

HOUSE No. 4989

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, July 7, 2022.

The committee on Ways and Means, to whom was referred the Senate Bill relative to extending certain state of emergency accommodations (Senate, No. 2985), reports recommending that the same ought to pass with an amendment striking all after the enacting clause and inserting in place thereof the text contained in House document numbered 4989.

For the committee,

AARON MICHLEWITZ.

HOUSE No. 4989

Text of an amendment, recommended by the committee on Ways and Means, to the Senate Bill relative to extending certain state of emergency accommodations (Senate, No. 2985). July 7, 2022.

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Second General Court
(2021-2022)

By striking out all after the enacting clause and inserting in place thereof the following:—

1 SECTION 1. Section 228 of chapter 111 of the General Laws, as appearing in the 2020
2 Official Edition, is hereby amended by striking out subsection (f).

3 SECTION 2. Chapter 186 of the General Laws is hereby amending by adding the
4 following section:—

5 Section 31. (a) A notice to quit for nonpayment of rent given in writing by a landlord to a
6 residential tenant pursuant to this chapter shall be accompanied by a form that shall include, but
7 not be limited to: (i) documentation of any agreements between the tenant and landlord for the
8 tenant to repay the landlord for nonpayment of rent; and (ii) information on: (1) rental assistance
9 programs, including, but not limited to, the residential assistance for families in transition
10 program; (2) applicable trial court rules, standing orders or emergency administrative orders
11 pertaining to actions for summary process; and (3) any relevant federal or state legal restrictions
12 on residential evictions. The form shall also prominently display the following statement:

13 “THIS NOTICE TO QUIT IS NOT AN EVICTION. YOU DO NOT NEED TO
14 IMMEDIATELY LEAVE YOUR UNIT. YOU ARE ENTITLED TO A LEGAL PROCEEDING
15 IN WHICH YOU CAN DEFEND AGAINST THE EVICTION. ONLY A COURT ORDER
16 CAN FORCE YOU TO LEAVE YOUR UNIT.”

17 (b) The executive office of housing and economic development shall develop the form
18 required pursuant to this section and make it publicly available on its website. The information in
19 clause (ii) of subsection (a) shall be made available in the 5 most common languages spoken in
20 the commonwealth in addition to English. No court having jurisdiction over an action for
21 summary process pursuant to chapter 239, including the Boston municipal court department,
22 shall, in an eviction for nonpayment of rent for a residential dwelling unit, accept for filing a
23 writ, summons or complaint without proof of delivery of the form required under this section.

24 SECTION 3. Chapter 221 of the General Laws is hereby amended by inserting after
25 section 46D the following section:-

26 Section 46E. (a) With respect to real estate closings involving the use of communication
27 technology, as defined in chapter 222, the following words, as used in this section, shall, unless
28 the context clearly requires otherwise, have the following meanings:

29 “Closing,” the consummation of a transaction between parties for the purpose of granting
30 a mortgage or otherwise transferring title to real property, including the execution of documents
31 necessary to accomplish the valid and proper transfer of title and the transfer of the consideration
32 for the conveyance, whether done simultaneously with or subsequent to the execution of
33 documents for the transfer of title; provided, however, that any transaction in which the
34 consideration for the transfer of title is evidenced solely by a home equity loan or line of credit

35 that is secured by a mortgage lien on a residential dwelling with 4 or fewer separate households,
36 does not involve the issuance of a lender's or mortgagee's policy of title insurance in connection
37 with such transaction, and is to be retained by the lender and not sold on the secondary mortgage
38 market.

39 "Creditor", a person or entity that holds or controls, partially, wholly, indirectly, directly
40 or in a nominee capacity, a mortgage loan securing real property, including, but not limited to, an
41 originator, holder, investor, assignee, successor, trust, trustee, nominee holder, Mortgage
42 Electronic Registration System or mortgage servicer, including the Federal National Mortgage
43 Association or the Federal Home Loan Mortgage Corporation; provided, that "creditor" shall
44 also include any servant, employee, representative or agent of a creditor.

