

April 20, 2016
TESTIMONY RELATING TO H 206
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Madam Chair and honorable committee members:

I am Kal Tabbara, President of the American Association of Notaries. Thank you for allowing us this time.

H 206 is a well-written bill based on the Revised Uniform Laws on Notarial Acts (RULONA) that clearly defines Vermont's notary laws and we support its passage with only one exception--we strongly recommend removing Section §5275 of the bill for the following reasons:

- Section §5275 will force Vermont to accept interstate notarial acts performed by a Virginia notary (while located in Virginia) for a Vermont resident (located in Vermont) through the use of audio/video technology, a practice that does not require the physical presence of the signer and is neither included in the 2010 version of RULONA nor similar to Vermont's notary law.
- Vermont's legislature is not enacting remote notarization laws for Vermont notaries-- however, by including Section §5275 in H 206, it is the same as if Vermont adopted remote notarization laws, but only if performed by Virginia notaries (located in Virginia) for Vermont residents (located in Vermont). Obviously, this will unfairly impact the opportunities for Vermont's notaries to serve Vermont's citizens.
- The model law in RULONA is a guide on which to base new notary laws, and when RULONA was finalized in 2010, all U.S. states had similar laws. It was not anticipated that in 2012, Virginia would enact laws allowing its notaries to conduct interstate notarial acts via audio/video technology. Now that it is several years later, some of RULONA's language (like that in Section §5275) may not apply as a guide for law drafters. Notably, only six states have adopted language from the Uniform Law on Notarial Acts since its inception.

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- States have historically accepted paper and electronic notarial acts from other states. However, remote notarization is controversial and not accepted in 48 states because the signer is not required to personally appear at the time of the notarization. Many experts and stakeholders are concerned that a notary is unable to determine if the signer is under duress or being coerced.

Experts on notarial laws have also stated (and I agree) that some remote notary platforms aren't using proper methods to identify signers and have developed unauthorized methods for notaries to use.

- If H 206 is passed as written, it will be difficult for Vermont to reverse this law or to prevent Virginia notaries from performing interstate notarizations via audio/video technology for Vermont residents.
- By removing Section §5275 from H 206, Vermont will have a choice, if needed, to accept or reject remote notarial acts. However, including Section §5275, will make it impossible to reject remote notarial acts performed by Virginia notaries.
- Virginia notaries are not prohibited from performing video notarizations for non-US citizens located in foreign countries. Therefore, any remote notarial acts performed in this manner that affect Vermont's citizens and property will be legalized without question under Section §5275.
- Recently, the Georgia legislature decided not to pass a similar bill because of the same language we are expressing concerns about today.
- Stakeholders in the mortgage industry and bankers' associations have reservations about remote notarial acts, particularly when they are interstate notarial acts. Please see the handouts I have provided relating to FreddieMac's limitations on remote notarization of mortgage documents and the statement from the Maryland Bankers' Association that explained their concerns.
- Another reason that Section §5275 should be eliminated from the bill is because the same language failed in a congressional bill when **President Obama vetoed** the Interstate Recognition of Notarizations Act in 2010. The bill was heavily supported in 2010 by proponents of the enactment of remote notarization laws. **The President said that this language could cause damaging consequences to consumers and homeowners.** Those are the same concerns I have today.

- We do not oppose any type of notarization performed within the boundaries of a notary's state, but we believe that individual states should have a choice to reject audio/video interstate notarial acts performed for its residents by a notary in another state.

In closing:

The AAN is a proponent of the personal appearance requirement whether a notarization is performed electronically or on paper.

We feel that removing Section §5275 is critical because of the reasons mentioned above and most importantly, it will unfairly reduce the need for Vermont notaries.

We ask that you take into consideration our concerns and amend the bill by deleting Section §5275 of the bill accordingly before you vote.

Please contact the American Association of Notaries if you need more information.

I welcome your questions.

Thank you for your time.

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