

SENATE No. 943

The Commonwealth of Massachusetts

PRESENTED BY:

Brendan P. Crighton

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 modernizing notary services.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Brendan P. Crighton</i>	<i>Third Essex</i>	
<i>Jacob R. Oliveira</i>	<i>Hampden, Hampshire and Worcester</i>	<i>2/8/2023</i>
<i>Susannah M. Whipps</i>	<i>2nd Franklin</i>	<i>2/8/2023</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>	<i>2/14/2023</i>

SENATE No. 943

By Mr. Crighton, a petition (accompanied by bill, Senate, No. 943) of Brendan P. Crighton, Jacob R. Oliveira, Susannah M. Whipps and Thomas M. Stanley for legislation to modernize notary services. The Judiciary.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act modernizing notary services.

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

1 SECTION 1. Chapter 221 of the General Laws is hereby amended by inserting after
2 section 46D the following section:-

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

6 “Closing,” the consummation of a transaction between parties for the purpose of granting
7 a mortgage or otherwise transferring title to a one to four family residential dwelling, including
8 the execution of documents necessary to accomplish the valid and proper transfer of title and the
9 transfer of the consideration for the conveyance, whether done simultaneously with or
10 subsequent to the execution of documents for the transfer of title; provided, however, that a
11 closing as defined herein shall not include any transaction in which the consideration for the
12 transfer of title is evidenced solely by a home equity loan or line of credit that is secured by a

13 mortgage on a one to four family residential dwelling, does not involve the issuance of a
14 lender's or mortgagee's policy of title insurance in connection with such transaction, and is to be
15 retained by the lender and not sold on the secondary mortgage market.

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

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

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

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

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

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

32 (5) ensuring that the documents necessary for the transfer of title are executed and
33 acknowledged in accordance with the laws of the commonwealth; or

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

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

41 SECTION 2. Chapter 222 of the General Laws is hereby amended by striking out section
42 1, as appearing in the 2020 Official Edition, and inserting in place thereof the following section:-

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

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

52 “Affirmation”, a notarial act, or part thereof, that is legally equivalent to an oath and in
53 which an individual, at a single time appears in person before a notary public, is identified by the
54 notary public through satisfactory evidence of identity and makes a vow of truthfulness or

55 fidelity while appearing before the notary public under the penalties of perjury without invoking
56 a deity.

57 “Appears in person”, “appears personally”, or “personally appears”, (i) being in the same
58 physical location as another individual and close enough to see, hear, communicate with and
59 exchange tangible identification credentials with that individual; or (ii) interacting with a
60 remotely-located individual by means of communication technology in compliance with section
61 28.

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

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

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

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

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

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

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

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

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

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

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

95 “Jurat”, a notarial act in which an individual, at a single time appears in person before a
96 notary public, is identified by the notary public through satisfactory evidence of identity and: (i)

97 presents a document or electronic record; (ii) signs the document or electronic record in the
98 presence of the notary public; and (iii) takes an oath or affirmation before the notary public
99 vouching for the truthfulness or accuracy of the contents of the signed document or electronic
100 record.

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

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

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

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

112 “Oath”, a notarial act, or part thereof, that is legally equivalent to an affirmation and in
113 which an individual, at a single time, appears in person before a notary public, is identified by
114 the notary public through satisfactory evidence of identity and takes a vow of truthfulness or
115 fidelity under the penalties of perjury by invoking a deity.

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

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

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

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

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

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

130 “Satisfactory evidence of identity”, identification of an individual based on: (i) at least 1
131 current document issued by a United States or state government agency bearing the photographic
132 image of the individual’s face and signature; (ii) the oath or affirmation of a credible witness
133 unaffected by the document or transaction who is personally known to the notary public and who
134 personally knows the individual; or (iii) identification of an individual based on the notary
135 public’s personal knowledge of the identity of the principal; provided, however, that for a person
136 who is not a United States citizen, “satisfactory evidence of identity” shall mean identification of

137 an individual based on a valid passport or other government-issued document evidencing the
138 individual's nationality or residence and which bears a photographic image of the individual's
139 face and signature. For purposes of a notarial act performed using communication technology for
140 a remotely-located individual, "satisfactory evidence of identity" shall be determined pursuant to
141 section 28.

142 "Secretary", the secretary of the commonwealth.

143 "Signature witnessing", a notarial act in which an individual, at a single time, appears in
144 person before a notary public, is identified by the notary public through satisfactory evidence of
145 identity and presents a document or electronic record and signs the document or electronic record
146 in the presence of the notary public.

147 "Tamper evident", the use of a set of applications, programs, hardware, software or other
148 technologies that will display evidence of any changes to an electronic record.

