

HOUSE No. 4658

The Commonwealth of Massachusetts

PRESENTED BY:

Frank A. Moran

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to remote notarization during COVID-19 state of emergency.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Frank A. Moran</i>	<i>17th Essex</i>	<i>3/27/2020</i>
<i>David F. DeCoste</i>	<i>5th Plymouth</i>	<i>3/30/2020</i>
<i>Nika C. Elugardo</i>	<i>15th Suffolk</i>	<i>3/30/2020</i>
<i>Paul A. Schmid, III</i>	<i>8th Bristol</i>	<i>3/30/2020</i>
<i>John Barrett, III</i>	<i>1st Berkshire</i>	<i>3/30/2020</i>
<i>Lenny Mirra</i>	<i>2nd Essex</i>	<i>3/30/2020</i>
<i>Alan Silvia</i>	<i>7th Bristol</i>	<i>3/30/2020</i>
<i>Christopher Hendricks</i>	<i>11th Bristol</i>	<i>3/30/2020</i>
<i>Marcos A. Devers</i>	<i>16th Essex</i>	<i>3/30/2020</i>
<i>Carmine Lawrence Gentile</i>	<i>13th Middlesex</i>	<i>3/30/2020</i>
<i>Peter Capano</i>	<i>11th Essex</i>	<i>3/30/2020</i>
<i>Angelo L. D'Emilia</i>	<i>8th Plymouth</i>	<i>3/30/2020</i>
<i>Steven S. Howitt</i>	<i>4th Bristol</i>	<i>3/30/2020</i>
<i>Michelle L. Ciccolo</i>	<i>15th Middlesex</i>	<i>3/30/2020</i>
<i>Lindsay N. Sabadosa</i>	<i>1st Hampshire</i>	<i>3/30/2020</i>
<i>John H. Rogers</i>	<i>12th Norfolk</i>	<i>3/30/2020</i>
<i>Adrian C. Madaro</i>	<i>1st Suffolk</i>	<i>3/30/2020</i>
<i>Patrick Joseph Kearney</i>	<i>4th Plymouth</i>	<i>3/30/2020</i>

<i>Bradley H. Jones, Jr.</i>	<i>20th Middlesex</i>	<i>3/31/2020</i>
<i>José F. Tosado</i>	<i>9th Hampden</i>	<i>3/31/2020</i>
<i>Paul McMurtry</i>	<i>11th Norfolk</i>	<i>3/31/2020</i>
<i>Elizabeth A. Poirier</i>	<i>14th Bristol</i>	<i>3/31/2020</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>	<i>3/31/2020</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>	<i>3/31/2020</i>
<i>Kathleen R. LaNatra</i>	<i>12th Plymouth</i>	<i>3/31/2020</i>
<i>Christina A. Minicucci</i>	<i>14th Essex</i>	<i>3/31/2020</i>
<i>Mike Connolly</i>	<i>26th Middlesex</i>	<i>3/31/2020</i>
<i>David Allen Robertson</i>	<i>19th Middlesex</i>	<i>3/31/2020</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>	<i>4/1/2020</i>
<i>John J. Lawn, Jr.</i>	<i>10th Middlesex</i>	<i>4/1/2020</i>
<i>Sean Garballey</i>	<i>23rd Middlesex</i>	<i>4/1/2020</i>
<i>Bud L. Williams</i>	<i>11th Hampden</i>	<i>4/2/2020</i>
<i>David M. Rogers</i>	<i>24th Middlesex</i>	<i>4/2/2020</i>
<i>Tami L. Gouveia</i>	<i>14th Middlesex</i>	<i>4/2/2020</i>
<i>Mindy Domb</i>	<i>3rd Hampshire</i>	<i>4/2/2020</i>
<i>Angelo J. Puppolo, Jr.</i>	<i>12th Hampden</i>	<i>4/2/2020</i>
<i>Ruth B. Balsler</i>	<i>12th Middlesex</i>	<i>4/3/2020</i>
<i>Mathew J. Muratore</i>	<i>1st Plymouth</i>	<i>4/3/2020</i>

HOUSE No. 4658

By Mr. Moran of Lawrence, a petition (subject to Joint Rule 12) of Frank A. Moran and others relative to remote notarization during the COVID-19 state of emergency. The Judiciary.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act relative to remote notarization during COVID-19 state of emergency.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Notwithstanding any general or special law to the contrary, the following shall be in
2 effect upon its passage and shall be repealed three business days following the revocation,
3 termination, or other discontinuance of Executive Order No. 591, dated March 10, 2020:

4 SECTION 1. A Massachusetts licensed attorney, or a paralegal under the direct
5 supervision of a Massachusetts licensed attorney, who in either case is a duly appointed notary
6 public in the Commonwealth, may perform an acknowledgement, affirmation, or other notarial
7 act for an individual, who may be acting individually or in any representative capacity, with
8 respect to one or more documents upon the request of the individual utilizing electronic video
9 conferencing in real time.

