

Senator Jennings_FAV_SB636

Uploaded by: Senator Jennings, Senator Jennings

Position: FAV

J. B. JENNINGS
Legislative District 7
Baltimore and Harford Counties

MINORITY LEADER

Finance Committee

Executive Nominations

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February 20, 2020

Testimony for Senate Bill 636
Maryland Revised Uniform Law on Notarial Acts - Delay

Chairman Smith, Vice Chair Waldstreicher, and Members of the Judicial Proceedings Committee:

SB 636: Maryland Revised Uniform Law on Notarial Acts – Delay, this bill delays the effective date of the Maryland Revised Uniform Law on Notarial Acts by one year from October 1, 2020 to October 1, 2021.

Last year, Senate Bill 678: State Government – Notarial acts & Notaries Public was passed by this committee and was signed into law by the Governor. SB 678 not only altered the requirements to become a notary but also authorized a notary to perform electronic notarization and remote notarization.

Due to the funding of the new database system, which is included in the Governor's 2021 budget, as well as the new requirements for education and testing, SB 636 delays the effective date to allow the Office of the Secretary State to come into compliance.

Thank you for your attention to this legislation and I respectfully request a favorable report on Senate Bill 185.

Office of Secretary of State_fav_SB636

Uploaded by: wobensmith, john

Position: FAV

SENATE BILL 636

STATE OF MARYLAND

EXECUTIVE DEPARTMENT

LARRY HOGAN

GOVERNOR

BOYD K. RUTHERFORD

LT. GOVERNOR



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JOHN C. WOBENSMITH
SECRETARY OF STATE

LETTER OF SUPPORT

**Maryland Revised Uniform Law on Notarial Acts - Delay of Effective Date
Judicial Proceedings
Thursday, February 20, 2020
John C. Wobensmith, Secretary of State**

Thank you, Chairman Smith, Vice Chair Waldstreicher, and members of the Judicial Proceedings Committee. I would also like to thank Senator J.B. Jennings for sponsoring this bill.

I kindly request the Committee to vote in favor of Senate Bill 636 entitled Maryland Revised Uniform Law on Notarial Acts - Delay of Effective Date.

The Office of the Secretary of State is charged with the regulation, administration, and enforcement of 80,000+ Notaries Public. As you know, SB678 completely rewrote the Notary law and adopted Remote Notarizations. It is important to remember that not only did SB678 rewrite the existing law, it also changed the authority of a Notary. While we've been hard at work to ensure our Office has the tools and people needed to comply with SB678's requirements, more time is needed to build the infrastructure and implement the requirements of the Bill.

I want you to know that over the last year we have:

1. Drafted a Request for Proposal (RFP) for the Education and Testing requirement to comply with SB678. We are waiting, as required, for the final review and approval from the State's Procurement Office and Legal Counsel before issuing the RFP. DGS' Procurement Office indicates the process takes between 172-277 days to complete *after* the RFP is approved. There are 219 days between today, February 25th, and implementation on October 1, 2020.
2. We proposed Legislation (HB 661) to create a Notary Public Special Fund to provide a modest amount of monies from the General Fund to a newly created Notary Special Fund to help fund the requirements of SB678.

3. We have been working with DoIT to modernize the legacy Notary database. SB678 requires technology for tracking, educating, testing, identifying Remote Notaries, etc. DoIT stated that the Notary database is unstable, operating beyond its structural capacity.

Having the requisite systems in place is critical due to the fact that notarized documents impact life-long dreams like home ownership and our citizens' most precious and vulnerable interests: Child Custody, Adoptions, Wills, Estates, Powers of Attorney, Advanced Directives, and more.

As a practical matter, there simply was not enough time to implement SB678 by October 1, 2020. Additional time is needed to ensure our Office has the resources, tools, and people needed to comply with SB678's requirements. Be assured, our Office has forged ahead diligently in preparation of SB678. I urge your support of SB636 to grant a one (1) year extension.

Thank you for your time and consideration.

MSBARealProperty_UNF_SB636

Uploaded by: O'connell, Bill

Position: UNF

To: Members of The Senate Judicial Proceedings Committee

From: William A. O’Connell, Real Property Section Legislative Chairperson

Date: February 20, 2020

Subject: SB636 – Maryland Revised Uniform Law on Notarial Acts - Delay of Effective Date

Position: Oppose unless amended

The Maryland State Bar Association (MSBA) Real Property Section **opposes Senate Bill 636 unless it is amended.** SB636 seeks to delay the implementation of the *entire* Maryland Revised Uniform Law on Notarial Acts [SB678 2019] (“the Act”) that was passed by the Legislature and signed by the Governor in May 2019. The implementation of the Act was delayed 16 months (i.e. until October 1, 2020) to give the Secretary of State time to create the pre-commissioning course of study and testing for new applicants and course of study for renewal applicants.

