



OHIO SOCIETY OF NOTARIES

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SUPPORT STATEMENT OF SB 263 – The Ohio Notary Modernization Act

The Ohio Society of Notaries is the not-for-profit, professional association for Ohio notaries, and a primary resource for notary information in our state since 2009. Our mission includes providing awareness, training, and advocacy for Ohio's nearly **180,000** notaries.

Ohio has one of the most antiquated and weakest notary commissioning systems in the country, much of which goes back to the 1960s and 70s, when notaries only had authority within their own county. Statewide jurisdiction was permitted in 1974, but the county-based notary commissioning system remained unchanged.

As such, beyond the statutory requirements of age, residency, and "good moral character", for decades there have NO uniform requirements in our state for notary examinations, background checks, or any training on notarial procedures and practice. Rather, we have **88 separate and distinct county** eligibility criteria, with marked differences between them.

The result is that the vast majority of Ohio notaries receive little or no training or vetting for their essential role in the legal system, or the critical responsibilities to Ohio's citizens that they are sworn to fulfill.

The office of Notary Public dates back over two thousand years to Ancient Rome, and has always had as its foundation the twin pillars of TRUST and INTEGRITY. Throughout the Ages, it has always been a highly respected title around the world; one demanding strict compliance with the law, to protect the public trust by deterring fraud. However, under the laxities of Ohio's current system, thousands of ill-prepared, and incompetent notaries are continuously produced

annually. Some of these can easily become rogue notaries with fraudulent intentions, as there is no statute prohibiting a felon from holding an Ohio notary commission; yet many do.

Senate Bill 263, *The Ohio Notary Modernization Act*, will serve to update and improve our notary commissioning process. It will provide Ohio notaries the tools and guidance they need to meet, and defend against, the ever-evolving challenges of fraud in the 21st Century.

The Ohio Society of Notaries has been at the forefront of the Notary Reform aspect of SB 263, and in fact authored a major portion of it. This was with the cooperation and input of numerous interested parties, representing notary-intensive areas such as banking, real estate, health care, auto dealers, the Ohio State Bar Association, and individual notaries around the state. Participants also included government entities of the BMV, County Clerks, County Recorders, Ohio Supreme Court, and the Secretary of State.

The Bill is modeled upon the *Revised Uniform Law On Notarial Acts (RULONA)*, as approved by the Uniform Law Commission, American Bar Association, National Notary Association, and National Association of Secretaries of State.

The essential and primary component of the Bill, is the transition from an unwieldy and ineffective county system, to a centralized, modern online application process through the Secretary of State, which commissions all notaries. This will provide uniformity for exams, background checks, and training, ensuring all Ohio notary applicants meet the same eligibility requirements statewide.

Some other highlights of the Bill include:

- Notary applicants will be required to 1) Pass a uniform statewide exam; 2) Pass a national background check administered by the Ohio BCI; 3) Receive 3 hours of mandatory notary training. This training will also include new attorneys.

- Commission recording with County Clerks is **eliminated** (all notary commissions are in the publicly-accessible Secretary of State database)
- Notary complaints and disciplinary actions statewide will be handled by Secretary of State office
- Prohibit certain felons from holding a notary commission.
- Increases notary fees to \$5 per notarization (about the national average)
- Allows reduction in size of notarial seal to reduce encroachment on wording and margins
- Eliminates Notary Protests
- Defines jurat certificate wording
- Eliminates Special Commissions; all notary applicants will undergo the same process
- Permits notarization via video devices, per Secretary of State standards

After review, we also strongly urge the addition of the following provisions to the Bill:

- **Prohibition of notaries performing notarial acts for lineal members of their family.** Document originators trust notaries to be completely disinterested and impartial third party witnesses; it can be difficult to maintain this impartiality when dealing with complex and emotional family situations. For example, Elder Abuse is a significant issue, and Senior Citizens can be particularly vulnerable due to impaired judgement or other disabilities, and potentially subject to victimization of their important documents through coercion or fraudulent acts by a family notary. Sadly, the elderly and their documents may need protection from their own families, that only a disinterested, impartial notary can provide.

Additionally, state law now requires that notaries public be **Mandated Reporters** in situations of suspected abuse. As such, we need to be involved in these situations in order to prevent fraud/coercion and report possible abuse. The potential for document fraud/coercion in numerous document situations can be markedly reduced by removing the ability of a family

notary to be involved. We are supported in this addition by the *National Notary Association Code of Professional Conduct*, Ohio's banks and credit unions, as well as senior advocacy organizations and ElderCare attorneys.

- **Require currently commissioned notaries to undergo the mandatory notary training class when renewing their commissions for the first time.** This simple requirement will allow all **current** notaries (except attorneys) to be trained over a five-year period, and will **vastly** improve their knowledge of signing procedures, documents, and best practices that their county system did not provide.
- **Permit Copy Certification By Document Custodian.** There is a great demand for certified copies, particularly ID documents needed for travel, passport renewals, employment forms, and numerous other domestic and international applications. Unlike some states where the notary may certify copies directly, this widely-accepted method simply utilizes a written statement wherein the *document custodian* certifies that the document is a true copy of the original document. The document custodian signs the statement, and their signature is then notarized. In this manner, the document custodian is responsible for the accuracy of their written statement about the copied document.
- **Prohibit the use of translators.** A basic tenet of notarization is that a notary must be able to communicate **directly** with the document signer to ensure he/she is aware of what they are signing, is affixing their signature of their own free will, and understands the significance of an oath/affirmation, if that act is required. This can be a particular issue in transactions such as real estate closings, involving large sums of money and complex financial/legal documents, or Power of Attorney documents for use in a foreign country. An unscrupulous translator may tell either the signers or the notary any number of false statements between the parties; neither would be the wiser, and fraud may be perpetrated. This said, we will

undertake an initiative to work with language banks, universities, and ethnic advocacy organizations to recruit, and markedly increase, the number of bilingual notaries available around Ohio.

The other aspect of this Bill deals with the introduction of the relatively new concept of Remote/Online Notarization. This will permit notarization via online video devices, which will connect an Ohio notary with a document signer across the county or across the country, without the signer physically appearing before the notary. The Secretary of State will create standards for online notarization and the issuance of electronic notary seals. This technology will be utilized primarily by the banking and real estate industries to facilitate their closing transactions.

We express our deep appreciation to Senators Huffman and Wilson for supporting this long overdue Notary Reform legislation. It is a bipartisan Bill to create a commissioning system which will significantly improve the ability of notaries to better protect all Ohioans, and is *self-funded*. We feel that's a pretty good win-win combination.

Thank you for your favorable consideration.

A handwritten signature in black ink, appearing to read "R. Rill".

Roger Rill

President

Ohio Society of Notaries

April 17, 2018