



Chairman Lang, Vice Chair Wilkin, Ranking Member Sykes, and members of the Small Business & Economic Opportunity Committee, thank you for the opportunity to give proponent testimony on Senate Bill 130, legislation that would provide clarity for Ohio notaries public and make minor corrections to language in the Limited Liability Company Act.

An important responsibility of the Secretary of State's office is to appoint and commission notaries. Senate Bill (S.B.) 263 took effect on September 20, 2019, and modernized Ohio notary law in several important ways. The legislation permitted electronic and remote online notarizations to make the process of obtaining a notarization more convenient, provided uniformity in education, testing, and background checks, and centralized the commissioning process to our office. These changes have significantly improved the notary process in Ohio. However, as with any significant change, we continue to monitor issues, receive feedback, and recommend improvements. The result of those efforts is S.B. 130.

S.B. 130 is important legislation that will ensure Ohio's continued leadership in the notary space. It would improve and clarify the discipline process for notaries; require identification of a signer/principal; provide further clarity on the roles and responsibilities of a notary public; and repeal language that could result in fraudulent notarial acts.

First, this bill will permit our office to revoke a notary commission upon judgment of a court. This language is necessary as Ohio Revised Code Chapter 119 states we must hold an administrative hearing to revoke a commission unless the law permits us to revoke the commission upon judgment of a court. Further, some sections require our office to revoke a commission based on the notary public's violation, and we cannot consider the unique facts of the case. We propose removing this language so our office can propose discipline based on the facts of the case. As stated in Revised Code section 147.032, this discipline could involve revocation, suspension, or a letter of admonition.

Next, as we review complaints, we are often limited in our response because the law does not expressly address all roles and responsibilities of a notary public. S.B. 130, in addition to making other important clarifications, would close a major loophole in the

current system by expressly requiring the identification of the signer. The process of identifying the principal is a fundamental role of the notary public, but the current law only requires them to identify a signer when performing an acknowledgment. This means that a notary public could execute a jurat for someone who is fraudulently signing a document under another person's name. If a notary fails to identify a signer when executing a jurat, we are currently unable to offer discipline.

Finally, another important change to notary law in S.B. 130 is the repeal of language set to take effect on December 29, 2023. Senate Bill (S.B.) 131 of the 134th General Assembly reformed the process for obtaining occupational licenses for individuals who have a license in another state. However, it unfortunately included notary commissions among the licenses that receive reciprocity. Except for notaries, S.B. 131 applies to occupations and professions governed by Title 47 of the Ohio Revised Code. These include accountants, attorneys, real estate brokers, athlete agents, and private investigators. Title 47 does not include notaries public or other similar appointments such as special police officers or judges.

A notary commission is not an occupational license. While a notary public may notarize signatures within the scope of their employment, such as with a bank teller or a car dealer, this is not their occupation. Instead, they are commissioned by the Ohio Secretary of State and acting as an officer of the state while performing this function. We believe that eliminating the requirement for education specific to Ohio law will result in a significant number of notary law violations. For example, the law will require our office to authorize a non-resident to perform notarial acts, and we will be unable to verify the notary public was in Ohio when performing the act, as required by law. This could result in fraud and harm to Ohioans who have signed legal documents.

In addition to the improvements to Ohio notary law, S.B. 130 would address two minor issues our office identified during the implementation of Senate Bill (S.B.) 276 of the 133rd General Assembly. That act permitted the formation of series LLCs and gave owners and operators greater flexibility in creating a management structure that works for them. All business filing forms processed by our office are referenced in O.R.C. Section 111.16, the fee statute. S.B. 276 created new LLC filing forms but did not include these forms in the fee statute. The language in S.B. 130 corrects this error by referencing all new LLC filing forms in the fee statute. Similarly, S.B. 276 addressed the requirements for filing a certificate of merger form but the language failed to state the name and address of the person or entity who could provide a copy of the agreement of merger

was required. S. B. 130 corrects this error by including the information as a requirement to be consistent with all other code sections addressing the requirements of a certificate of merger form.

In summary, S.B. 130 will continue to improve Ohio notary law, provide clarity for notaries public, protect Ohioans when signing important documents, and correct minor issues in the LLC Act. We strongly support the passage of this legislation and commend Senator Wilson for his leadership on this issue.



Allison A. DeSantis
Director of Business Services and Deputy Assistant Secretary of State
Ohio Secretary of State's Office