

## Kentucky Remote Notarization of Tangible Documents Guide

*Last Updated: March 30, 2020*

- A Kentucky notary may remotely notarize tangible documents using approved “communication technology” by following the steps below.
  - A tangible document is not a defined term under the statutes, but for purposes of this guide, means any document that is printed out and you can hold in your hand.
  - Note: The Kentucky notary ***must be physically present in Kentucky*** when he or she performs the remote notarization pursuant to KRS 423.455(2).
- Notification to Secretary of State’s Office by Notary
  - Pursuant to KRS 423.455(6), the notary must first notify the Secretary of State’s office (“SOS Office”) by emailing Johnna Ballinger at [Johnna.ballinger@ky.gov](mailto:Johnna.ballinger@ky.gov) that he or she will be performing notarial acts via communications technology and specify that technology.
  - The notice should simply state “Johnna, I am a registered Kentucky notary (Commission ID#\_\_\_\_\_) and I intend to perform notarial acts via (name of communication technology).” Once the notary sends that email, no further confirmation from the SOS Office is needed and the notary is authorized to perform remote notarial acts of tangible documents. The SOS Office is preparing a confirmation message that will, among other things, reiterate that the technology must be capable of recording the performance of the notarial act and will make a note in the notary’s profile, but there is nothing more required from the notary other than the notification email.
  - Pursuant to KRS 423.455(2)(c), the technology must be able to ***record*** the notarial act, which cannot be done using some technology (such as FaceTime).
    1. Zoom is an easy-to-use video conferencing tool that allows for recording. You can sign up for a free account and download the software here: <https://zoom.us/>.
- The Notarial Certificate
  - In order for notarial certificates on a tangible document to be notarized remotely, the notarial certificates must contain the following pursuant to KRS 423.360(1) and KRS 423.455(4)(b):
    1. Be signed and dated by the notarial officer and, if the notarial officer is a notary public, be signed in the same manner as on file with the Secretary of State;
    2. Identify the jurisdiction in which the notarial act is performed;
    3. Contain the title of office and name of the notarial officer;
    4. If the notarial officer is a notary public, indicate the commission number and date of expiration, if there is an expiration date, of the officer’s commission; and

5. A statement that the notarial act involved the use of communication technology.

- Examples of proper short form notarial certificates are as follows:

1. For an acknowledgment by an individual acting in his or her own right:

State of \_\_\_\_\_

County of \_\_\_\_\_

The foregoing instrument was acknowledged before me by this (date) by (name of person acknowledged). This notarial act involved the use of communication technology.

(Signature of notary)

Notary Public

(Notary ID #)

My commission expires on: \_\_\_\_\_.

2. For an acknowledgment in a representative capacity:

State of \_\_\_\_\_

County of \_\_\_\_\_

The foregoing instrument was acknowledged before me this (date) by (name of officer or agent, title of officer or agent) of (name of corporation acknowledging) a (state or place of incorporation) corporation, on behalf of the corporation. This notarial act involved the use of communication technology.

(Signature of notary)

Notary Public

(Notary ID # and expiration date)

My commission expires on: \_\_\_\_\_.

3. For a verification on oath or affirmation:

State of \_\_\_\_\_

County of \_\_\_\_\_

The foregoing instrument was signed and sworn to (or affirmed) before me on (date) by (name of person making statement). This notarial act involved the use of communication technology.

(Signature of notary)

Notary Public

(Notary ID #)

My commission expires on: \_\_\_\_\_.

4. For witnessing or attesting a signature:

State of \_\_\_\_\_

County of \_\_\_\_\_

The foregoing instrument was signed [or attested] before me on (date) by (name of person). This notarial act involved the use of communication technology.

(Signature of notary)

Notary Public

(Notary ID #)

My commission expires on: \_\_\_\_\_.

5. For certifying a copy of a record:

State of \_\_\_\_\_

County of \_\_\_\_\_

I certify that this is a true and correct copy of a record in the possession of \_\_\_\_\_ . This notarial act involved the use of communication technology.

(Signature of notary)

Notary Public

(Notary ID #)

My commission expires on: \_\_\_\_\_.

• Remote Notarization Process

- To perform a remote notarization of a tangible document to be signed by an individual in the United States, follow the below steps:
  1. Connect with the signatory (and an identity witness, if necessary) via the communication technology (e.g., Zoom).
  2. Begin recording the notarization process through the communication technology as required by KRS 423.455(2)(c).
  3. Pursuant to KRS 423.455(2)(a), the notary must confirm the signatory's identity by one of the two following methods:
    - 1) Having personal knowledge of the identity of the individual, which the notary should recite on the video record (e.g. "I have personal knowledge that the individual before me is (name)"); or
    - 2) Having satisfactory evidence of the identity of the remotely located individual by oath or affirmation from a credible witness appearing before the notary who is known to the notary or whom the notary can identify on the basis of a current passport, driver's license, or government-issued identification card (e.g., having a witness appear in person before the notary or join the video conference and stating

“I (name) hereby swear and affirm that the individual appearing before me and (notary name) is (name)”).

- Note: KRS 423.455(2)(a)(3) permits for identity proofing via other processes, but those processes require the use of identity proofing technology not available through regular video conferencing software.
- 4. Pursuant to KRS 423.455(2)(b), the notary must confirm that the document or record before the notary public is the same record before the remotely located signatory. This requires capturing the entire document on the video recording so the notary can see all the pages.
- 5. The signatory should then sign the document or record in a manner visible to the notary.
- 6. The notary then completes the notarial certificate in a manner visible on the recording.
- 7. The recording is now complete and can be stopped.
- 8. The signatory can then email an electronic copy of the executed document to the notary, who can combine it with the original copy of the completed notarial certificate, and the notarized document is now complete.
- 9. If the document needs to be recorded, the signatory should mail the original to the notary, who will combine it with the original of the notarial certificate. The document is then ready to be recorded.
- 10. The notary must maintain a copy of recording of the notarial act for 10 years per KRS 423.455(2)(c) and (5).
- Note: The SOS Office advises that an acknowledgment could be taken simply by mailing the signed document to the notary and having the notary take the acknowledgment via teleconference, then signing the notary certificate.