



Notarize

Representative Louis W. Blessing III
Chair, Ohio House Government Accountability and Oversight Committee
77 South High Street
Columbus, Ohio 43215

Re: SB 263 (Notary Public Modernization Act: Updating Ohio's means for commissioning and supervising notaries public, and adding new provisions authorizing modern methods to perform notarial acts using electronic means, including appearance by means of secure audio-video communication)

Dear Chairman Blessing:

On behalf of Notarize, Inc., I am writing in support of SB 263 relating to Notaries Public.

In addition to improving Ohio's means for commissioning and supervising notaries public, SB 263 will empower Ohio notaries to serve a national audience of consumers and businesses and put Ohio on par with other states that have moved to strengthen the notarial process using technology. SB 263 represents a comprehensive update to its notarial law and provides a solid foundation for notaries to perform their critical function well into the future. The bill will further build on that foundation by equipping duly commissioned Ohio notaries with the tools to conduct safe, secure and verifiable notarizations while integrating seamlessly into the modern digital economy.

Notarized documents serve an important and enduring part of the American economy. Over 1 billion documents are notarized each year in the United States. However, despite its continued importance, the notary industry has until recently remained remarkably antiquated and has not kept pace with the needs of today's tech-enabled economy. But this is already changing. We now know that modern technology-enabled tools can dramatically improve every aspect of the notarial process. These tools can make agents far more accessible, eliminate physical safety concerns, significantly enhance identity verification, and replace archaic paper journal record keeping with vastly improved electronic records.

These changes are already happening today. Notaries are using technology-enabled heightened identity validation, secure audio-video communication, and modern electronic record-keeping

systems. Businesses, consumers and government agencies across mortgage, construction, insurance, financial services, education, health care and many other industries are now using notaries in a manner which integrates seamlessly into their digital processes in a safe, secure and verifiable manner. Just by way of example, Notarize now works with borrowers, lenders and title companies across the country to conduct fully digital, online real property and mortgage transaction closings.

Numerous states are considering legislation to update their notarial laws to equip their notaries with these modern tools and processes. Texas, Nevada and Indiana recently enacted such laws, joining Virginia and Montana which have had such laws in place for five and two years, respectively. Many other states are considering such legislation this session.

SB 263 draws upon the principles embodied in prior legislation and the lessons learned from the many thousands of transactions to date. It incorporates shared input from key stakeholders in the land title, banking, mortgage banking, realtor and legal communities. It also builds upon the model adopted by the Uniform Law Commission authorizing online notarization for signers outside the US. It includes key protections advocated by major stakeholders:

- (a) It provides for heightened identity validation using multi-factor authentication;
- (b) It provides for Department of State oversight and the power to adopt flexible rules;
- (c) It anchors the notarial act squarely in Ohio whose laws clearly govern the notarial act;
- (d) It provides for transparency that the notarial act was performed using audio-video communication tools; and
- (e) It provides clear requirements for record-keeping and cybersecurity and requires the notarized document to be “tamper sealed” to ensure its integrity.

SB 263 will bring Ohio notaries into the modern era by authorizing them to optionally perform notarial acts by traditional means or by use of a secure, recorded two-way live audio-video call. It will enable Ohio notaries to expand their business, improve their incomes, and stay directly relevant to modern digital commerce.

SB 263 will provide Ohio notaries, signers, and businesses with a host of significant benefits, including:

Heightened Identity Validation, Fraud Deterrence and Verification

Verifying the identity of a signer and the authenticity of a notarization is one of the central duties of a notary. Yet notaries have limited tools to verify a signer’s identity in person and archaic paper

journal recordkeeping jeopardizes the ability of relying parties to verify a transaction after-the-fact. SB 263 puts in place much higher requirements for identity verification, security, and recordkeeping for online electronic notarization than exists for paper notarizations. This will dramatically improve fraud prevention and detection for consumers, businesses, and the notaries themselves because of the enhanced identification procedures, full digital transaction record, and the high-resolution audio-video recording of each online signing session. In addition, digital tools and error detection help ensure notarizations are completed properly, significantly reducing added delays and costs for all parties.

Consumer Empowerment

The legislation would give signers a much more convenient option for conducting notarizations on their own terms, saving them time and money. For many individuals who have difficulty physically attending a closing because they are physically disabled, in a rural or remote location or abroad, because they lack quality transportation options, or simply because they are working Americans who find it difficult to leave work during regular business hours to notarize a document, online notarization gives them a new convenient option to complete their notarization. For all signers, online notarization can provide a much richer experience, including better educational tools and less intimidation for those who have difficulty advocating for themselves in a signing. For example, a signer who speaks English as a second language can be easily routed to a notary who speaks their language.

Safety and Efficiency

Online notarization is not just better for signers, it's better for notaries and businesses. According to the National Notary Association, more than 70% of notaries are women. In addition, a recent study by the National Notary Association found that more than 25% of notaries report feeling threatened or at risk during a notarization and 26% have been in a hostile or dangerous situation during a notarization. Online notarization eliminates this risk of coercing the notary during a signing by allowing them to connect with signers from the safety of their home or business to notarize signatures. Additionally, because every notarization is recorded, notaries are held to the highest professional standards and are deterred from offering services or legal guidance beyond their charge. The cost of completing a notarization will be significantly reduced for notaries and businesses who rely upon them by reducing reliance on paper, reducing errors, and improving the free flow of interstate commerce.

The legislation relies on tested and verifiable practices and technology, already in use in other states, and will enable Ohio notaries to support digital commerce. Similar legislation has been in place since 2012 with significant adoption and use, by businesses, consumers and government actors, in the last two years.

Many of the leading legal and notarial authorities in the country have adopted online notarization as a model framework for conducting notarizations. Highlights of recent developments include:

- In 2018, the National Association of Secretaries of State adopted Standards for safe and secure remote notarization.
- In late 2017, the Mortgage Bankers Association and American Land Title Association adopted a Model Law for safe and secure remote notarization.
- In January 2017, the National Notary Association, the largest notary association in the country, adopted model legislation for the states on electronic notarization, including remote notarization.
- In December 2016, the Council of State Governments adopted the Virginia Remote Notarization law as part of their Shared State Legislation Committee to serve as model legislation for states.
- In July 2016, the Uniform Law Commission has adopted remote notarization, for US citizens, military members and others traveling abroad, as a model law; and it is has now drafted a uniform law for remote notarization for domestic signers.
- Fannie Mae and Freddie Mac have publicly stated their support for online notarizations conducted on an interstate basis for real property related documents, and are actively supporting pilot programs in an expanding list of states across the country.
- In November 2015, the Property Records Industry Association, the standards setting body and trade association for county clerks and land recorders, clarified that modern forms of e-notarization such as online notarization are equally valid and recognized for recording purposes.

SB 263 is now seen as a model law and regulatory scheme and is already placing Ohio at the forefront of policy leadership in modernizing notarization. With the passage of SB 263, Ohio will be able to create a lasting impact on the Ohio economy and a significant benefit for consumers, businesses, and notaries who rely on notarizations. We urge the Committee to approve the current version of SB 263 and to make these benefits a reality.

Sincerely,

A handwritten signature in black ink, appearing to read 'Michael Chodos', with a stylized flourish at the end.

Michael Chodos
General Counsel and SVP
Notarize, Inc.

Cc: Committee Members