



# DON'T TAX YOURSELF

A Publication of Bowditch & Dewey's Estate, Financial & Tax Planning Group

## Proposed Emergency Notary Bill to Allow for Virtual Notarization

BY BOWDITCH & DEWEY • MARCH 27, 2020

Under current Massachusetts law, in order for a notary to notarize a document, the person must personally appear and sign a document before the notary. As of noon on March 24<sup>th</sup>, Governor Baker ordered all non-essential businesses and organizations to close in person operations. Among the many businesses that closed their doors, law firms have moved to working remotely and closed their offices. However, clients are still required by law to sign many documents physically in front of a notary.

Many of our clients are at high risk and cannot or should not be exposed to witnesses and a notary. However, without essential estate planning documents, such as health care proxies to authorize a person to make medical decisions for them and durable powers of attorney to authorize a person to make financial decisions for them, our clients will have no one to act on their behalf during incapacity. In addition, if these high-risk clients die during this pandemic, they will not be able to sign their last will and testament or trust documents to direct the disposition of their assets and appoint their choice for who will administer the estate and trust.

Some clients are unable to sign deeds or other documents necessary for closings and financing. Many registry of deeds are still accepting online filings, but if clients cannot sign the documents in front of a notary, the transaction cannot occur and there is nothing to file.

This alert is to let you know that there is an emergency bill pending that would allow for attorneys, or a paralegal under the direction of an attorney, to virtually notarize documents for clients, who are either personally known to them or who can provide a valid photographic identification. The proposed virtual notarization may be performed using technology, such as FaceTime calls or other video conferencing. The emergency notary act will allow for the documents to be signed in counterparts, at different locations, then later assembled for a valid complete document. The virtual notary bill as proposed, would apply only during this time of a declared emergency.

Senator Tarr will present the emergency bill, with support from Senator Keenan, and we expect the Senate to vote on it, possibly today or sometime next week. We want to continue to assist you, our clients, during this time, so please

show your support for this emergency notary bill. Please take these actions, and please note that the emergency bill has not been assigned a number and should be referenced as the “Notary Bill”:

- If you have ties to the Governor, Senate President, or Speaker of the House, please take a moment to let them know why this bill needs urgent passage. Relevant and revealing stories may help to provide context to this urgent need.
- Follow up with [your legislators](#) (Senate and House) to emphasize the urgency of this need. Again, stories help.