10 SECTION 2. Such acknowledgment, affirmation or other notarial act utilizing electronic
11 video conferencing in real time that is performed while this Act shall be valid and effective if
12 such attorney or paralegal notary observes an individual’s execution of a subject document, and

13 provided (a) both the notary and the individual are physically located within the Commonwealth,
14 (b) the individual promptly causes the executed document to be delivered to the notary by
15 delivery service, courier, or other means, in accordance with the notary's instructions, (c) the
16 individual provides the notary with satisfactory evidence of identification, either with the
17 executed document or separately through electronic means; provided that a copy of the front and
18 back of at least 1 current identification credential issued by a federal or state government agency
19 bearing the photographic image of the individual's face and signature shall be deemed to be
20 satisfactory evidence of identification; (d) upon receipt of the executed document, the notary and
21 the individual engage in a second video conference during which the individual verifies to the
22 notary that the document received by the notary is the same document executed during the first
23 video conference, and (e) during such second video conference, the individual makes the
24 acknowledgment, affirmation and/or other act to the notary, as appropriate as well as a disclosure
25 of and video viewing of all persons present in the room with the individual. The individual shall
26 swear or affirm under the penalties of perjury during each video conference that the individual is
27 physically located within the Commonwealth. With respect to subsection (c) above, where the
28 individual is not a United States citizen, a valid passport or other government-issued
29 identification credential evidencing the individual's nationality or residence and which bears the
30 photographic image of the individual's face and signature shall be acceptable. Further with
31 respect to subsection (c) above, if the principal's identification credential is a United States or
32 foreign passport book, a copy of the front cover and page(s) displaying the principal's
33 photograph, name and signature shall be acceptable.

34 Such attorney or paralegal notary may then affix his or her notary stamp and signature to
35 any such document that was so delivered, whereupon the notarial act shall be deemed completed.

36 The written memorialization of the notarial act shall include a recital indicating that the
37 document was notarized remotely pursuant to this Act. The failure to include the recital shall not
38 affect the validity or recordability of the document. With respect to subsections (d) and (e), in the
39 event of the individual's death or incapacity within twenty (20) days of the first video
40 conference, such individual's execution shall remain valid despite the lack of a second video
41 conference.

42 SECTION 3. Such attorney or paralegal notary shall record each video conference and
43 retain such recording along with the copy of the individual's identification credential, for a
44 period of ten (10) years.

45 SECTION 4. Such attorney or paralegal notary shall also execute an affidavit confirming
46 under the penalties of perjury that he or she has the notary has (a) received a copy of the
47 individual's current identification credential and visually inspected said credential during the
48 initial video conference with the individual; (b) obtained the individual's verbal assent to the
49 recording of the video conferences; (c) taken the individual's attestations as to physical presence
50 of the individual within the Commonwealth; and (d) been informed and noted on the affidavit
51 those present in the room and a statement of the relationship of the persons in the room to the
52 individual.

53 SECTION 5. Such document shall be deemed a properly executed, acknowledged and
54 notarized document for all legal purposes in the Commonwealth; including without limitation for
55 recordation with the Registry of Deeds of any county, for filing as a valid will, and for filing or
56 recording with any other state, local or federal agency, court, department or office. With respect
57 to any such document recorded in the Registry of Deeds, the affidavit need not be recorded, but

58 shall be retained by the notary for a period of ten (10) years. Further with respect to any such
59 document recorded in the Registry of Deeds, the fact that an individual is subsequently
60 determined to have been physically located outside of the Commonwealth during any video
61 conference shall not constitute grounds to set aside the title to real property acquired by an arm's
62 length third-party mortgagee or purchaser for value. The expiration, repeal, or amendment of this
63 Act shall not affect the validity of a notarial act completed while this Act is in effect and
64 performed in accordance with the terms hereof.

65 SECTION 6. The signature of any witness who participates in the electronic video
66 conference and whose signature is notarized pursuant to this Act shall be valid as if the witness
67 had been present in person.

68 SECTION 7. Nothing in this Act affects any Massachusetts statute, regulation or other
69 rule of law governing, authorizing, or prohibiting the practice of law, including without
70 limitation the requirement that the closing of a transaction involving a mortgage or other
71 conveyance of title to real estate may only be conducted by an attorney duly admitted to practice
72 law in the Commonwealth.