45 (b) Notwithstanding any general or special law to the contrary, no person, unless that
46 person has been admitted as an attorney in the commonwealth and has not been disqualified from
47 the practice of law due to resignation, disbarment or suspension or placed on inactive status,
48 shall (i) direct or manage a real property closing; or (ii) take the following actions in preparation
49 for, or in furtherance of, a closing:

50 (1) giving or furnishing legal advice as to the legal status of title;

51 (2) ensuring that the seller, or the borrower-mortgagor in a mortgage refinancing
52 transaction, is in a position to convey marketable title to the residential property at issue;

53 (3) issuing a certification of title pursuant to section 70 of chapter 93;

54 (4) drafting a deed to real property on behalf of another;

55 (5) ensuring that the documents necessary for the transfer of title are executed in
56 accordance with the laws of the commonwealth; or

57 (6) disbursing, or managing the disbursement, of consideration for the conveyance.

58 (c) The attorney general may initiate an action, including a petition for injunctive relief,
59 against any person or creditor whose violation of this section is part of a pattern, or consistent
60 with a practice, of noncompliance. The supreme judicial court and the superior court shall have
61 concurrent jurisdiction in equity. A person having an interest or right that is or may be adversely
62 affected by a violation of this section may initiate an action against the person or creditor for
63 private monetary remedies.

64 SECTION 4. Chapter 222 of the General Laws is hereby amended by striking out section
65 1, as appearing in the 2020 Official Edition, and inserting in place thereof the following section:-

66 Section 1. For the purposes of this chapter, the following words shall, unless the context
67 clearly requires otherwise, have the following meanings:

68 “Acknowledgment”, a notarial act in which an individual, at a single time appears in
69 person before a notary public, is identified by the notary public through satisfactory evidence of
70 identity and presents a document or electronic record to the notary public and indicates to the
71 notary public that the signature on the document or record before the notary was voluntarily
72 affixed by the individual for the purposes stated within the document or electronic record or that
73 the signature on the document or electronic record was the individual’s free act and deed and, if
74 applicable, that the individual was authorized to sign in a particular representative capacity.

75 “Affirmation”, a notarial act, or part thereof, that is legally equivalent to an oath and in
76 which an individual, at a single time appears in person before a notary public, is identified by the
77 notary public through satisfactory evidence of identity and makes a vow of truthfulness or
78 fidelity while appearing before the notary public under the penalties of perjury without invoking
79 a deity.

80 “Appears in person”, “appears personally”, or “personally appears”, (i) being in the same
81 physical location as another individual and close enough to see, hear, communicate with and
82 exchange tangible identification credentials with that individual; or (ii) interacting with a
83 remotely-located individual by means of communication technology in compliance with section
84 28.

85 “Communication technology”, an electronic device or process that allows a notary public
86 and a remotely-located individual to communicate with each other simultaneously by sight and
87 sound, and when necessary and consistent with other applicable laws, facilitates communication
88 with a remotely-located individual with a vision, hearing or speech impairment.

89 “Copy certification”, a notarial act in which a notary public is presented with a document
90 that the notary public copies, or supervises the copying thereof, by a photographic or electronic
91 copying process, compares the original document to the copy and determines that the copy is
92 accurate and complete.

93 “Credential analysis”, a process or service that meets guidelines established by the
94 secretary, through which a third person affirms the validity of a current government-issued
95 identification credential by review of public and proprietary data sources.

96 “Credible witness”, an honest, reliable and impartial person who personally knows an
97 individual appearing before a notary and who takes an oath or affirmation before the notary to
98 vouch for that individual’s identity.

99 “Dynamic knowledge-based authentication”, a form of identity proofing based on a set of
100 questions that pertain to an individual and are formulated from public or proprietary data
101 sources.

102 “Electronic”, relating to technology having electrical, digital, magnetic, wireless, optical,
103 electromagnetic or similar capabilities.

104 “Electronic record”, information that is created, generated, sent, communicated, received
105 or stored by electronic means.

106 “Electronic signature”, an electronic sound, symbol or process, attached to or logically
107 associated with a contract or other record and executed or adopted by a person with the intent to
108 sign the record.

109 “Foreign state”, a jurisdiction other than the United States, a state or a federally
110 recognized Indian tribe.

