 c. The rules shall be adopted not later than 12 months from the  
24 date of the enactment of this act, and may thereafter be modified,  
25 amended or supplemented.

26

27 5. a. A notary public or an applicant for appointment as a  
28 notary public under P.L., c. (C. )(now pending as this bill) may  
29 apply to the State Treasurer to be appointed and commissioned as a  
30 remote online notary public in the manner provided by this section.

31 b. A person qualifies to be appointed as a remote online notary  
32 public by:

33 (1) satisfying the qualification requirements for appointment as a  
34 notary public under this act and the "Notaries Public Act of 1979",  
35 P.L.1979, c.460 (C.52:7-10 et seq);

36 (2) paying the application fee described by subsection d. of this  
37 section; and

38 (3) electronically submitting to the State Treasurer an application  
39 in the form prescribed by the State Treasurer that satisfies the State  
40 Treasurer that the applicant is qualified.

41 c. The application required by subsection b. of this section shall  
42 include:

43 (1) the applicant's name to be used in acting as a notary public;

44 (2) a certification that the applicant will comply with the State  
45 Treasurer's standards developed under this act; and

46 (3) an e-mail address of the applicant.

1 d. The State Treasurer may charge a fee for an application  
2 submitted under this section in an amount necessary to administer  
3 this act.

4 e. The technology selected by a remote online notary public for  
5 remote online notarizations must conform to the State Treasurer's  
6 standards developed under this act.

7 f. A remote online notary public:

8 (1) is a notary public for purposes of the "Notaries Public Act of  
9 1979", P.L. 1979, c.460 (C.52:7-10 et seq) and is subject to that act  
10 to the same extent as a notary public appointed and commissioned  
11 under that act;

12 (2) may perform notarial acts as provided by the "Notaries  
13 Public Act of 1979", P.L. 1979, c.460 (C.52:7-10 et seq) in addition  
14 to performing remote online notarizations; and

15 (3) may perform an remote online notarization authorized under  
16 this act.

17

18 6. a. A notary public commissioned in this State may become a  
19 remote online notary public in accordance with P.L., c.  
20 (C. ) (now pending as this bill). Before a notary performs a remote  
21 online notarization the notary shall register with the State Treasurer  
22 in accordance with provisions for registration as a remote online  
23 notary and identify the technology that the electronic notary public  
24 intends to use, which shall conform to any rules or regulations  
25 adopted by the State Treasurer. The State Treasurer may require  
26 the posting of a surety bond before a notary is commissioned as a  
27 remote online notary public.

28 b. Before each registration to perform electronic notarial acts, an  
29 individual shall complete a course of instruction of a number of  
30 hours approved by the State Treasurer and pass an examination  
31 based on the course. The content of the course shall include notarial  
32 rules, procedures, and ethical obligations pertaining to electronic  
33 notarization in this act or in the "Notaries Public Act of 1979", P.L.  
34 1979, c.460 (C.52:7-10 et seq).

35 c. The term of registration to perform electronic notarial acts  
36 shall begin on the registration starting date set by the State  
37 Treasurer and shall continue as long as the notary public's current  
38 commission remains valid.

39 d. An individual registering to perform electronic notarial acts  
40 shall submit to the State Treasurer an application in a format  
41 prescribed by the State Treasurer which includes:

42 (1) proof of successful completion of the course and examination  
43 required under subsection b. of this section;

44 (2) disclosure of any and all license or commission revocations  
45 or other disciplinary actions against the registrant; and

46 (3) any other information, evidence, or declaration required by  
47 the State Treasurer.

1 e. Upon the applicant's fulfillment of the requirements for  
2 registration under this act, the State Treasurer shall approve the  
3 registration and issue to the applicant a unique registration number.