149 "Tangible journal", a journal created on a fixed tangible medium in a permanent bound
150 register with numbered pages.

151 "United States", a location within the geographic boundaries of the United States, Puerto
152 Rico, the United States Virgin Islands and any territory, insular possession or other location
153 subject to the jurisdiction of the United States.

154 SECTION 3. Section 1A of said chapter 222, as so appearing, is hereby amended by
155 striking out the figure "26", in line 6, and inserting in place thereof the following figure:- 29.

156 SECTION 4. Section 8 of said chapter 222, as so appearing, is hereby amended by
157 striking out subsection (b) and inserting in place thereof the following subsection:-

158 (b)(1) A notary public shall keep an official notarial seal that shall be the exclusive
159 property of the notary public. A notary public shall not permit another to use such notarial seal.
160 A notary public shall obtain a new seal upon renewal of the commission, upon receipt of a new
161 commission or if the name of the notary public has changed. The notarial seal shall include: (i)
162 the notary public’s name exactly as indicated on the commission; (ii) the words “notary public”
163 and “Commonwealth of Massachusetts” or “Massachusetts”; (iii) the expiration date of the
164 commission in the following words: “My commission expires ___”; and (iv) a facsimile of the
165 seal of the commonwealth.

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

173 SECTION 5. Section 16 of said chapter 222, as so appearing, is hereby amended by
174 inserting after the word “notarization”, in line 3, the following words:- , except as specifically
175 provided in this chapter.

176 SECTION 6. Said section 16 of said chapter 222, as so appearing, is hereby further
177 amended by inserting after the word “services” , in line 27, the following words:- ; provided
178 further, that a notary public shall not be precluded from receiving an additional technology
179 services fee that has been clearly disclosed in advance to the person requesting the service and

180 that technology services fee reflects the actual reasonable cost to the notary public of utilizing a
181 third-party technology service provider.

182 SECTION 7. Section 18 of said chapter 222, as so appearing, is hereby amended by
183 adding the following subsection:-

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

189 (2) The attorney general may enforce the order by civil action as provided in said section
190 46E.

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

193 SECTION 8. Section 20 of chapter 222, as so appearing, is hereby amended in
194 subsection (b) by striking out clause (iii) and inserting in place thereof the following clause:

195 (iii) failure of a document to contain an acknowledgment that the instrument was the
196 voluntary or free act and deed of the principal or, if executed in a representative capacity, the
197 party on whose behalf the principal is signing shall not affect the validity of the underlying
198 document or the recording of the document.

199 SECTION 9. Subsection (a) of section 22 of said chapter 222, as so appearing, is hereby
200 amended by striking out the second sentence and inserting in place thereof the following 3

201 sentences:- A journal may be created on a fixed tangible medium or in an electronic format. If
202 the journal is maintained on a tangible medium, it shall be a permanent, bound register with
203 numbered pages. If the journal is maintained in an electronic format, it shall be in a permanent,
204 tamper-evident electronic format complying with the rules of the secretary.

205 SECTION 10. Said section 22 of said chapter 222, as so appearing, is hereby further
206 amended by striking out, in lines 6 and 7, the words “active journal at the same time” and
207 inserting in place thereof the following words:- tangible journal at any time. A notary may keep
208 more than 1 electronic journal provided that each electronic journal conforms to the requirements
209 of subsection (a).

210 SECTION 11. Said section 22 of said chapter 222, as so appearing, is hereby further
211 amended by striking out, in lines 33 and 34, the words “(3) the fee, if any, charged for the
212 notarial act; and (4) the address where the notarization was performed” and inserting in place
213 thereof the following words:- (3) a notation indicating whether the notarial act was conducted in
214 person or remotely; (4) the fee, if any, charged for the notarial act; and (5) the address where the
215 notarization was performed; provided, that if the notarial act was performed remotely, the notary
216 shall include the address of the notary and each principal and witness.

217 SECTION 12. Said section 22 of said chapter 222, as so appearing, is hereby further
218 amended by striking out, in lines 51 and 57, in each instance, the word “state”.

219 SECTION 13. Said section 22 of said chapter 222, as so appearing, is hereby further
220 amended by striking out subsection (i) and inserting in place thereof the following subsection:-

221 (i) If not in use, a journal shall be kept under the exclusive control of the notary
222 public or a third-party technology service provider designated by the notary public, provided

223 there is a mutual agreement by both the notary public and the third-party service provider, and
224 shall not be used by any other notary public or surrendered to an employer upon termination of
225 employment.