111 “Identity proofing”, a process or service that meets the guidelines established by the
112 secretary, by which a third person provides a notary public with a means to verify the identity of
113 a remotely located individual by a review of personal information from public or private data
114 sources, which may include credential analysis, dynamic knowledge-based authentication,
115 analysis of biometric data including, but not limited to, facial recognition, voiceprint analysis or
116 fingerprint analysis or other means permitted by the secretary.

117 “Journal”, a chronological record of notarial acts performed by a notary public.

118 “Jurat”, a notarial act in which an individual, at a single time appears in person before a
119 notary public, is identified by the notary public through satisfactory evidence of identity and: (i)
120 presents a document or electronic record; (ii) signs the document or electronic record in the
121 presence of the notary public; and (iii) takes an oath or affirmation before the notary public
122 vouching for the truthfulness or accuracy of the contents of the signed document or electronic
123 record.

124 “Notarial act” or “notarization”, an act that a notary public is empowered to perform,
125 including acts performed electronically in accordance with this chapter.

126 “Notarial certificate”, the part of or attachment to a notarized document or electronic
127 record for completion by the notary public that bears the notary public’s signature and seal and
128 states the venue, date and facts that are attested by the notary public in a particular notarial act or
129 notarization.

130 “Notary public” or “notary”, a person commissioned to perform official acts pursuant to
131 Article IV of the Amendments of the Constitution.

132 “Notarial seal,” (i) a physical image or impression affixed, stamped or embossed on a
133 tangible record; or (ii) an electronic image attached to, or logically associated with, an electronic
134 record.

135 “Oath”, a notarial act, or part thereof, that is legally equivalent to an affirmation and in
136 which an individual, at a single time, appears in person before a notary public, is identified by

137 the notary public through satisfactory evidence of identity and takes a vow of truthfulness or
138 fidelity under the penalties of perjury by invoking a deity.

139 “Official misconduct”, a violation of sections 13 to 24, inclusive, or any other general or
140 special law in connection with a notarial act or a notary public’s performance of an official act in
141 a manner found to be grossly negligent or against the public interest.

142 “Personal knowledge of identity”, familiarity with an individual resulting from
143 interactions with that individual over a period of time sufficient to ensure beyond doubt that the
144 individual is the person whose identity is claimed.

145 “Principal”, a person whose signature is notarized or a person taking an oath or
146 affirmation before a notary public.

147 “Record”, information that is inscribed on a tangible medium or that is stored in an
148 electronic or other medium and is retrievable in perceivable form.

149 “Regular place of work or business”, a place where an individual spends a substantial
150 portion of their working or business hours.

151 “Remotely-located individual”, an individual who is not in the physical presence of the
152 notary public who performs a notarial act pursuant to section 28 of this chapter.

153 “Satisfactory evidence of identity”, identification of an individual based on: (i) at least 1
154 current document issued by a United States or state government agency bearing the photographic
155 image of the individual’s face and signature; (ii) the oath or affirmation of a credible witness
156 unaffected by the document or transaction who is personally known to the notary public and who
157 personally knows the individual; or (iii) identification of an individual based on the notary

158 public’s personal knowledge of the identity of the principal; provided, however, that for a person
159 who is not a United States citizen, “satisfactory evidence of identity” shall mean identification of
160 an individual based on a valid passport or other government-issued document evidencing the
161 individual’s nationality or residence and which bears a photographic image of the individual’s
162 face and signature. For purposes of a notarial act performed using communication technology for
163 a remotely-located individual, “satisfactory evidence of identity” shall be determined pursuant to
164 section 28.

165 “Secretary”, the secretary of the commonwealth.

166 “Signature witnessing”, a notarial act in which an individual, at a single time, appears in
167 person before a notary public, is identified by the notary public through satisfactory evidence of
168 identity and presents a document or electronic record and signs the document or electronic record
169 in the presence of the notary public.

170 “Tamper evident”, the use of a set of applications, programs, hardware, software or other
171 technologies that will display evidence of any changes to an electronic record.

172 “Tangible journal”, a journal created on a fixed tangible medium in a permanent bound
173 register with numbered pages.

174 “United States”, a location within the geographic boundaries of the United States, Puerto
175 Rico, the United States Virgin Islands and any territory, insular possession or other location
176 subject to the jurisdiction of the United States.