4 f. The State Treasurer may reject a registration application if the  
5 applicant fails to comply with any provisions of this act.  
6

7 7. A remote online notary public physically located in this  
8 State may perform a remote online notarial act using  
9 communication technology in accordance with P.L., c. (C. )(now  
10 pending as this bill) and any rules or regulations adopted by the  
11 State Treasurer for a remotely located individual who is physically  
12 located:

13 a. In this State;

14 b. Outside this State but within the United States; or

15 c. Outside the United States if:

16 (1) The remote online notary public has no actual knowledge that  
17 the act of making the statement or signing the record is prohibited  
18 in the jurisdiction in which the person is located; and

19 (2) The person placing his or her electronic signature on the  
20 electronic record confirms to the remote online notary public that  
21 the requested remote online notarial act and the electronic record:

22 (a) are part of or pertain to a matter that is to be filed with or is  
23 currently before a court, governmental entity or other entity in the  
24 United States;

25 (b) relates to property located in the United States; or

26 (c) relates to a transaction substantially connected to the United  
27 States  
28

29 8. a. A remote online notary public shall keep a secure  
30 electronic journal of each remote online notarial act performed by  
31 the remote online notary public. The electronic journal must contain  
32 for each remote online notarization:

33 (1) the date and time of the notarization;

34 (2) the type of notarial act;

35 (3) the type, the title, or a description of the electronic record or  
36 proceeding;

37 (4) the printed name and address of each principal involved in  
38 the transaction or proceeding;

39 (5) evidence of identity of each principal involved in the  
40 transaction or proceeding in the form of:

41 (a) a statement that the person is personally known to the remote  
42 online notary public;

43 (b) a notation of the type of identification document provided to  
44 the remote online notary public;

45 (c) a record of the identity verification made under this act, if  
46 applicable;

47 (d) the printed name and address of each credible witness  
48 swearing to or affirming the person's identity; and for each credible

1 witness not personally known to the remote online notary public, a  
2 description of the type of identification documents provided to the  
3 remote online notary public; and

4 (e) the fee, if any, charged for the notarization.

5 b. The remote online notary public shall create an audio and  
6 video copy of the performance of the notarial act.

7 c. The remote online notary public shall take reasonable steps  
8 to:

9 (1) insure the integrity, security, and authenticity of remote  
10 online notarizations;

11 (2) maintain a backup for the electronic journal required by  
12 subsection a. of this section and the recording required by  
13 subsection b. of this section; and

14 (3) protect the backup record from unauthorized use.

15 d. The electronic journal required by subsection a. of this  
16 section and the recording required by subsection b. of this section  
17 shall be maintained for at least 10 years after the date of the  
18 transaction or proceeding.

19 e. The remote online notary public may designate as custodian  
20 of the recording and the electronic journal:

21 (1) the employer of the remote online notary public if evidenced  
22 by a record signed by the remote online notary public and the  
23 employer; or

24 (2) a repository meeting the standards established by the State  
25 Treasurer.

26 f. The State Treasurer shall establish:

27 (1) standards for the retention of a video and audio copy of the  
28 performance of the notarial act;

29 (2) procedures for preservation of the audio and video copy and  
30 the electronic journal if the remote online notary public dies or is  
31 adjudicated incompetent or if the remote online notary public's  
32 commission or authority to perform notarial acts is otherwise  
33 terminated; and

34 (3) standards for third party repositories for the retention of the  
35 audio and video copy of the performance of the notarial act.

36

37 9. a. A remote online notary public shall keep the remote  
38 online notary public's electronic journal, electronic signature, and  
39 electronic seal secure. The remote online notary public may not  
40 allow another person to use the remote online notary public's,  
41 electronic signature, or electronic seal.

42 b. A remote online notary public shall attach the remote online  
43 notary public's electronic signature and seal to the remote online  
44 notarial certificate of an electronic record in a manner that renders  
45 any subsequent change or modification to the electronic record to  
46 be evident.

47 c. A remote online notary public shall immediately notify an  
48 appropriate law enforcement agency and the State Treasurer of the

1 theft or vandalism of the remote online notary public's electronic  
2 journal, electronic signature, or electronic seal. A remote online  
3 notary public shall immediately notify the State Treasurer of the  
4 loss or use by another person of the remote online notary public's  
5 electronic journal, electronic signature, or electronic seal.

