



Oregon Law Commission

May 3, 2021

House Sub-Committee on Civil Law

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Testimony in Support of SB 765
SB 765 Remote Online Notarization Permanent Adoption

Senate Judiciary Committee —March 11, 2021

Chair Prozanski and members of the Committee. I am Mark Comstock, a Commissioner of the Oregon Law Commission. Thank you for the opportunity to testify in favor of the permanent adoption of SB 765.

In 2019, I chaired an Oregon Law Commission Work Group which considered and proposed amendments to the Revised Uniform Laws on Notarial Acts, adopted in Oregon in 2013 as ORS 194.205—194.440, to update the provisions to allow Remote Online Notarization (RON), sometimes called “e-notarization” of documents. The Oregon Law Commission adopted the recommendations and authorized submission for the 2020 First Legislative Session.

The Governor’s Stay at Home and Social Distancing Emergency Orders brought forth the need for Remote Online Notarization authorization to allow Oregon Notaries to notarize deeds, powers of attorney and other instruments for Oregon citizens and businesses while maintaining healthy distance. The 2020 legislation, HB 4212, Section 32, contained a June 30, 2021, sunset provision.

The Oregon Law Commission Work Group brought together all of the known stakeholder representatives from title companies, real estate lawyers, estate planning lawyers, the Oregon State Bar, The Oregon Bankers Association, the Oregon Credit Union League, Mortgage Bankers, The Oregon Secretary of State, County Clerks and the Oregon Judicial Department who vetted a Uniform Laws Commission proposal that has been adopted in nearly 47 states as either a statutory provision or emergency adoption by the executive branch.

At its core the proposed legislation makes permanent the amendment to the physical presence requirement of ORS 194.235. Those conditions include 1) the Notary must be registered with the Oregon Secretary of State as a notary who has the facilities to provide simultaneous audio and visual communication between the notary and the remotely located signor individual; 2) the notary has satisfactory evidence of identity the signor by either knowledge or a method of satisfactory evidence using at least two different types of identity proofing; and 3) the notary has the ability to make and store an audiovisual record of the notarial act for a minimum of ten (10) years.





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In the 2020 legislation, the safeguards identified in the Uniform Act Amendment were tailored to Oregon practices by including Oregon jurisdiction over notaries providing RON services; allowed for an audiovisual record for Courts questioned transactions and the Oregon Secretary of State, as the regulator of notaries; allowed for enhanced identity proofing of individuals; and had a sunset provision that is proposed be repealed in SB 765. The provisions do retain a \$25 cap for charges by a notary for each notarization. There has been no indication of a problem with use of RON services.

The Oregon Law Commission has worked closely with the Secretary of State to assure that RON notarizations can be recognized for Oregon residents and the provisions of SB 765 can be implemented permanently to further serve the needs of Oregonians immediately. The Secretary of State's office can comment on any issue with the use of RON services by Oregon notaries.

The Oregon Law Commission urges adoption of the SB 765 by the Legislature. I would be pleased to answer questions. Thank you for the opportunity to bring this important legislation to the Legislature.



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Names of people