

## OLTA Analysis of SB 263 – Electronic Notarization

Senate Bill 263 addresses several issues regarding notary publics, particularly addressing electronic and on-line notarization.

- The on-line notarization provisions bring Ohio in step with the legislation being advanced in the vast majority of steps and fairly mimics other legislation vetted by the banking and title insurance industries.
- A large portion of the bill deals with the centralization of all notary commissions with the Secretary of State.
- Lastly, the bill closes any gap in the authorization of electronic means to notarize a document as would conceivably be permissible under Ohio's other electronic signature laws.

Presently, the bill has passed the Senate and has been assigned to the House Government Accountability and Oversight Committee for consideration. The bill can be viewed by visiting the legislature's website and clicking "View Current Version" at the following url address:

<https://www.legislature.ohio.gov/legislation/legislation-status?id=GA132-SB-263>

The changes implemented by the act are to take effect one year after its effective date. While the Secretary of State is obligated to adopt rules regarding much of the online notarization process and obligations of the notary, the templates for such rules are already available from earlier adopting states.

The process for remote electronic notarization can fairly follow that process as it exists today:

- visual verification of person and credentials
- oral administration of oath or statements of acknowledgement, but through the use of a secure quality audio-visual connection
- use of electronic signatures

While the current laws don't preclude the recording of electronically signed documents, it is important to overcome any resistance of the county officials by making their obligation to accept such documents as clear and as easy as possible. This will facilitate adoption, speed up the frequency of use and help normalize the perception of handling electronically executed documents.

To that end, OLTA's Government Affairs Committee has proposed a "papering out" process for those offices that do not yet permit electronic documents to fully transfer real property. Even for counties that have electronic recording, some of the Auditors' and Engineers' offices are not set up for processing electronically submitted transactions. The "papering out" option suggested as an amendment would essentially require those offices to accept a copy of an electronically executed document that contains an attached form certifying the document. A suggested form appears as part of the amendment and generally mimics the same certification as made by the submitter during electronic recording. The submitter certifies that the copy of the electronic original document is "true, exact, complete and unaltered...".