

423.455 Notarial act for remotely located individual facilitated by communication technology -- Certificate -- Retention of audio-visual recording -- Notification of Secretary of State -- Administrative regulations -- Service of process.

- (1) A remotely located individual may comply with KRS 423.320 by appearing before a notary public by means of communication technology.
- (2) A notary public located in this state may perform a notarial act facilitated by communication technology for a remotely located individual if:
 - (a) The notary public:
 1. Has personal knowledge pursuant to KRS 423.325(1) of the identity of the individual;
 2. 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 KRS 423.325(2); or
 3. Reasonably can identify the individual by at least two (2) different types of identity-proofing processes or services;
 - (b) The notary public is able reasonably to identify a record before the notary public as the same record in which the remotely located individual made a statement or on which the remotely located individual executed a signature;
 - (c) 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
 - (d) For a remotely located individual who is located outside the United States:
 1. The record:
 - a. Is to be filed with or relates to a matter before a court, governmental entity, public official, or other entity subject to the jurisdiction of the United States; or
 - b. Involves property located in the territorial jurisdiction of the United States or a transaction substantially connected with the United States; and
 2. 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.
- (3) If a notarial act is performed pursuant to this section, the certificate of notarial act required by KRS 423.360 and the short-form certificate provided in KRS 423.365 shall indicate that the notarial act was performed by means of communication technology.
- (4) A short-form certificate provided in KRS 423.365 for a notarial act subject to this section is sufficient if it:
 - (a) Complies with administrative regulations promulgated pursuant to subsection (7)(a) of this section; or
 - (b) Is in the form provided by KRS 423.365 and contains a statement substantially as follows: "This notarial act involved the use of communication technology."
- (5) A notary public, a guardian, a 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 (2)(c) of this section 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 administrative regulations promulgated under subsection (7)(d) of this section, the recording shall be retained for no less than ten (10) years after the recording is made.

- (6) 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 facilitated by communication technology and identify the technology. If the Secretary of State has established standards for approval of communication technology or identity proofing under subsection (7) of this section, the communication technology and identity proofing shall conform to those standards.
- (7) In addition to promulgating administrative regulations under KRS 423.415, the Secretary of State may promulgate administrative regulations regarding performance of a notarial act. The administrative regulations may:
 - (a) Prescribe the means of performing a notarial act involving a remotely located individual using communication technology;
 - (b) Establish standards for communication technology and identity proofing;
 - (c) Establish requirements or procedures to approve providers of communication technology and the process of identity proofing; and
 - (d) Establish standards and a period of the retention of an audio-visual recording created under subsection (2)(c) of this section.
- (8) Before promulgating administrative regulations governing performance of a notarial act with respect to a remotely located individual, the Secretary of State shall consider:
 - (a) The most recent standards regarding the performance of a notarial act with respect to a remotely located individual promulgated by national standard-setting organizations and the National Association of Secretaries of State;
 - (b) Standards, practices, and customs of other jurisdictions that have laws substantially similar to this section; and
 - (c) The views of governmental officials and entities and other interested persons.
- (9) By allowing its communication technology or identity proofing technology to facilitate a notarial act for a remotely located individual or by providing storage of the audio-visual recording created under subsection (2)(c) of this section, the provider of the technology appoints the Secretary of State as the provider's agent for service of process in any civil action in this state related to the notarial act.

Effective: January 1, 2020

History: Created 2019 Ky. Acts ch. 86, sec. 32, effective January 1, 2020.

Legislative Research Commission Note (1/1/2020). Although 2019 Ky. Acts ch. 86, sec. 32, contained a citation to "Section 27 of this Act" (codified as KRS 423.430) in subsection (6) of this statute, it is clear from the context that a reference to subsection (7) of this statute was intended. Similarly, a citation to "Section 27 of this Act" in

subsection (7) of this statute was clearly intended to refer to Section 24 (codified as KRS 423.415). These manifest clerical or typographical errors were corrected in codification under the authority of KRS 7.136.