

SENATE No.**The Commonwealth of Massachusetts**

PRESENTED BY:

Bruce E. Tarr

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:	
<i>Bruce E. Tarr</i>	<i>First Essex and Middlesex</i>	
<i>William N. Brownsberger</i>	<i>Second Suffolk and Middlesex</i>	
<i>John F. Keenan</i>	<i>Norfolk and Plymouth</i>	
<i>Tami L. Gouveia</i>	<i>14th Middlesex</i>	<i>3/24/2020</i>
<i>Brendan P. Crighton</i>	<i>Third Essex</i>	<i>3/24/2020</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>	<i>3/24/2020</i>
<i>Walter F. Timilty</i>	<i>Norfolk, Bristol and Plymouth</i>	<i>3/25/2020</i>
<i>Tram T. Nguyen</i>	<i>18th Essex</i>	<i>3/25/2020</i>
<i>Nika C. Elugardo</i>	<i>15th Suffolk</i>	<i>3/25/2020</i>
<i>James T. Welch</i>	<i>Hampden</i>	<i>3/25/2020</i>
<i>Dylan A. Fernandes</i>	<i>Barnstable, Dukes and Nantucket</i>	<i>3/25/2020</i>
<i>Nick Collins</i>	<i>First Suffolk</i>	<i>3/25/2020</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	<i>3/25/2020</i>
<i>Christina A. Minicucci</i>	<i>14th Essex</i>	<i>3/25/2020</i>
<i>Michelle L. Ciccolo</i>	<i>15th Middlesex</i>	<i>3/26/2020</i>
<i>Bradley H. Jones, Jr.</i>	<i>20th Middlesex</i>	<i>3/26/2020</i>
<i>William L. Crocker, Jr.</i>	<i>2nd Barnstable</i>	<i>3/26/2020</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>	<i>3/26/2020</i>

<i>Lindsay N. Sabadosa</i>	<i>1st Hampshire</i>	<i>3/27/2020</i>
<i>Mathew J. Muratore</i>	<i>1st Plymouth</i>	<i>3/27/2020</i>
<i>Ruth B. Balser</i>	<i>12th Middlesex</i>	<i>3/27/2020</i>
<i>Patrick M. O'Connor</i>	<i>Plymouth and Norfolk</i>	<i>3/27/2020</i>
<i>Michael F. Rush</i>	<i>Norfolk and Suffolk</i>	<i>3/27/2020</i>
<i>Diana DiZoglio</i>	<i>First Essex</i>	<i>3/27/2020</i>
<i>Anne M. Gobi</i>	<i>Worcester, Hampden, Hampshire and Middlesex</i>	<i>3/27/2020</i>
<i>Lenny Mirra</i>	<i>2nd Essex</i>	<i>3/27/2020</i>
<i>Elizabeth A. Poirier</i>	<i>14th Bristol</i>	<i>3/29/2020</i>
<i>Angelo L. D'Emilia</i>	<i>8th Plymouth</i>	<i>3/30/2020</i>
<i>Hannah Kane</i>	<i>11th Worcester</i>	<i>4/7/2020</i>
<i>Linda Dean Campbell</i>	<i>15th Essex</i>	<i>4/9/2020</i>
<i>Paul McMurtry</i>	<i>11th Norfolk</i>	<i>4/9/2020</i>
<i>Kimberly N. Ferguson</i>	<i>1st Worcester</i>	<i>4/15/2020</i>
<i>Stephan Hay</i>	<i>3rd Worcester</i>	<i>4/15/2020</i>
<i>Harriette L. Chandler</i>	<i>First Worcester</i>	<i>4/15/2020</i>

SENATE No.

By Mr. Tarr, a petition (accompanied by bill) (subject to Joint Rule 12) of Bruce E. Tarr, William N. Brownsberger, John F. Keenan, Tami L. Gouveia and other members of the General Court for legislation relative to remote notarization during 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

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

Such attorney or paralegal notary may then affix his or her notary stamp and signature to any such document that was so delivered, whereupon the notarial act shall be deemed completed. The written memorialization of the notarial act shall include a recital indicating that the document was notarized remotely pursuant to this Act. The failure to include the recital shall not affect the validity or recordability of the document. With respect to subsections (d) and (e), in the event of the individual's death or incapacity within twenty (20) days of the first video conference, such individual's execution shall remain valid despite the lack of a second video conference.

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

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

SECTION 5. Such document shall be deemed a properly executed, acknowledged and notarized document for all legal purposes in the Commonwealth; including without limitation for 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.