



March 9, 2020

The Honorable Rick Wilborn, Chair
Senate Judiciary Committee
Attn: Iris Evans, Committee Assistant
Kansas State Capitol
300 SW 10th St. Room 541-E
Topeka, KS 66612-1586

RE: HOUSE BILL 2713; NATIONAL NOTARY ASSOCIATION OPPOSED UNLESS AMENDED

Dear Senator Wilborn,

I write to convey the National Notary Association's concerns with the language of Section 11 (page 5, line 1 and following) of House Bill 2713 as amended by the House Judiciary Committee, enacting the Revised Uniform Law on Notarial Acts (RULONA).

As currently drafted, Section 11(a)(2) and (3) departs from the uniform version of Section 11 adopted by the Uniform Law Commission and conditions recognition of notarial acts from jurisdictions of the United States on the Notary Public of the sister jurisdiction being present in that state while performing the notarial act and if the notarial act is performed for a remotely located individual using communication technology, specified protocols for identifying the remotely located individual are followed.

The numerous reasons for our concern with Section 11 as drafted are as follows:

1. It violates the sovereignty of sister jurisdictions which alone have authority to regulate the performance of notarial acts by Notaries Public with their borders.
2. It violates decades of settled law on the recognition of notarial acts that solely requires notarial acts to be performed by a Notary Public or notarial officer of a sister U.S. jurisdiction in conformance with the laws of the jurisdiction where the document was notarized.
3. It will make Kansas registers of deeds and other receiving agencies arbiters of notarized documents, a responsibility that they never have had.
4. It will be impossible to enforce Section 11 because there is no evidence on the face of a notarized document that the Notary Public followed HB 2713's conditions for recognition.
5. It will frustrate businesses and consumers who in good faith had their documents notarized in sister jurisdictions only to have them rejected when presented for recognition in Kansas.
6. The Notary who performed the rejected notarization will be unable to "fix" it without following Kansas law and violating the Notary's own state laws.
7. It will have potential critical ramifications for the effecting of powers of attorney, property deeds, mortgages, adoption dossiers, estate and trust documents, healthcare directives and other important documents of life, law and commerce that must be passed over state borders.
8. It will impede the free flowing of notarized documents between other U.S. jurisdictions and Kansas, many of which affect interstate commerce, and could draw the attention and ire of Congress whose responsibility it is to regulate interstate commerce.

Honorable Rick Wilborn

Page 2

March 9, 2020

We also take issue with the fact that Section (11)(c) of the uniform version of the RULONA was omitted from Section 11 of House Bill 2713.

We therefore urge the Committee to strike current Section 11(a) and replace it with the uniform version of RULONA Section 11(a) as adopted by the Uniform Law Commission and to add Section 11(c) of the RULONA as adopted by the Uniform Law Commission, so that New Section 11 in its entirety reads as follows:

“(a) A notarial act performed in another state has the same effect under the law of this state as if performed by a notarial officer of this state, if the act performed in that state is performed by:

(1) a notary public of that state;

(2) a judge, clerk, or deputy clerk of a court of that state; or

(3) any other individual authorized by the law of that state to perform the notarial act.

(b) The signature and title of an individual performing a notarial act in another state are prima facie evidence that the signature is genuine and that the individual holds the designated title.

(c) The signature and title of a notarial officer described in subsection (a)(1) or (2) conclusively establish the authority of the officer to perform the notarial act.”

The NNA is supportive of RULONA enactments across the country and can support HB 2713 with a uniform Section 11. However, unless Section 11 of House Bill 2713 is amended, the NNA must oppose it.

Sincerely,



William A. Anderson

Vice President, Government Affairs