



Testimony of Professor James M. Concannon
Washburn University School of Law
In Support of HB 2713
Before the Senate Judiciary Committee
Wednesday, March 11, 2020

Mr. Chairman and Members of the Judiciary Committee:

I am one of four Commissioners representing Kansas on the Uniform Law Commission (ULC). Although I was not a member of the ULC drafting committee for the Revised Uniform Law on Notarial Acts (RULONA), I did serve on the ULC Style Committee that edited the act. I appear today to express the ULC's support for House Bill 2713 with the proposed amendment that substitutes the language of RULONA Section 11 for the non-uniform language in Section 11 of the original Kansas bill.

Kansas in 1984 was the third state to adopt the Uniform Law on Notarial Acts of 1982. Kansas has not updated its act to account for changes in technology and authorize remote notarization. HB 2713 does that. Some states adopted bills limited to allowing remote notarization using standards developed by other organizations, such as the Mortgage Bankers Association and the American Land Title Association, before the ULC in 2018 finalized the language in what is Section 15 of HB 2713. The ULC drafting process takes longer, to assure our acts will work effectively. RULONA improves the standards in earlier acts for remote notarization and integrates them into the state's general law regarding notaries public. It is our understanding the MBA and ALTA support adoption of RULONA. Nine states enacted the 2018 version of RULONA in just one year. Wisconsin has enacted it this session and it currently is pending in four other states. Six other states adopted RULONA before the section on remote notarization was finalized in 2018.

RULONA clarifies the law regarding notaries public, their responsibilities and duties, and provides a framework for performing notarial acts with respect to electronic records. RULONA also permits remote notarization, a concept that is growing in popularity across the states. The benefits of RULONA include:

First, RULONA harmonizes the treatment of notarization of all records, whether those records are paper or electronic. RULONA also works seamlessly with two other uniform acts Kansas has adopted, the Uniform Electronic Transactions Act and the Uniform Real Property Electronic Recording Act.

RULONA also preserves the integrity and reliability of notarized documents. It requires any person seeking a notarization to appear in person before the notarial officer, who must verify the identity of the person and witness the signature or receive an acknowledgment or verification of the signature. The person may appear in the physical presence of the notarial officer or via communications technology. In the latter case, in addition to identification by the personal knowledge of the notary or verification by a witness, the notary may use two different technologies or processes to identify the person. In addition, the notary must be able to confirm that the record is the same one signed by the person and make an audio-visual recording of the notarial act.

RULONA, through the amendment to Section 11, works with notarial acts conducted in other jurisdictions by providing for recognition of valid notarizations from other states, from federally recognized American Indian tribes or nations, or under federal law or the law of foreign nations.

HB 2713 carries forward several Kansas provisions on notarial acts that are not part of RULONA. These were provisions Kansas law included for policy reasons and to assure comprehensive coverage of issues relating to notarial acts, because the 1982 act consisted of only nine substantive sections. At my request, the Legislative Counsel for the ULC office in Chicago reviewed these carry-over provisions and determined they are not inconsistent with any of the sections of the act that need to be uniform and will not impair the effective interstate functioning of the revised act.

RULONA is a carefully crafted and complete update to Kansas law governing notaries public and notarial acts. It has been endorsed by the American Societies of Notaries and the Property Records Industry Association. Adopting RULONA through HB 2713 provides clarity to Kansas's law and ensures that the state keeps pace with technological advances.