

Remote Notarization FAQs

What is remote notarization?

“Remote notarization” is a form of notarization where the notary officiates the document remotely through audio-visual technology and other security protocols. Remote notarization can be performed by a notary public by traditional ink (e.g., pen) or electronic signature.

How is remote notarization performed?

To provide a remote notarization, the notary public must be physically located within the State of New York at the time of the notarization. The notary must identify the remote signor (also known as the “principal”) of the document through any of the following three methods:

1. the notary’s personal knowledge of the signor;
2. by means of communication technology that facilitates remote presentation by the signor of an official, acceptable form of ID, credential analysis, and identity proofing; or
3. through oath or affirmation of a credible witness who personally knows the signor, and who is either personally known to the notary or identified by the previously referenced means of communication technology.

Commercial software is available to notaries public to perform identify proofing and credential analysis.

Regardless of the method used to confirm the identity of the signor, the notary must be able to see and interact, in real-time, with the remote signor of the document through audio-visual communication technology. This technology must have security protocols in place to prevent unauthorized access. The notary must make and keep an audio-visual recording of the remote notarization, and ensure that there is a back-up of the recording.

After the remote signor has executed the document, it **must** be transmitted to the notary public for officiating. The notary must confirm that the document is the same as the one signed remotely in the notary public’s presence before applying the notary stamp and signature to the document. The following statement **must** be added to the jurat “This remote notarial act involved the use of communication technology.”

What is credential analysis?

Credential analysis is a process where a third-party service validates a

government-issued identification presented by an individual through a review of public and proprietary data sources.

What is identity proofing?

Identity proofing is a process or service through which a third party confirms the identity of a signor through review of personal information from public and proprietary data sources.

What is the difference between credential analysis and identity proofing?

Credential analysis validates the authenticity of the principal's government-issued identification, and identity proofing validates the identity of the individual principal.

How long must a notary retain the audio-visual recording of each remote notarization performed?

A recording, containing both audio and video, of the remote notarization must be retained by the notary for at least ten (10) years. The notary must take reasonable steps to ensure a backup recording of the remote notarization exists and is secured from unauthorized use. The notary may authorize a third party to retain the recordings on behalf of the notary, provided that all recordings retained by a third party be made available to the Secretary of State upon request.

Is a notary journal required?

Yes, the notary public must keep a journal of all remote notarizations performed. Each journal entry must be made contemporaneously with the performance of the notarial act, and each entry must include the date and approximate time of the notarization, the name of the remote signor, the audio-visual technology used to perform the notarization, the number and type of documents officiated and notarial services provided, and the type of identification/credential presented by the remote signor of the document or documents. The journal must be kept by the notary public for as long as they remain a notary and for an additional five years thereafter.

How much can a notary charge for remote notarization?

A notary public may charge \$5.00 per act/signature. If the notary is not performing a remote notarization, the fee cannot exceed \$2.00 per act.

Does the notary have to provide remote notary services?

No, if the notary does not have the appropriate technology or capability to provide such services, or does not wish to engage at all in remote notarization, a notary may decline to provide remote services. Additionally, a notary may and should refuse to provide remote notary services if the notary does not believe the person signing the document remotely has capacity to sign or if the notary does not believe the remote signor is signing the document voluntarily.

Do notaries have to register with the Secretary of State to provide remote notary services?

Any notary public commissioned by the NYS Department of State can act as a traditional or remote notary. No separate application or license is required, and the notary is not required to pay any additional fee to the Department of State or the County Clerk where the notary is currently commissioned. On January 31, 2023 the rules for remote notarization will change. One significant change is that as of January 31, 2023, any notary wishing to provide remote notarization, must register the capability to perform electronic notarizations with the NYS Department of State, Division of Licensing Services, and pay the requisite fee (which is to be determined and established in regulation) to act as an electronic notary.

Will remotely notarized documents be accepted by a county clerk or other government offices?

Yes, the new law states, in part, “[a] county clerk, city registrar, or other recording officer where applicable shall accept for recording a tangible copy of an electronic record and that is otherwise eligible to be recorded under the laws of this state **if the record has been certified by a notary public** or other individual authorized to perform a notarial act.” New York Executive Law § 135-c(12)(b). To be accepted, the notary would first have to certify the remotely notarized document. New York Executive Law § 135-c(12)(a). Specific questions about filing such documents should be directed toward the filing office where the document will be submitted.