



State Issue Brief

Notary Reform

Background

With a recent push to modernize the way we notarize documents, legislation has been drafted to allow notary publics in the State of Michigan to electronically notarize documents. States like Michigan that have adopted some form of the Uniform Electronic Transaction Act (UETA), and/or E-SIGN currently have the authorization to utilize electronic notarization.

Even though both UETA and E-SIGN authorize electronic notarization, they do not provide a framework for performing notarial acts electronically. With the rapid advances that have come with online communication and electronic signing technology, there is a need and a desire to have notarial acts be performed electronically. The authority to electronically notarize documents will lead to higher efficiency and less paper in the workplace, allowing credit unions to more efficiently service their members notarial needs.

Electronic Notarization vs. Remote Online Notarization

Electronic notarization requires an individual to physically appear before a notary public for positive identification. The signatures of both the individual and the notary public can be done electronically. The notary public can electronically seal the document using this method of e-notarization. The document is electronic, the signatures and seal are electronic, but the individual still has to physically appear before the notary public for identification purposes.

Remote online notarization provides a platform in which the individual requiring a notarial act can log into and share a document with a notary public online. The individual wishing to have their document notarized would provide positive identification by holding up their government-issued identification to a webcam. The platform uses positive identification technology to then confirm the individual's identity before allowing the notary to perform any notarial acts. The individual would then electronically sign their portions of the document and the notary would electronically sign and seal the document. The entire transaction would be done online, further increasing the ease and efficiency of having documents notarized.

Current Legislation

Two bills have been introduced on notary reform. SB 664 by Senator Peter MacGregor provides for a framework for notary publics to provide electronic notarial acts on a voluntary basis. The legislation does not require notary publics to electronically notarize documents. If a notary chooses to utilize this authority they must inform the Secretary of State and utilize one of the programs approved by the Department of Technology, Management and Budget (DTMB).

The second piece of legislation is being introduced by Representative Diana Farrington (R-Utica). This bill would provide a platform for remote online notarization. An individual wishing to have a notary public

perform notarial acts must have their identification verified through identity proofing process or service that would be part of the remote online notarization platform. The process would allow the individual to have their government-issued identification verified through the remote online notarization platform to ensure positive identification. If a notary public chooses to utilize remote online notarization, the notary public would also be required to keep a journal of all the notarial acts that they perform through the remote online platform.

Status

MCUL is supportive of notary reform efforts that would increase efficiencies for credit unions and their members. Please encourage your legislators in both the House and Senate to support notary reform.

Key Message Points

- The authority to electronically notarize documents will lead to higher efficiency and less paper in the workplace, allowing credit unions to more efficiently services their members notarial needs.
- SB 664 by Senator Peter MacGregor provides for a framework for notary publics to provide electronic notarial acts on a voluntary basis.
- Legislation sponsored by Rep. Farrington would provide a platform for remote online notarization.
- Please support SB 664 and the legislation sponsored by Rep. Farrington. These bills will provide options for electronic and remote online notarization, allowing credit unions to more efficiently serve their members.