



Frank LaRose

Ohio Secretary of State

Chairman Peterson, Vice Chair Cirino, Ranking Member Craig, and members of the Senate General Government Budget Committee, thank you for the opportunity to give proponent testimony on Senate Bill 300, legislation that would provide clarity for Ohio notaries public and correct minor issues.

An important responsibility of the Secretary of State's office is to appoint and commission notaries public and maintain a record of each notary public commissioned in Ohio. Senate Bill 263 took effect on September 20, 2019, and modernized Ohio notary law by permitting electronic and remote online notarizations; provided uniformity in education, testing, and background check requirements; and centralized the commissioning process to our office. These changes have significantly improved the notary process in Ohio.

Further, SB 263 authorized our office to investigate complaints submitted to our office alleging a violation of notary law. As we have investigated these complaints, we have become aware of additional issues that need to be addressed in the law. Also, as we interact with notaries public, we have become aware of additional questions and confusion that exists within the law. Providing additional clarity in the law will ensure notaries public are aware of the duties and responsibilities of their office.

Senate Bill 300 clarifies the role of a notary public when performing an acknowledgment act; corrects required language on the acknowledgment certificate; expressly requires a notary public to identify the signer in a jurat act as well as an acknowledgment; adds a statutory short form certificate for a limited liability company to make compliance easier for business entities; clarifies the oath of office process; adds a requirement to ensure the notary public and signer are able to communicate directly; removes mandated revocation of a commission for certain notary law violations; and clarifies and improves the terminology and organization of Chapter 147 of the Revised Code.

Under current law, the definition of acknowledgment requires a non-attorney notary public to ensure the signer is "aware of the consequences of executing the document." The intent of this language was to protect a signer who may not be mentally capable of understanding the document, but the result is encouraging the unauthorized practice of

law. ORC 147.141(A)(10) prohibits a notary from notarizing a signature on a document if it appears the person is mentally incapable of understanding the nature and effect of the document at the time of the notarization. The definition of “acknowledgment” proposed in SB 300 is the definition used in the Revised Uniform Law Act on Notarial Acts (RULONA). The definition states an acknowledgment is a declaration by an individual before a notary public that the individual has signed a record for the purpose stated in the record, and if the record is signed in a representative capacity, that the individual signed the record with proper authority and signed it as the act of the individual or entity identified in the record.

Further, SB 263 added a requirement that an acknowledgment signature “shall clearly state that no oath or affirmation was administered to the signer with regard to the notarial act” in Section 147.542(D). This language is unnecessary and not included in statutory short form acknowledgment certificates. An acknowledgment certificate means an oath or affirmation was not administered. This language should be removed to eliminate confusion and the risk of acknowledgment forms being noncompliant with Ohio law.

Language in SB 300 expressly requires the identification of the signer while the current law only requires a notary public to identify a signer when performing an acknowledgment act. It does not expressly require a notary public to identify a signer when performing a jurat. Under the current law, if a complaint is submitted to the SOS alleging a notary public failed to identify the signer when performing a jurat, the SOS may investigate the complaint, however, no discipline could be issued as there is no law expressly requiring the identification of the signer. The process of properly identifying the principal is a fundamental role of the notary public. The language in SB 300 is used in RULONA and is consistent with notary law in many jurisdictions.

SB 300 adds a statutory short form acknowledgment certificate when the principal is a limited liability company (LLC). LLCs are the most common type of business entity being formed and providing a short form certificate will help business owners and notaries public to comply with notarial certificate requirements. Currently section 147.55 of the Revised Code only provides statutory short forms of acknowledgment for individuals, corporations, partnerships, attorneys in fact, public officer, trustee, or personal representative.

Upon the implementation of SB 263, it became a challenge to ensure a notary public has taken the oath of office as the requirement to take the oath and record the commission at the county level was removed. Language has been added to require the notary public to appear before an officer or notary who shall administer an oath of office or permits the notary public to certify on the commission under penalty of perjury that the notary will abide by the terms of the oath of office.

As our office has been investigating and disciplining notaries public for violations of notary law, we continue to document appropriate discipline based on the facts. Section ORC 147.15 requires our office to revoke a commission if the notary failed to administer the oath or affirmation when required. The language has changed to give our office the discretion to determine the appropriate discipline based on the facts and does not mandate a revocation. We may suspend, require education/testing or a letter of admonition to be added to the notary public's record.

Lastly, SB 300 would provide updates to the terminology, correct errors and better organize the sections. One example includes correcting an error in the jurat certificate language in ORC 147.551 which requests the signature of the principal when the intent is to have the name printed or typed so it is legible.

SB 300 will continue to improve Ohio notary law, provide clarity for notaries public, and will protect Ohioans when signing important documents. Thank you for sponsoring this legislation and for the opportunity to submit testimony.

A handwritten signature in blue ink that reads "Allison DeSantis". The signature is written in a cursive, flowing style.

Allison DeSantis | Director of Business Services
Office of the Ohio Secretary of State