177 SECTION 5. Section 1A of said chapter 222, as so appearing, is hereby amended by
178 striking out the figure “26”, in line 6, and inserting in place thereof the following figure:- 29.

179 SECTION 6. Section 8 of said chapter 222, as so appearing, is hereby amended by
180 striking out subsection (b) and inserting in place thereof the following subsection:-

181 (b)(1) A notary public shall keep an official notarial seal that shall be the exclusive
182 property of the notary public. A notary public shall not permit another to use such notarial seal.
183 A notary public shall obtain a new seal upon renewal of the commission, upon receipt of a new
184 commission or if the name of the notary public has changed. The notarial seal shall include: (i)
185 the notary public's name exactly as indicated on the commission; (ii) the words "notary public"
186 and "Commonwealth of Massachusetts" or "Massachusetts"; (iii) the expiration date of the
187 commission in the following words: "My commission expires ____"; and (iv) a facsimile of the
188 seal of the commonwealth.

189 (2) If a notarial seal that requires ink is employed, black ink shall be used. The seal of a
190 notary public may be a digital image that appears in the likeness or representation of a traditional
191 physical notary public seal. Only the notary public whose name and registration number appear
192 on an electronic seal shall affix that seal. If the seal is electronically generated, it shall include
193 the words "Electronically affixed". The requirements of this subsection shall be satisfied by
194 using a seal that includes all of the information required by this section. Failure to comply with
195 this section shall not affect the validity of any instrument or the record thereof.

196 SECTION 7. Section 16 of said chapter 222, as so appearing, is hereby amended by
197 inserting after the word "notarization", in line 3, the following words:- , except as specifically
198 provided in this chapter.

199 SECTION 8. Said section 16 of said chapter 222, as so appearing, is hereby further
200 amended by inserting after the word "services" , in line 27, the following words:- ; provided

201 further, that a notary public shall not be precluded from receiving an additional technology
202 services fee that has been clearly disclosed in advance to the person requesting the service and
203 that technology services fee reflects the actual reasonable cost to the notary public of utilizing a
204 third-party technology service provider.

205 SECTION 9. Section 18 of said chapter 222, as so appearing, is hereby amended by
206 adding the following subsection:-

207 (e)(1) Whenever the secretary has cause to believe that a notary public registered
208 pursuant to section 28 has engaged in a pattern of conduct, or a standard, practice or procedure
209 that the secretary determines is contrary to section 46E of chapter 221, the secretary may order
210 the notary public to comply with the law. The secretary may adopt regulations governing
211 administrative proceedings under this section.

212 (2) The attorney general may enforce the order by civil action as provided in said section
213 46E.

214 (3) The remedies provided by this section shall not limit the availability of judicial
215 remedies to any person or official.

216 SECTION 10. Subsection (a) of section 22 of said chapter 222, as so appearing, is hereby
217 amended by striking out the second sentence and inserting in place thereof the following 3
218 sentences:- A journal may be created on a fixed tangible medium or in an electronic format. If
219 the journal is maintained on a tangible medium, it shall be a permanent, bound register with
220 numbered pages. If the journal is maintained in an electronic format, it shall be in a permanent,
221 tamper-evident electronic format complying with the rules of the secretary.

222 SECTION 11. Said section 22 of said chapter 222, as so appearing, is hereby further
223 amended by striking out, in lines 6 and 7, the words “active journal at the same time” and
224 inserting in place thereof the following words:- tangible journal at any time. A notary may keep
225 more than 1 electronic journal provided that each electronic journal conforms to the requirements
226 of subsection (a).

227 SECTION 12. Said section 22 of said chapter 222, as so appearing, is hereby further
228 amended by striking out, in lines 33 and 34, the words “(3) the fee, if any, charged for the
229 notarial act; and (4) the address where the notarization was performed” and inserting in place
230 thereof the following words:- (3) a notation indicating whether the notarial act was conducted in
231 person or remotely; (4) the fee, if any, charged for the notarial act; and (5) the address where the
232 notarization was performed; provided, that if the notarial act was performed remotely, the notary
233 shall include the address of the notary and each principal and witness.

