



# DISASTER RESPONSE & RECOVERY

## A COVID-19 PANDEMIC LOUISIANA APPLESEED BULLETIN

### REMOTE NOTARIZATION DURING THE COVID-19 PANDEMIC

**March 26, 2020**  
**Proclamation 37**  
Declares notarization may be done remotely by two-way sight and sound communication and will not be refused by the court if: An electronic recording is made and kept for 10 years, all parties may be reasonably identified, and can affix a digital signature to the act. Valid from March 11 - April 13, 2020.

**April 30, 2020**  
**Proclamation 52**  
Reaffirms Proclamation 41, including the notary order. Valid from May 1 through May 15, 2020.

**April 2, 2020**  
**Proclamation 41**  
Reaffirms Proclamation 37, including the notary order. Valid through April 30, 2020.

**May 15, 2020**  
Provisions of Governor's Proclamations allowing remote notarization end.

**June 9, 2020**  
**Act 131**  
Ensures remote notarizations done under Proclamation 37 and 41 carry the same force and effect as if done in person. Effective June 9, 2020.

**August 1, 2020**  
**Act 254**  
Allows for Remote Notarization IF the federal SECURE Notarization Act has passed. Otherwise remote Notarization is permissible beginning February 1, 2022.

Mar  
26

Apr  
2

Apr  
30

May  
15

Jun  
9

Aug  
1

OR

Feb  
1



## REVISED NOTARY UPDATES

On March 26, 2020, Governor John Bel Edwards signed the first of three Proclamations authorizing remote notarization. This ensured that court proceedings continued and delays were minimal due to statewide stay-at-home orders and related business closures. The Proclamations allowed a commissioned notary public to notarize documents remotely during the Covid-19 Pandemic if 1) both parties could see and hear each other and 2) the proceedings could be recorded and maintained for 10 years. These provisions allowed individuals to gain access to the courts, but ultimately resulted in confusion when the legislature codified remote notarization procedures.

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Neither Governor's Proclamation nor statutory law allows remote notarization

The Louisiana legislature passed Acts 131 and 254 to codify the Governor's Proclamations. Act 131 confirmed that "digital" notarization by way of an electronic device between March 11 and April 30, 2020 would have the same force and effect as if it was done in person. Attorneys across the state debated whether documents notarized remotely would ultimately be valid. With statutory confirmation, the debates were put to rest when the legislature confirmed validity through Act 131. This law went into effect on June 9, 2020.



Meanwhile, Section 4 of Act 254 created the 'Remote Online Notarization Act,' permitting remote notarization in Louisiana and defining what documents can and cannot be notarized remotely. Documents that cannot be remotely notarized include **testaments or codicils; trust instruments or acknowledgments; donations inter vivos; matrimonial agreements or acknowledgments; and acts modifying, waiving, or extinguishing an obligation of final spousal support or acknowledgments.** Act 254 also instructs the Secretary of State to develop and maintain standards for remote notarization and creates a stakeholder committee for which advice will be sought. Though the majority of Act 254 goes into effect on August 1, 2020, Sections 4 and 5, which allow for the practice of remote notarization, will go into effect on either February 1, 2022, or upon passage of the Federal SECURE Notarization Act, whichever arrives sooner.

Neither Act 131 nor Act 254 addressed the issue of whether instruments not excluded by Act 254 that were remotely notarized between the end of the effective date of the Governor's Proclamations of May 30 and the effective date of Act 254 were intended to have the full force and effect intended by Act 131.

## WHAT DOES THIS MEAN FOR MY CLIENTS? (REVISED)

With the expiration and no further renewal of Proclamation 52 on May 15, 2020, and because the Federal SECURE Notarization Act will not become a law by August 1, 2020, The full extent of Act 254 will not take effect on August 1, 2020, thus ending authorization for remote notarization on May 15. Re-authorization of remote notarization will now only occur when Congress passes the Federal SECURE Notarization Act, or on February 1, 2022, whichever arrives first. Any document that was remotely notarized after May 15, 2020, should be re-notarized, in person, before submission to a court. If you believe you have submitted a document with an invalid notarization, you should notify the court immediately and resubmit a validly notarized document.