

percentage of the total receipts for alcoholic beverages as a requirement of any contract with the third party. The retailer and the third party shall comply with the requirements of R.S. 51:411, R.S. 51:1402, and R.S. 51:1405.

K. - N. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:307 and R.S. 26:308.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 40:83 (January 2021), amended LR 48:73 (January 2022).

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RULE

Department of State Office of the Secretary of State

Remote Online Notarization (LAC 46:XLVI.144)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.), and under the authority granted in R.S. 35:624, the Office of the Louisiana Secretary of State has adopted rules regarding the practice of remote notarization for commissioned notaries public in the state of Louisiana. This Rule is hereby adopted on the day of promulgation.

Title 46

PROFESSIONS AND OCCUPATIONAL STANDARDS

Part XLVI. Notaries Public

Chapter 1. Notaries Public

§144. Authority to Perform Remote Online Notarization

A. A notary public who has been duly appointed and commissioned as provided for under R.S. 35:191, who currently holds a valid commission as provided by R.S. 35:191(A)(3), and whose authority to exercise the functions of a notary public is not suspended may be authorized by the secretary of state to perform remote online notarization upon satisfaction of the following requirements:

1. submitting an application using the form provided by the secretary of state for authorization to perform remote online notarization during the term of that notary public's commission;

2. successfully completing an education program provided by the secretary of state covering the statutes and rules governing the remote online notarization;

3. paying a one-time fee of \$100 to the secretary of state upon filing the application for authorization to perform remote online notarization.

B. A notary public authorized to perform remote online notarization may do so for as long as:

1. the notary maintains a valid notarial commission as provided by R.S. 35:191(A)(3);

2. the authority of the notary to perform notarial functions is not suspended; and

3. the authority of the notary to perform remote online notarization has not suspended or revoked.

C. Identity proofing shall be performed through either of the following:

1. dynamic knowledge-based authentication that is performed through the administration of a quiz completed by the party or witness whose identity is being verified that satisfies the following requirements:

a. the quiz shall consist of five questions related to the personal history or identity of the party or witness, formulated from public or proprietary data sources;

b. each question shall contain a minimum of five possible answer choices;

c. all questions must be answered within two minutes; and

d. following a failed attempt by a party or witness, the quiz may be administered no more than once within a 24-hour period. The second administration may consist of no more than 40 percent of the questions presented during the first administration;

2. analysis of biometric data, including facial recognition, voiceprint analysis, or fingerprint analysis.

D. Credential analysis shall ensure that the credential is unexpired, government-issued identification credential that contains the photograph and signature of the party or witness whose identity is being verified by a process that does both of the following:

1. uses automated software processes to aid the notary public in verifying the identity of a party or any witness; and

2. ensures the credential passes an authenticity test consistent with sound commercial practices that meet the following requirements:

a. confirms the integrity of visual, physical, or cryptographic security features;

b. confirms that the credential is not fraudulent or modified in a manner not authorized by the issuing authority;

c. confirms the validity of personal information set forth on the credential when the issuing authority provides access to the information;

d. provides output of the authenticity test to the notary public.

e. enables the notary public to visually compare the information and photo presented on the credential itself and the party or witness as viewed by the notary public through substantially simultaneous audio-visual transmission; and

f. enables the notary public to determine that the party or witness is in possession of the credential at the time of their remote online notarization.

E. Communication technology systems used to perform remote online notarization to do each of the following:

1. provide sufficient video resolution and audio clarity to enable the notary public, the party, and any witness to engage in substantially simultaneous communication by sight and sound;

2. provide sufficient captured-image resolution for credential analysis to be performed in accordance with Paragraph D.2 of this Section;

3. include a communication encryption protocol and means of authentication that reasonably ensures that only the parties, participating witnesses, and notary public have access to the audio-video communication;

4. ensure that the electronic record that is presented for remote online notarization is the same record electronically signed by the party;

5. create and store or transmit securely to be stored an electronic recording of the audio-video communication, keeping confidential the questions asked as part of any identity-proofing process and the means and methods used to generate the credential analysis output; and

6. prevent unauthorized access to all of the following:

a. the live transmission of the audio-video communication;

b. any recording of the audio-video communication being stored or being transmitted by the communication technology;

c. the verification methods and credentials used to verify the indemnity of the party; and

d. the instrument presented for electronic notarization.

7. provide for the notary public to maintain in the notary's records a copy of the remote online notarial act;

8. provide the notary public a method of generating a paper copy of the remote notarial act;

9. provide the notary public a detailed audit record of the remote online notarization;

10. provide a means by which the notary public is able to add a statement to any document being notarized that the act is a remote notarial act;

11. provide a mean by which the notary public is able to attach the notary public's electronic signature and insert the notary public's identifying information into the remote online notarial act;

12. provide a means by which each party and each witness can attach such person's electronic signature; and

13. provide a means by which the notary public can digitally sign the remote online notarial act in a manner that renders any subsequent change or modification of the remote online notarial act to be evident.

F. The Secretary of State shall maintain a registry of identity-proofing, credential-analysis, and communication providers who have certified by affidavit that their technologies meet the minimum requirements set forth in Subsections C and D of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 35:624 and R.S. 49:222.

HISTORICAL NOTE: Promulgated by the Department of State, Commercial Division, LR 48:74 (January 2022).

R. Kyle Ardoin
Secretary of State

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