

Virtual Notarization in New York State

March 23, 2020

Using his emergency authority, Governor Cuomo issued an executive order temporarily authorizing any notarial act that is required under New York State Law to be performed using audio-video technology (Executive Order 202.7, effective March 19, 2020 through April 18, 2020). Notarial acknowledgments are required, for example, for real estate documents required to be recorded in New York and for New York powers of attorney. Under the order, the acknowledgment must be taken in a live, interactive video conference (no pre-recorded videos) and the person signing the document must (i) affirmatively represent to the notary that they are physically situated in New York State at the time of signing, (ii) show the notary a photo ID if they are not already known to the notary and (iii) transmit (by fax or electronic means) the signed document directly to the notary on the same date it was signed. The notary may notarize the transmitted copy of the document and transmit the same back to the person.

We would expect this relief to be extended beyond April 18 if current restrictions on in-person interaction remain in effect as of that date. We also hope to receive clarification from New York State as to whether the statutory acknowledgment form, which states that the person executing the document has personally appeared before the notary, should be altered to reflect the virtual appearance. We will continue to monitor and report on relevant activity in this area as part of our coronavirus (COVID-19) coverage.

If you have any questions regarding the matters covered in this publication, please contact any of the lawyers listed below or your usual Davis Polk contact.

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