234 SECTION 13. Said section 22 of said chapter 222, as so appearing, is hereby further
235 amended by striking out, in lines 51 and 57, in each instance, the word “state”.

236 SECTION 14. Said section 22 of said chapter 222, as so appearing, is hereby further
237 amended by striking out subsection (i) and inserting in place thereof the following subsection:-

238 (i) If not in use, a journal shall be kept under the exclusive control of the notary public or
239 a third-party technology service provider designated by the notary public, provided there is a
240 mutual agreement by both the notary public and the third-party service provider, and shall not be
241 used by any other notary public or surrendered to an employer upon termination of employment.

242 SECTION 15. Said chapter 222 is hereby further amended by adding the following 3
243 sections:-

244 Section 27. (a) A notary public may select 1 or more tamper-evident technologies to
245 perform notarial acts with respect to electronic records. A person may not require a notary public
246 to perform a notarial act with respect to an electronic record with a technology that the notary
247 public has not selected.

248 (b) The secretary shall establish standards for approval of technologies for use by notaries
249 public commissioned by the commonwealth.

250 (c) A tangible copy of an electronic record shall be accepted as the equivalent of an
251 original document for purposes of recording said copy; provided, that: (i) the copy contains a
252 notarial certificate that satisfies all requirements for an original document to be accepted for
253 recording; (ii) the copy satisfies all requirements for recording an original document set forth in
254 chapter 183 and chapter 185, as applicable; and (ii) the notarial officer executing the notarial
255 certificate certifies that the tangible copy is an accurate copy of the electronic record.

256 Section 28. (a) A notary public physically located in the commonwealth may perform a
257 notarial act using communication technology for a remotely-located individual who is the
258 principal in a notarial act if the notary public:

259 (i)(A) has personal knowledge of the identity of the remotely-located individual; (B) has
260 identified the remotely-located individual by means of an oath or affirmation of a credible
261 witness unaffected by the document or transaction who is personally known to the notary public
262 and who personally knows the remotely-located individual; or (C) reasonably can identify the
263 remotely-located individual by at least 2 different types of identity proofing processes or
264 services;

265 (ii) is able to execute the notarial act in a single, real-time session;

266 (iii) is reasonably able to confirm that a record before the notary public is the same record
267 in which the remotely-located individual made a statement or on which the remotely-located
268 individual executed a signature; and

269 (iv) the notary public, or a person acting on behalf of the notary public, creates an audio-
270 visual recording of the performance of the notarial act.

271 (b) A notary public physically located in the commonwealth may perform a notarial act
272 using communication technology for a remotely-located individual who is the principal in a
273 notarial act and is located outside the United States if: (i) the record is to be filed with or relates
274 to a matter before a public official or court, governmental entity or other entity subject to the
275 jurisdiction of the United States, or involves property located in the territorial jurisdiction of the
276 United States or a transaction substantially connected with the United States; and (ii) the act of
277 making the statement or signing the record is not prohibited by the foreign state in which the
278 remotely-located individual is located.

279 (c) A notary public shall not use communication technology to notarize a record related
280 to the electoral process, or a will, codicil or document purporting to be a will or codicil.

281 (d) Before a notary public performs the notary public's initial notarization using
282 communication technology, the notary public shall: (i) register as a remote notary with the
283 secretary; (ii) inform the secretary that the notary public will perform remote notarizations; and
284 (iii) identify the communication technology that the notary public intends to use. The remote
285 notarization system must conform to the requirements of this chapter and any rules adopted by
286 the secretary. The notice shall be submitted in the form required by the secretary and shall: (A)
287 include an affirmation that the notary public has read and will comply with this section and all

288 rules adopted by the secretary; (B) be accompanied by proof that the notary public has
289 successfully completed any training and examination required by this section or that may be
290 required by the secretary; and (C) identify a usual place of business in this state or, if a foreign
291 entity, identify a registered agent, and in either case identify an address for service of process in
292 connection with a civil action or other proceeding.

293 (e) If a notarial act is performed pursuant to this section, the certificate of notarial act
294 required by section 15 shall indicate that the notarial act was performed remotely using
295 communication technology and identify the venue for the notarial act as the county within the
296 commonwealth where the notary public was physically located while performing the notarial act.

