

2023 Kansas Statutes

53-5a15. Notarial act performed for remotely located individual. (a) A remotely located individual may comply with K.S.A. 2023 Supp. 53-5a06, and amendments thereto, by using communication technology to appear before a notary public.

(b) A notary public located in this state may perform a notarial act using communication technology for a remotely located individual if:

(1) The notary public:

(A) Has personal knowledge under K.S.A. 2023 Supp. 53-5a07(a), and amendments thereto, of the identity of the individual;

(B) has satisfactory evidence of the identity of the remotely located individual by oath or affirmation from a credible witness appearing before the notary public under this section or K.S.A. 2023 Supp. 53-5a07(b), and amendments thereto; or

(C) has obtained satisfactory evidence of the identity of the remotely located individual by using at least two different types of identity proofing;

(2) the notary public is able reasonably to confirm that a record before the notary public is the same record in which the remotely located individual made a statement or on which the individual executed a signature;

(3) the notary public, or a person acting on behalf of the notary public, creates an audio-visual recording of the performance of the notarial act; and

(4) for a remotely located individual located outside the United States:

(A) The record:

(i) Is to be filed with or relates to a matter before a public official or court, governmental entity or other entity subject to the jurisdiction of the United States; or

(ii) involves property located in the territorial jurisdiction of the United States or involves a transaction substantially connected with the United States; and

(B) the act of making the statement or signing the record is not prohibited by the foreign state in which the remotely located individual is located.

(c) If a notarial act is performed under this section, the certificate of notarial act required by K.S.A. 2023 Supp. 53-5a16, and amendments thereto, and the short-form certificate provided in K.S.A. 2023 Supp. 53-5a17, and amendments thereto, shall indicate that the notarial act was performed using communication technology.

(d) A short-form certificate provided in K.S.A. 2023 Supp. 53-5a17, and amendments thereto, for a notarial act subject to this section is sufficient if it:

(1) Complies with rules and regulations adopted pursuant to K.S.A. 2023 Supp. 53-5a27, and amendments thereto; or

(2) is in the form provided in K.S.A. 2023 Supp. 53-5a17, and amendments thereto, and contains a statement substantially as follows: "This notarial act involved the use of communication technology."

(e) A notary public, a guardian, conservator or agent of a notary public or a personal representative of a deceased notary public, shall retain the audio-visual recording created under subsection (b)(3) or cause the recording to be retained by a repository designated by or on behalf of the person required to retain the recording. Unless a different period is required by rules and regulations adopted pursuant to K.S.A. 2023 Supp. 53-5a27, and amendments thereto, the recording shall be retained for a period of at least 10 years after the recording is made.

(f) Before a notary public performs the notary public's initial notarial act under this section, the notary public shall notify the secretary of state that the notary public will be performing notarial acts with respect to remotely located individuals, identify the technologies the notary public intends to use and provide evidence of completion of the course of study and passing of the examination required by K.S.A. 2023 Supp. 53-5a23, and amendments thereto. If the secretary of state has established standards in rules and regulations adopted pursuant to K.S.A. 2023 Supp. 53-5a27, and amendments thereto, for approval of communication technology or identity proofing, the communication technology and identity proofing shall conform to the standards. A notary public notifying the secretary of state under this section shall pay an information and services fee in an amount to be determined by the secretary of state but not to exceed \$25. The secretary of state shall remit all moneys received under this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215,

and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the information and services fee fund.

(g) As used in this section:

(1) "Communication technology" means an electronic device or process that:

(A) Allows a notary public and a remotely located individual to communicate with each other simultaneously by sight and sound; and

(B) when necessary and consistent with other applicable law, facilitates communication with a remotely located individual who has a vision, hearing or speech impairment.

(2) "Foreign state" means a jurisdiction other than the United States, a state or a federally recognized Indian tribe.

(3) "Identity proofing" means a process or service by which a third person provides a notary public with a means to verify the identity of a remotely located individual by a review of personal information from public or private data sources.

(4) "Outside the United States" means a location outside the geographic boundaries of the United States, Puerto Rico, the United States Virgin Islands, and any territory, insular possession or other location subject to the jurisdiction of the United States.

(5) "Remotely located individual" means an individual who is not in the physical presence of the notary public who performs a notarial act under subsection (b).

(h) This section shall take effect on and after January 1, 2022.

History: L. 2021, ch. 64, § 15; July 1.