



2021 South Dakota Legislature
Senate Bill 193
ENROLLED

AN ACT

ENTITLED An Act to revise certain provisions regarding remote notarization.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 18-1-1.1 be AMENDED.

18-1-1.1. Definitions.

Terms in this chapter mean:

- (1) "Acknowledgment," a declaration by a person before a notarial officer that the person has signed a document for the purpose stated in the document and, if the document is signed by a representative who is:
 - (a) An authorized officer, agent, partner, trustee, or other representative of a person other than a natural person;
 - (b) A public officer, personal representative, guardian, or other representative in the capacity stated in a document;
 - (c) An attorney-in-fact for a natural person; or
 - (d) An authorized representative of another person in any other capacity, that the representative signed the document with proper authority and signed it as the act of the person identified in the document;
- (2) "Notarial act," an act that a notarial officer may perform under the laws of this state. The term includes taking an acknowledgment, administering an oath or affirmation, taking a verification on oath or affirmation, witnessing or attesting a signature, certifying or attesting a copy, and noting a protest of a negotiable instrument;
- (3) "Notarial officer," a notary public or other person authorized to perform a notarial act;
- (4) "Personal knowledge," a notarial officer has personal knowledge of the identity of an individual appearing before the officer if either:
 - (a) The individual is personally known to the officer through dealings sufficient to provide reasonable certainty that the individual has the identity claimed.

The notarial officer must have known and had regular interactions with the individual for an extended period of time. A mere acquaintance does not amount to personal knowledge for purposes of this definition; or

- (b) The notarial officer represents the individual as their attorney, real estate agent, auctioneer, or public accountant, or any combination thereof;
- (5) "Verification on oath or affirmation," a declaration, made by a person on oath or affirmation before a notarial officer, that a statement in a document is true;
- (6) "Video communication technology," an electronic device or process that allows a notarial officer physically located in this state and a remotely located person not in the physical presence of the notarial officer to communicate in real-time with each other simultaneously by sight and sound and that, as necessary, makes reasonable accommodation for individuals with vision, hearing, or speech impairments.

Section 2. That § 18-1-11.1 be AMENDED.

18-1-11.1. Notarial act--Video communication technology--Requirements.

A notarial officer in this state, while located in this state, may perform a notarial act executed on a tangible document by a person not in the physical presence of the notarial officer, but observed by the notarial officer through means of video communication technology, if the notarial officer:

- (1) Has personal knowledge of the identity of a person through dealings sufficient to provide reasonable certainty that the person has the identity being claimed;
- (2) Affixes the notarial officer's signature to the original tangible document executed by the person;
- (3) Indicates in the notarial certificate the remote location of the person executing the document;
- (4) Indicates in the notarial certificate that the notarial act involved a statement made or a signature executed by a person not in the physical presence of the notarial officer, but appearing by means of video communication technology; and
- (5) Is able reasonably to confirm that the document before the notarial officer is the same document in which the person made the statement or on which the person executed a signature.

Section 3. That a NEW SECTION be added:

18-4-29. Form--Certificate of acknowledgement--Video communication technology.

The certificate of acknowledgment of a document executed under § 18-1-11.1 shall be substantially in the following form:

State of South Dakota

County of _____ ss

On this _____ day of _____, in the year _____, before me, _____ (Notary's Name), the undersigned officer appeared _____ (Signer's Name) with a remote location of _____ (City/State), whom I have personal knowledge of because of my relationship as _____ and whom I positively identified as the person whose name is subscribed to the within instrument, appeared before me not in my physical presence but by means of video communication technology, and I observed his/her execution of the same for the purposes contained therein and confirm that I affix my seal to the same instrument so executed.

An Act to revise certain provisions regarding remote notarization.

I certify that the attached Act originated in the:
Senate as Bill No. 193

Received at this Executive Office this ____ day of _____, 2021 at _____ M.

Secretary of the Senate

By _____ for the Governor

President of the Senate

The attached Act is hereby approved this _____ day of _____, A.D., 2021

Attest:

Secretary of the Senate

Governor

STATE OF SOUTH DAKOTA,

ss.

Office of the Secretary of State

Speaker of the House

Attest:

Filed _____, 2021 at _____ o'clock ___ M.

Chief Clerk

Secretary of State

Senate Bill No. 193
File No. _____
Chapter No. _____

By _____
Asst. Secretary of State