

MICHIGAN LAW ON NOTARIAL ACTS (EXCERPT)
Act 238 of 2003

55.286c Use of 2-way real-time audiovisual technology; requirements; signing in counterparts; applicability of section; presumed compliance.

Sec. 26c. (1) Notwithstanding any other provision of this act, a notary public may utilize a 2-way real-time audiovisual technology to perform notarial acts electronically if all of the following requirements are met:

(a) The 2-way real-time audiovisual technology allows direct interaction between the individual seeking the notary's services, any witnesses, and the notary, so that each can communicate simultaneously by sight and sound through an electronic device or process at the time of the notarization.

(b) The 2-way real-time audiovisual technology is capable of creating an audio and visual recording of the complete notarial act and the recording is made and retained as a notarial record in accordance with section 26b(7) to (9).

(c) The individual seeking the notary's services and any required witnesses, if not personally known to the notary, presents satisfactory evidence of identity to the notary during the video conference, and does not merely transmit it before or after the transaction, to satisfy the requirements of this act and any other applicable law.

(d) Subject to subdivision (e), the individual seeking the notary's services affirmatively represents that the individual is physically situated in this state or is physically located outside the geographic boundaries of this state and that 1 of the following applies:

(i) The record is intended for filing with or relates to a matter before a court, governmental entity, public official, or other entity subject to the jurisdiction of this state.

(ii) The record involves property located in the territorial jurisdiction of this state or a transaction substantially connected to this state.

(e) If an individual is physically located outside of the geographic boundaries of this state, the notary has no actual knowledge that the individual's act of making the statement or signing the record is prohibited by the laws of the jurisdiction in which the individual is physically located.

(f) The individual seeking the notary's services, any required witnesses, and the notary are able to affix their signatures to the record in a manner that renders any subsequent change or modification of the remote online notarial act to be tamper evident.

(g) The individual seeking the notary's services or the individual's designee transmits by facsimile, mail, or electronic means a legible copy of the entire signed record directly to the notary on the same date it was signed. This requirement applies regardless of the manner in which the record is signed.

(h) Once the notary has received a legible copy of the record with all necessary signatures, the notary notarizes the record in accordance with section 27 and transmits the notarized record back to the individual seeking the notary's services.

(2) The official date and time of the notarization performed under this section is the date and time when the notary witnesses the signature via 2-way real-time audiovisual technology as required under this section.

(3) Notwithstanding any other law or regulation of this state, beginning April 30, 2020, and before July 1, 2021, absent an express prohibition in a record against signing the record in counterparts, a record signed under this act may be signed in counterparts.

(4) This section applies to a notarial act described in subsection (1) performed on or after April 30, 2020 and before July 1, 2021.

(5) If a record is notarized electronically under this section, all of the following apply:

(a) The record does not need to be notarized under any other provision of this act.

(b) The rights or interests of a person that relies in good faith and without actual notice that the record was executed on or after April 30, 2020 and before July 1, 2021 but was not executed or notarized in accordance with this section are not impaired, challenged, or terminated on that basis alone.

(c) Compliance with this section is presumed. A person challenging a record notarized under this section may overcome the presumption by establishing, by clear and convincing evidence, that the notary or the individual seeking the notary public's services intentionally failed to comply with a requirement described in this section.

History: Add. 2020, Act 249, Imd. Eff. Nov. 5, 2020;—Am. 2020, Act 336, Imd. Eff. Dec. 29, 2020.