



**Commerce Committee
Public Hearing
March 18, 2021**

TESTIMONY OF SECRETARY OF THE STATE DENISE W. MERRILL REGARDING:

- **H.B. No. 6604, AN ACT ADOPTING THE REVISED UNIFORM LAW ON NOTARIAL ACTS**

Good morning Chairmen Simmons and Hartley, Vice Chairs Cohen and Rochelle, Ranking Members Buckbee and Martin, and members of the committee. My name is Denise Merrill and I am the Secretary of the State of Connecticut. I would like to address one bill before your committee today.

H.B. No. 6604, **AN ACT ADOPTING THE REVISED UNIFORM LAW ON NOTARIAL ACTS** is my proposal to address the need for comprehensive legislation regulating remote online notarial acts. My proposal is that Connecticut follow the strong national trend and adopt the Revised Uniform Law on Notarial Acts ("RULONA"). Already 30 states have some form law that authorizes remote online notarization, 18 of whom have formally adopted RULONA. After COVID came to the United States, that number grew to 48 with states, like Connecticut, allowing it through some form of emergency executive action. Although I supported Governor Lamont's executive order to allow online notarization during COVID, it was never intended to be permanent. The lasting solution is to adopt RULONA, so that Connecticut is not at a competitive disadvantage to other states that have already adopted it or are considering adopting it this year.

Section 15(j) of this bill is not our language and purports to exempt real estate transactions and wills and codicils from remote online notarization. The committee should remove that language from the bill as those are some of the most common reasons a person may need to have a

document notarized. Such an exemption is unnecessary and would make Connecticut an outlier among the many states that already allow remote online notarization.

This bill proposes to adopt RULONA, with some small, but important changes that are reflective of unique practice in Connecticut. It is the result of a tremendous amount of work by my office in collaboration with the Town Clerks Association, the State Library, and representatives of the real estate agent, title insurance, and financial services industries. We started this effort following the proposal by this committee last year to adopt RULONA in its raw form, without any state specific changes. As we noted last year, there are some areas where the state needs to deviate from RULONA to minimize disruption to current practice.

Connecticut needs a permanent law authorizing remote online notarization. The national trend was already headed in that direction pre-COVID, and the pandemic has only emphasized the need to provide Connecticut consumers the option of executing legal documents online. Without a permanent fix, the Governor's order will lapse and Connecticut will be at a competitive disadvantage as one of the few states that requires in-person notarization.

My office is the notary commissioning agent for the state. There are over 47,000 active notaries public in Connecticut and our office issues new or renewed commissions to over 9,000 a year. And, relevant to this bill, I should note that during 2020, over 95% of these commissions were issued completely online.

We propose to adopt RULONA because it is the most comprehensive template available to balance the need to ensure safety in the notarial process, with the public demand to do more online. RULONA is also the model endorsed by the National Association of Secretaries of State.

RULONA is a comprehensive bill that is intended, with some exceptions, to supersede all state notary law. Indeed, the remote notarization provisions in RULONA make up only about 15% of its language.

So, before we address the important topic of remote online notarization, I would like to highlight some of the other important changes that this bill makes. First, the bill proposes to add a continuing education component to notary commissioning. Under current law and practice, a notary must successfully complete an online exam before we issue a notary commission. This bill replaces this practice with a course that a notary must successfully complete prior to their initial commissioning and every five years upon renewal.

Second, I seek additional authority to require notary applicants to apply online. In November of 2018, my office moved our notary licensing process into the state's eLicense system, which has proven essential during the pandemic. Since last March, almost all our notary work has been accomplished by staff working remotely. Staff only come into the office to process the few paper notary applications that we still receive. Thus, the bill requires that notary transactions be filed online and makes other changes to facilitate online filing.

I also propose eliminating the requirement for notaries to file their commissions with the local town clerk and to swear an oath of office before another official. These provisions are antiquated but I acknowledge that it will result in a small revenue loss for towns. Prior to computerization,

the local filing requirement provided another way for citizens to verify that a local notary was legitimate. But that is no longer necessary with the eLicensing system where anyone at any time can verify a notary's status and pull a complete list of active and inactive notaries in the state. The oath requirement has proven particularly difficult during the pandemic where notaries and town clerks alike were hesitant to require notaries to take the oath in person. Instead, I propose that all notary applications be filed under penalty of false statement like the way other documents are filed with my office, including all business registrations.

So RULONA is more than remote online notarization, but I understand that online notarization is both the most controversial topic and the one that represents the most significant departure from current law. First, let me define a few terms. "Remote" notarization is simply a notarization that is accomplished with the notary and the signer in a different location. Some early states adopted a version of this sometimes called "RIN" or "Remote Ink Notarization." That involved the notary and the signer communicating over phone or video conference. The document was then signed and physically transmitted between the signer and notary. Our bill does not permit this process, as it is the least secure of the methods available.

The better permanent version is sometimes called "RON" or "Remote Online Notarization." That is the version proposed in this bill and endorsed by RULONA and NASS. In a RON transaction, the notary and the signer are in different locations and can see one another via video conference. The difference is that the document being notarized is on the screen and is signed and notarized digitally. If any committee member has ever used DocuSign or a similar product, you are familiar with a digital signature. This process is better, because the document is executed simultaneously and once it is digitally signed, it is almost impossible to alter. In a RIN transaction, the notary cannot see the document and cannot tell for sure whether it is an unaltered version of what the signer executed.

RON is also superior to RIN when it comes to identity verification. In a RIN transaction, the notary must know the signer personally or the signer must show ID over video. Obviously, holding a driver's license up to a web cam is not an ideal form of ID. The version of RON adopted in RULONA, however, requires the signer to identify themselves through two forms of identify proofing.

Online notarizations are safe and, in some cases, safer than traditional in-person notarization. It is much more difficult to fool digital ID verification software (let alone twice) than it is to present bogus physical ID. Also, digitally signed documents cannot be altered without significant resources and technological expertise, whereas altering a paper document after it has been notarized is far easier.

I also submit the need for remote notarization is obvious. Almost every state has a law authorizing it or is in the process of adopting one. Most of state government has moved online, with the legislative and judicial branches conducting most of their business online. College students are attending school online. Many of your constituents are working from home. Not long ago, we would have thought that we could not legislate remotely, yet here we are.

But for those people who want to execute documents in-person, there is nothing in this bill that would prevent them from doing so. This bill allows for remote online notarization, but in-person traditional notarization remains as well. If a lawyer wants to conduct a real estate closing in the lawyer's office, that is perfectly permissible under this bill. RULONA merely provides another option for consumers to execute important legal documents.

Finally, I do have two technical changes that I would like the committee to consider as JFS language. First, in Section 15(a), the committee should replace the term "notary public" with "notarial officer" throughout. This is necessary to ensure that the remote online notary provisions of the bill apply equally to notaries public as well as people who are authorized through some other law to perform notarial acts, like attorneys, town clerks, and justices of the peace. Connecticut is somewhat unique in that we allow so many other types of officers to perform notarial acts, which RULONA calls "notarial officers." We want to make it clear that if you are engaging in a remote online notarial act, you must follow this law.

Second, Sections 21 and 31 of the bill now both specify the qualifications for becoming a notary public, but do so using slightly different language. I suggest adding lines 716-729 to Section 21, eliminating Section 31, and repealing outright section 3-94b of the General Statutes. That change will place the qualifications to become a notary and the procedure to apply in one section.

Thank you.