226 SECTION 14. Said chapter 222 is hereby further amended by adding the following 3
227 sections:-

228 Section 27. (a) A notary public may select 1 or more tamper-evident technologies to
229 perform notarial acts with respect to electronic records. A person may not require a notary public
230 to perform a notarial act with respect to an electronic record with a technology that the notary
231 public has not selected. Any technology approved by the secretary under subsection (b) of this
232 section and selected by a notary public shall require the notary public's electronic signature and
233 electronic seal to be:

234

235 (i) Unique to the notary public;

236 (ii) Capable of independent verification;

237 (iii) Retained under the sole control of the notary public; and

238 (iv) Attached to or logically associated with the electronic record in a tamper-evident
239 manner.

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

242 (c) A tangible copy of an electronic record shall be accepted as the equivalent of an
243 original document for purposes of recording said copy; provided, that: (i) the copy contains a
244 notarial certificate that satisfies all requirements for an original document to be accepted for
245 recording; (ii) the copy satisfies all requirements for recording an original document set forth in
246 chapter 183 and chapter 185, as applicable; and (iii) the notarial officer executing the notarial
247 certificate certifies that the tangible copy is an accurate copy of the electronic record.

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

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

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

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

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

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

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

273 (d) Before a notary public performs the notary public's initial notarization using
274 communication technology, the notary public shall: (i) register as a remote notary with the
275 secretary; (ii) inform the secretary that the notary public will perform remote notarizations; and
276 (iii) identify the communication technology that the notary public intends to use. The
277 communication technology must conform to the requirements of this chapter and any rules
278 adopted by the secretary. The notice shall be submitted in the form required by the secretary and
279 shall: (A) include an affirmation that the notary public has read and will comply with this section
280 and all rules adopted by the secretary; (B) be accompanied by proof that the notary public has
281 successfully completed any training and examination required by this section or that may be
282 required by the secretary; and (C) identify a usual place of business in this state or, if a foreign
283 entity, identify a registered agent, and in either case identify an address for service of process in
284 connection with a civil action or other proceeding.

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

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

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

301 (h) The secretary shall establish standards for the use of communication technology and
302 identity proofing. The secretary shall create and maintain a registry of communication
303 technology service providers who meet the established standards as certified by the
304 communication technology service provider. A notary public who uses communication
305 technology shall utilize communication technology and identity proofing from communication
306 technology service providers on the secretary's registry.

307 (i) In addition to the authority set forth in subsection (h), the secretary may adopt rules
308 under this section regarding performance of the notarial act. The rules may: (i) prescribe the
309 means of performing a notarial act involving a remotely located individual using communication
310 technology; and (ii) establish standards for the retention of an audio-visual recording created
311 under clause (iv) of subsection (a).

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

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

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

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

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

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

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

331 (E) if the remotely-located individual fails the first attempt, the individual may be offered
332 1 additional attempt within 24 hours of the initial failed attempt; and

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

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

342 (iii) Use of audio-video communication technology in completing notarizations that shall
343 meet the following requirements: (A) the signal transmission shall be reasonably secure from
344 interception, access or viewing by anyone other than the participants communicating; and (B) the
345 technology shall provide sufficient audio clarity and video resolution to enable the notary to
346 communicate with the remotely-located individual and any witness, and to confirm the identity
347 of the remotely-located individual and any witness, as required, using identity proofing.

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

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

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

367 (vii) Prior to a notary public's initial notarization using communication technology, the
368 notary public shall complete a 2-hour in-person or online course addressing the duties,
369 obligations and technology requirements for conducting remote notarizations offered by the

370 secretary or a vendor approved by the secretary. Each such provider of communication
371 technology shall make the in-person or online course generally available to all applicants.
372 Regardless of membership in the provider's organization, the provider shall charge each attendee
373 the same cost for the course unless the course is provided in conjunction with a regularly
374 scheduled meeting of the provider's membership.

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

386 (m) The chief justice of the land court may promulgate rules, orders, guidelines, and
387 directives concerning sections 27 and 28 of this chapter as they pertain to the execution,
388 acknowledgment, and registration of documents affecting title to land whose title has been
389 registered and confirmed by the land court pursuant to chapter 185.

390 Section 29. A notary public shall not use, sell, or offer to sell to another person, or
391 transfer to another person for use or sale, any personal information obtained under section 28 that

392 identifies a remotely-located individual, a witness to a remote notarization or a person named in
393 a record presented for remote notarization, except: (i) as necessary to facilitate performance of a
394 notarial act; (ii) to effect, administer, enforce, service or process a record provided by or on
395 behalf of the individual or the transaction of which the record is a part; or (iii) in accordance with
396 this section, including the rules adopted pursuant thereto, or other applicable federal or state law,
397 or to comply with a lawful subpoena or court order.

398 SECTION 15. Sections 27 to 29 of chapter 222 of the General Laws, as inserted by
399 section 14 of this act, shall take effect in 180 days. All other sections shall take effect in 90 days.