



OHIO CREDIT
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May 13, 2019

Notary Commission Clerk
Ohio Secretary of State
P.O. Box 1658
Columbus, OH 43216-1658

Re: Notary Public Comments

To Whom It May Concern:

The Ohio Credit Union League (OCUL) welcomes the opportunity to submit comments regarding remote notarization, enacted in Ohio Senate Bill 263. We remain excited about the future of online remote notarization. We applaud the state's efforts to promote a business environment that operates in the best interest of both consumers and small-businesses, like credit unions.

In Ohio, there are approximately 264 credit unions who serve more than three million members by offering financial products and services, such as mortgages, home equity lines of credit, and auto loans. Credit unions philosophical mission is to serve their members, which includes seeking out opportunities to provide modern, efficient services like the ability to offer remote notarization.

Draft Rules for Remote Notarization

We are supportive of the draft administrative rules implementing the Ohio Notary Modernization Act. Specifically, we are in alignment with the following:

- Proposed online notary public application;
- Electronic notarial acts;
- Physical presence requirement; and
- Technology requirements for online notarial acts.

We would encourage the Ohio Secretary of State to consider exploring and explicitly addressing when an online notary public is authorized to refuse a remote notarization. As an example, the Texas Administrative Code §87.43 address this topic and can be used as a foundation. We believe there is value in clarifying this item.

Jurisdictional Issues

Under Section 147.51, Ohio recognizes and accepts notarial acts performed in other jurisdictions. In contrast, Section 147.63 requires online public notaries to be residents of Ohio and physically present in the state when performing online, remote notarial acts. One question we have been considering involves the jurisdiction of other states and the interplay between the two provisions.

Historically, under traditional home rule provisions for in-person notaries, if a consumer traveled to Florida, the consumer could notarize an Ohio document under Florida notary laws, as the consumer was physically present in Florida. Thus, the state exercised jurisdiction based on the geographic presence. The Ohio document notarized under Florida law then would be presumed to be recognized under Ohio law and properly executed pursuant to Section 147.51.



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However, in contrast, if the consumer has an Ohio document and seeks to notarize the document remotely under Florida law, by a Florida notary, would that document still be recognized under Section 147.51? Here, the consumer has never traveled to Florida to establish personal jurisdiction, and the notary has not met the requirements of Section 147.63.

Section 147.61 explicitly states that if a provision of the online remote notarization law is in conflict with another provision of the chapter, Sections 147.60-.66 will supersede the provision. We believe it is necessary to provide clarity as to when, if at all, remote notarizations performed in other states will be accepted pursuant to Section 147.51, especially when the notary would not qualify as an Ohio notary under Section 147.61.

Conclusion

Outside of the rules process, we would like to draw your attention to Sub. House Bill 166, which includes an amendment to Chapter 147, specifically revising 147.591. We are supportive of the amendment which requires the county auditor, engineer, and recorder to accept a printed document that was executed electronically if the document contains an authenticator certificate. We encourage the Secretary of State to continue to study efficiencies and issues related to remote notarization and make adjustments, like the aforementioned one, as necessary.

To summarize our view, we are supportive of the draft rules for remote notarization and remain excited about the utility of online notarization.

If you have further questions or would like to discuss OCUL's comments in more detail, please feel free to contact us at 800-486-2917.

Respectfully,

Handwritten signature of Paul L. Mercer in black ink.

Paul L. Mercer
President

Handwritten signature of Miriah Lee in black ink.

Miriah Lee
Regulatory Counsel



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