6  
7 10. a. A remote online notary public may perform a remote  
8 online notarization authorized under P.L., c. (C. )(now pending  
9 as this bill) that meets the requirements of this act and rules adopted  
10 regardless of whether the principal is physically located in this State  
11 at the time of the remote online notarization.

12 b. In performing a remote online notarization, a remote online  
13 notary public shall verify the identity of a person creating an  
14 electronic signature at the time that the signature is taken by using  
15 communication technology that meets the requirements of this act  
16 and rules adopted pursuant thereto. Identity may be verified by:

17 (1) the remote online notary public's personal knowledge of the  
18 person creating the electronic signature; or

19 (2) each of the following:

20 (a) remote presentation by the person creating the electronic  
21 signature of a government-issued identification credential,  
22 including a passport or driver's license, that contains the signature  
23 and a photograph of the person;

24 (b) credential analysis; and

25 (c) identity proofing.

26 c. The remote online notary public shall take reasonable steps to  
27 ensure that the communication technology used in a remote online  
28 notarization is secure from unauthorized interception.

29 d. The remote online notarial certificate for a remote online  
30 notarization must state that the person making the  
31 acknowledgement or making the oath appeared remotely online.

32 e. A remote online notarial act meeting the requirements of this  
33 act satisfies the requirement of any law of this State relating to a  
34 notarial act that requires a principal to appear or personally appear  
35 before a notary or that the notarial act be performed in the presence  
36 of a notary.

37  
38 11. A remote online notary public or the remote online notary  
39 public's employer may charge a fee for performance of remote  
40 online notarization.

41  
42 12. a. Except as provided by subsection b. of this section, a  
43 remote online notary public whose commission terminates shall  
44 destroy the coding, disk, certificate, card, software, or password  
45 that enables electronic affixation of the remote online notary  
46 public's official electronic signature or seal. The remote online  
47 notary public shall certify compliance with this subsection to the  
48 State Treasurer.



1 b. A former remote online notary public whose commission  
2 terminated for a reason other than revocation or a denial of renewal  
3 is not required to destroy the items described by subsection a. of  
4 this section if the former remote online notary public is  
5 recommissioned as a remote online notary public with the same  
6 electronic signature and seal within three months after the former  
7 remote online notary public's former commission terminated.

8  
9 13. A person who, without authorization, knowingly obtains,  
10 conceals, damages, or destroys the certificate, disk, coding, card,  
11 program, software, or hardware enabling a remote online notary  
12 public to affix an official electronic signature or seal commits a  
13 crime of the fourth degree.

14  
15 14. This act modifies, limits, and supersedes the "Electronic  
16 Signatures in Global and National Commerce Act," Pub.L.106-229  
17 (15 U.S.C. s.7001 et seq.), but does not modify, limit, or supersede  
18 Section 101(a) of that act (15 U.S.C. s.7001(a)), or authorize  
19 electronic delivery of any of the notices described in Section 103(b)  
20 of that act (15 U.S.C. s.7003(b)).

21  
22 15. This act shall take effect immediately but shall remain  
23 inoperative for 14 months to permit the State Treasurer to  
24 promulgate the rules and standards set forth in sections 3 and 4 of  
25 this act within 12 months.

26  
27  
28 STATEMENT

29  
30 This bill creates the "Remote Online Notaries Public Act."  
31 The State Treasurer has the authority to implement rules and  
32 standards to facilitate online remote notarizations. The State  
33 Treasurer is required to develop and maintain standards for remote  
34 online notarization, including standards for credential analysis and  
35 identity proofing.

36 The bill provides the State Treasurer 12 months to adopt and  
37 enact the rules and encourages consideration of standards  
38 established by the National Association of Secretaries of State  
39 (NASS) and national standard setting bodies such as the Mortgage  
40 Industry Standards and Maintenance Organization (MISMO). The  
41 bill would take effect immediately to begin that process but remain  
42 inoperative until 2 months after the 12 month period.