297 (f) A notary public, a guardian, conservator or agent of a notary public or a personal
298 representative of a deceased notary public shall retain the audio-visual recording created under
299 clause (iv) of subsection (a) or cause the recording to be retained by a repository designated by
300 or on behalf of the person required to retain the recording. The recording shall be retained for 10
301 years after the recording is made.

302 (g) Upon request, the notary public shall make available electronic copies of the pertinent
303 entries in the electronic journal and provide access to any related audio-video communication
304 recording to the following persons: (i) the parties to an electronic record notarized by the notary
305 public; (ii) the title insurer reviewing an insured transaction in the context of an audit of its agent,
306 if the agent conducted the electronic notarial act as an element of the insured transaction; and
307 (iii) any other persons pursuant to a subpoena, court order, law enforcement investigation or
308 other lawful inspection demand.

309 (h) The secretary shall establish standards for the use of communication technology and
310 identity proofing. A notary public who uses communication technology shall conform to those
311 standards.

312 (i) In addition to the authority set forth in subsection (h), the secretary may adopt rules
313 under this section regarding performance of the notarial act. The rules may: (i) prescribe the
314 means of performing a notarial act involving a remotely located individual using communication
315 technology; (ii) establish requirements or procedures to approve providers of communication
316 technology and the process of identity proofing; and (iii) establish standards for the retention of
317 an audio-visual recording created under clause (iv) of subsection (a).

318 (j) By allowing its communication technology or identity proofing to facilitate a notarial
319 act for a remotely-located individual or by providing storage of the audio-visual recording
320 created under clause (iv) of subsection (a), the provider of the communication technology,
321 identity proofing or storage shall appoint the secretary as the provider's agent for service of
322 process in any civil action in the commonwealth related to the notarial act.

323 (k) The following minimum standards shall apply to notarizations utilizing
324 communication technology performed by a notary public in the commonwealth; provided, that
325 the secretary may adopt rules setting standards that are equally or more protective:

326 (i) Identity proofing by means of dynamic knowledge-based authentication that shall
327 have, at a minimum, the following security characteristics:

328 (A) the remotely located individual shall be presented with 5 or more questions with a
329 minimum of 5 possible answer choices per question;

330 (B) each question shall be drawn from a third-party provider of public and proprietary
331 data sources and shall be identifiable to the social security number or other identification
332 information of the remotely located individual, or such individual's identity and historical events
333 records;

334 (C) responses to all questions shall be made within a 2-minute time constraint;

335 (D) the remotely-located individual must answer a minimum of 80 per cent of the
336 questions correctly;

337 (E) if the remotely-located individual fails the first attempt, the individual may be offered
338 1 additional attempt within 24 hours of the initial failed attempt; and

339 (F) during the second attempt, the remotely located individual may not be presented with
340 more than 3 questions from the prior attempt.

341 (ii) Identity proofing by means of credential analysis using 1 or more commercially
342 available automated software or hardware processes that, consistent with sound commercial
343 practices, (A) aid the notary public in verifying the authenticity of the credential by analyzing the
344 integrity of visual, physical or cryptographic security features to indicate that the credential is not
345 fraudulent or inappropriately modified; and (B) use information held or published by the issuing
346 source or authoritative source to confirm the validity of credential details. The results of the
347 credential analysis process shall be provided to the notary public performing the notarial act.

348 (iii) Use of audio-video communication technology in completing notarizations that shall
349 meet the following requirements: (A) the signal transmission shall be reasonably secure from
350 interception, access or viewing by anyone other than the participants communicating; and (B) the

351 technology shall provide sufficient audio clarity and video resolution to enable the notary to
352 communicate with the remotely-located individual and any witness, and to confirm the identity
353 of the remotely-located individual and any witness, as required, using identity proofing.

354 (iv) The communication technology shall have satisfied tamper-evident technology
355 requirements by use of technology that renders any subsequent change or modification to the
356 electronic record evident.

