



DENISE MERRILL

SECRETARY OF THE STATE
CONNECTICUT

April 8, 2011

Testimony HB 6645

AN ACT CONCERNING THE REVISED UNIFORM LAW ON NOTARIAL ACTS

- Good Morning Chairman Coleman, Chairman Fox, and members of the committee
- For the record, my name is James Spallone, and I am Deputy Secretary of the State
- I am here this morning to testify on behalf of Secretary of the State Denise Merrill regarding House Bill 6645, AN ACT CONCERNING THE REVISED UNIFORM LAW ON NOTARIAL ACTS
- This bill would adopt the Revised Uniform Law on Notarial Acts – most notably to allow the electronic notarization of certain documents.
- Overall, our office is supportive of this concept, but we need to be cautious with how we implement the new technology associated with it to avoid new opportunities for unsavory individuals to commit fraud.
- One concern we have is that in the office of the Secretary of the State, we do not currently have regulations in place to implement electronic notarization.
- This bill may have a large fiscal impact on this agency, and the requirement for notaries to use official seals may mean increased costs for notaries in Connecticut.
- Having said this, let me go through the bill section by section and point out what we support and where we might like to see some changes.
- In Section 2, Subsection 1 the new definition of acknowledgment only states that the signor make a declaration before the notary. Our current statutory definition – Section 3-94a, subsection 1 of the General Statutes – explicitly states that the

declaration must be made in the notary's presence. We feel this language should be added to the bill as an extra layer of security. If it is not added the bill would open the possibility of notarizing over internet and other methods that are just not secure enough right now to guarantee that no fraud would be committed.

- In Section 3, The definition of "electronic signature" has a standard of "logically associated" which seems rather amorphous. This standard is carried forward in other sections of the bill.
- The new definition of "notarial act" excludes current powers allowed in Connecticut Depositions (CGS sec. 52-148a), and subpoena (CGS sec 52-148e and 52-155). Our definition is much broader (CGS 3-94a, sec. 3).
- The new definition of "satisfactory evidence of identity" includes government issued ID's which have expired for 3 years. Under current law, (Connecticut General Statutes 3-94a) we need current ID. Additionally, we need two forms of ID, and this bill would not require that. Again, we view the higher standard in our current statutes to be an added layer of security that we should probably retain.
- Section 8 of this bill allows a notary to refuse to perform a notarial act unless refusal is prohibited by law. Under CGS 3-94f, a notary can NOT refuse unless the request is unreasonable. Our standard is vague but it is more consumer friendly.
- Section 9 of this bill allows people who are unable to sign documents to direct somebody else to sign. This has the potential to be very helpful to the elderly or the disabled who sometimes need the assistance of someone who is authorized to sign for them. This would also be helpful to the practitioners of elder law. Comments in support of this section have also been made by Bobbi Shorehouse, President of the Connecticut Notary Association.
- Section 10, subsection 2 of this bill removes the requirement that a clerk of the court use a seal when taking an acknowledgement. This is now required under Connecticut General Statutes 1-29.
- Sections 13 and 14 of this bill set standards for accepting notarization from sources that residents of Connecticut will not in all cases be familiar with – such as other states.
- Section 15 of this bill requires notaries to use an official seal. Our current state statutes do not require this, and this change could result in a major new expense for notaries in the state. Also, we do not have a current count on how many notaries have stamps or seals.
- Section 19 Subsection b of this bill requires the Secretary of the State's office to approve, on an ongoing basis, notaries using electronic notarization. It would

require our office to set the acceptable standards for the use of electronic notarization. Notaries would then be required to call our office to inform us of how they are using the electronic notarization, and then we would approve their methods based on those standards. The language in this bill does not state what happens if the notary decides to change technology – it only requires the notary to get approval the first time they use electronic notarization.

- Section 20 of this bill requires notaries to be citizens or permanent legal residents, and also requires notaries to only have a place of employment or residence in the state. This would be going beyond our current legislation. Right now, the Secretary of the State's Office does not require the notary to be a citizen or permanent legal resident. We do require, however, that a notary have their PRIMARY place of business in CT or be a resident of the state.
- Section 20 subsection b4 also requires reading and writing of English. This is a defacto standard for us because the exam is in English, but it isn't codified. This probably does not need to be enacted into law.
- Section 20 subsection c requires that the oath of office for notaries be sent to the Secretary of the State's office. Right now we only require that the certificates and oaths of office only be filed with the town clerk.
- Section 21 of this bill requires that the Secretary of the State's office offers a course of study on becoming a Notary Public. This could result in a fiscal impact to conduct these courses as we do not currently hold such classes.
- Section 22 of this bill increases the reasons that SOTS could deny or revoke a notary commission; however, it doesn't repeal our standard which is similar but does include a moral turpitude clause. This section also creates a right of appeal for applicants. At the moment applicants are denied when they fail to get 100% on the exam, but they can correct their scores. This legislation would allow them to appeal their score instead of correct it.
- Section 24 of this bill explicitly prohibits use of the terms "notario" and "notario publico." This section would actually clear up some confusion, and is not intended to restrict the use of the Spanish language. Notaries in Connecticut are not allowed to practice law, and the term Notario often refers to someone who does legal work in a paralegal capacity, which is confusing. There is no clear or good translation in Spanish of the term Notary public. Therefore it may actually help clarify the role of the Notary to restrict the terms.
- Section 26 of this bill requires the Secretary of the State's office to promulgate regulations for electronic notarization. This may be problematic, because our office does not have expertise in this area and implementing this could be costly.

- Finally, section 27 puts the effective date of implementation of this bill at October 1, 2011. We would need more time than that to develop the policies and procedures outlined in this statute, and would suggest an effective date of at least January 1, 2012.
- In sum, let me say that our office is very supportive of the concept of this bill, and if certain changes are made to reduce costs or tighten up some of the security procedures we might be willing to support passage of this legislation.
- Thank you very much and I am happy to answer any questions.