43 The bill requires a person must qualify to be appointed as a  
44 remote online notary public. An online remote notary public  
45 application must include the applicant's name, certification that the  
46 applicant agrees to comply with the established standards, and  
47 email address.

1       Once the requirements are met, a remote online notary public is  
2 imbued with the same rights and privileges of a commissioned  
3 notary public.

4       The bill requires a remote online notary public to register with  
5 the State Treasurer and identify the technology to be used in their  
6 operation as a notary. The online remote notary public must also  
7 send proof that they have completed the required course of  
8 instruction. The term of registration begins on the registration start  
9 date and continues as long as the notary public's current  
10 commission remains valid.

11       A remote online notary public may perform notarial acts for a  
12 person who is physically located in this State or remotely located.

13       A remote online notary can only perform notarial acts outside the  
14 United States if the notary has no actual knowledge that the act of  
15 making a statement or signing a record is prohibited within the  
16 jurisdiction in which the person is located. The notary public can  
17 perform notarial acts if the person placing their signature on the  
18 electronic record confirms to the notary public that the requested  
19 notarial act is a part of a matter that is currently before a court or  
20 government entity in the United States, relates to a property in the  
21 United States, or relates to a transaction substantially connected to  
22 the United States.

23       The bill requires a remote online notary public to keep a secure  
24 electronic journal of notarized documents. The journal must include  
25 the date and time of notarization, the type of notarial act, a  
26 description of the electronic document/proceeding, the information  
27 of each principal involved in the proceeding and evidence of the  
28 identity of each principal involved in the proceeding. A recording  
29 of any video and audio conference can be the basis for satisfactory  
30 evidence of identification. The record must also include the fee, if  
31 any charged, for the notarization. The electronic journal must be  
32 maintained for a least ten years after the date of the transaction or  
33 proceeding.

34       The remote online notary public is required to take reasonable  
35 steps to insure the integrity and security of online notarizations,  
36 maintain a backup for the electronic record, and protect the backup  
37 record from unauthorized use.

38       The remote online notary public has the ability to designate a  
39 custodian of the recordings in a manner that complies with  
40 standards set forth by the State Treasurer. The standards shall  
41 include procedures for the preservation of the audio and video copy  
42 of the notarized document and the electronic journal in the  
43 circumstance the notary public dies, is adjudicated to be  
44 incompetent, or has their commission terminated.

45       The remote online notary public's electronic signature must be  
46 kept secure and used only to perform online notarial acts. The  
47 notary may not allow another person to use the notary's electronic  
48 signature.

**S3147 SINGLETON**

1       The remote online notary public must attach their electronic  
2 signature and seal to an online notarial certificate in a way that  
3 renders subsequent changes to the document as evidence of  
4 tampering.

5       A remote online notary public must immediately report any loss,  
6 theft, or vandalism of the electronic signature.

7       The principal is not required to be physically located in the State  
8 at the time of the online notarization. The remote online notary  
9 must verify the identity of the person creating the electronic  
10 signature at the time the signature is taken. The remote online  
11 notary must take reasonable steps to verify the communication  
12 technology for the online notarization is secure from unauthorized  
13 use.

14       The electronic certification for the notarization must include  
15 information that indicates the notarization was completed online.

16       The bill requires a notary public whose commission is terminated  
17 to destroy any coding, disk, certificate, card, software or password  
18 that enables the online remote notary public's electronic signature  
19 or seal to be affixed.

20       The bill makes it a crime of the fourth degree to knowingly  
21 obtain or destroy without prior authorization a certificate, disk,  
22 coding, card, program, software, or hardware that enables the notary  
23 public's electronic signature to be affixed.

24       This bill is based on model legislation proposed by the Mortgage  
25 Bankers Association and the American Land Title Association.