357 (v) With respect to notarial acts conducted during a closing, as defined in section 46E of
358 chapter 221, the communication technology shall be engaged by the closing attorney with the
359 approval of the lender. Upon successful verification of the identity of the remotely-located
360 individual by the notary as required by paragraph (i) of subsection (a), such attorney shall enter
361 and affirm the attorney's board of bar overseers registration number prior to the conduct of the
362 first notarial act. The communication technology shall be responsible for recording such
363 information in a manner that is logically associated with the transaction and shall retain such
364 information for the same length of time and in the same manner as it retains all other information
365 regarding the notarial act.

366 (vi) In addition to any coverage it elects to provide for individual notaries public,
367 maintenance of errors and omissions insurance coverage by a communication technology service
368 provider shall be provided in a total amount of at least \$250,000 in the annual aggregate with
369 respect to potential errors or omissions in or relating to the technology or processes provided by
370 the communication technology service provider. A notary public shall not be responsible for the
371 security of the systems used by the remotely-located individual or others to access the
372 notarization session.

373 (vii) Prior to a notary public’s initial notarization using communication technology, the
374 notary public shall complete a 2-hour in-person or online course addressing the duties,
375 obligations and technology requirements for conducting remote notarizations offered by the
376 secretary or a vendor approved by the secretary. Each such provider of communication
377 technology shall make the in-person or online course generally available to all applicants.
378 Regardless of membership in the provider’s organization, the provider shall charge each attendee
379 the same cost for the course unless the course is provided in conjunction with a regularly
380 scheduled meeting of the provider’s membership.

381 (l) Notwithstanding any general or special law to the contrary, with respect to any
382 document executed in the course of a closing, as defined in section 46E of chapter 221, involving
383 a mortgage or other conveyance of title to residential real property, only a notary public
384 appointed pursuant to this chapter who is an attorney licensed to practice law in the
385 commonwealth, or a non-attorney who is under the direct supervision of or acting pursuant to a
386 direct request by the attorney directing or managing the closing, shall perform an
387 acknowledgment, affirmation or other notarial act utilizing communication technology. The
388 notarial certificate affixed to any such document shall recite the board of bar overseers
389 registration number of the attorney notary, or of the supervising attorney for a document
390 notarized by a non-attorney. Failure to comply with this section shall not affect the validity of the
391 document or the recording thereof.

392 Section 29. A notary public shall not use, sell, or offer to sell to another person, or
393 transfer to another person for use or sale, any personal information obtained under section 28 that
394 identifies a remotely-located individual, a witness to a remote notarization or a person named in
395 a record presented for remote notarization, except: (i) as necessary to facilitate performance of a

396 notarial act; (ii) to effect, administer, enforce, service or process a record provided by or on
397 behalf of the individual or the transaction of which the record is a part; or (iii) in accordance with
398 this section, including the rules adopted pursuant thereto, or other applicable federal or state law,
399 or to comply with a lawful subpoena or court order.

400 SECTION 16. Section 23 of chapter 20 of the acts of 2021 is hereby amended by striking
401 out the words “July 15, 2022”, inserted by section 7 of chapter 22 of the acts of 2022, and
402 inserting in place thereof the following words:- March 31, 2023.

403 SECTION 17. Section 30A of said chapter 20, inserted by section 10 of said chapter 22,
404 is hereby amended by striking out the words “July 15, 2022” and inserting in place thereof the
405 following words:- March 31, 2023.

406 SECTION 18. Chapter 22 of the acts of 2022 is hereby amended by inserting after section
407 40 the following section:-

408 SECTION 40A. Section 12 is hereby repealed.

409 SECTION 19. Section 41 of said chapter 22 is hereby amended by striking out the figure
410 “12,”.

411 SECTION 20. Said chapter 22 is hereby further amended by inserting after section 43 the
412 following section:-

413 SECTION 43A. Section 40A shall take effect on October 14, 2022.

414 SECTION 21. Section 44 of said chapter 22 is hereby amended by striking out the words
415 “July 15, 2022” and inserting in place thereof the following words:- March 31, 2023.

416 SECTION 22. Section 2 is hereby repealed.

417 SECTION 23. Sections 1, 16, 17, 18, 19, 20 and 21 shall take effect as of July 15, 2022.

418 SECTION 24. Section 2 shall take effect on April 1, 2023.

419 SECTION 25. Section 22 shall take effect on April 1, 2024.

420 SECTION 26. Sections 3 to 15 shall take effect on October 15, 2022.