Delaying the implementation of the *entire* Act is unreasonable. It appears that the Secretary of State contends that there are no funds available to implement the Act. But the Act makes no changes to the way the Secretary of State operates, or the application process involved in becoming a commissioned notary in Maryland. The only thing the SOS is required to do under the Act is to create a test and course of study (or approve others doing so) for initial commissioning and create the requirements for continuing education to renew a commission which is required every four years. *The rest of the Act is self-executing.* The provisions in the Act related to pre-commissioning testing and education and continuing education are highlighted below.

Our notary laws are woefully outdated. We enacted the 1939 version of the Uniform Acknowledgment Act on or before 1957. We have not updated our law in any meaningful way since then. Yet, the Uniform Law Commission has updated the model act five times. The most recent amendments were in 2010 to allow for electronic in person notarization and in July 2018 to allow for remote on-line notarization. The Secretary of State will tell you that we already have electronic notary because Maryland enacted the Uniform Electronic Transactions Act in **2000**. But that act simply gives an electronic notarization the same legal status as a traditional paper and ink notarization. There is no law that allows a *Maryland notary* to complete an electronic

notarization or identify the process to be followed to do so. Attempts to update our notary laws begin in 2016 and were finally successful in 2019. Consumers want a choice. It is time to give it to them.

If the SOS is unable to prepare the required testing or education by October 1, 2020 then *only* that portion of the Act should be delayed. The effective date of the Act was already postponed for year to allow the SOS to prepare for it. From the time the Act was signed by the Governor in May 2019, the SOS will have had 16 months to implement it.

For the above reasons, the Real Property Section **opposes SB636 unless it is amended** and asks for an **unfavorable** report if not so amended. We understand that an amendment consistent with the above has been prepared by bill drafting, but not yet introduced.

Should you have any questions, please contact The MSBA's Legislative Office at (410)-269-6464 / (410)-685-7878 ext: 3066 or at Richard@MSBA.org and Parker@MSBA.org

Section 18-102. Qualifications; instruction and examination.

(a) Qualifications. -- Subject to Section 18-104 of this subtitle, to be appointed as a notary public, an individual must:

- (1) be at least 18 years old;
- (2) be of good moral character and integrity;
- (3) (i) be a resident of the State; or
(ii) have a place of employment or practice in the State;
- (4) (i) *for an initial applicant, have completed the course and passed the examination offered under subsection (b) of this section; or*
(ii) *for a renewal applicant, have completed the course offered under subsection (b) of this section;*
- (5) if living in the State, be a resident of the senatorial district from which appointed; and
- (6) if living outside the State, be a resident of a state that allows Maryland residents working in that state to serve as notaries public in that state.

(b) *Instruction and examination.* --

- (1) *Subject to paragraph (2) of this subsection, the Secretary of State regularly shall offer a course of study and an examination that cover the laws, regulations, procedures, and ethics relevant to notarial acts.*
- (2) *The course and examination may be offered through an entity approved by the Secretary of State.*

CTN_UNF_SB636

Uploaded by: Pitcher, Bill

Position: UNF



Written Testimony for SB 636
Maryland Revised Uniform Law on Notarial Acts - Delay of Effective Date
Date: February 20, 2020
Judicial Proceedings Committee

Position: OPPOSE

The Honorable Senator William C. Smith, Jr.
Chair, Senate Judicial Proceedings Committee
2 East Miller Senate Office Building Annapolis, MD 21401

Dear Senator Smith,

I am writing in **Opposition** to SB 636, Maryland Revised Uniform Law on Notarial Acts - Delay of Effective Date, as proposed.

I have been a licensed attorney and producing title agent for over 34 years in the State of Maryland. I have owned and operated title agencies and law firms- large and small- over that period of time. Our company currently employs over 55 people in Maryland alone and we perform over 2,800 real estate settlements annually throughout many counties in Maryland.

Maryland is woefully behind in the implementation of this technology that is being used in over 22 states in the country where RULONA has passed.

RULONA (2018) responds to the established trend among the states to authorize the performance of notarial acts by means of audio-visual technology. Twenty two (22) states have already enacted laws that allow for such notarial acts. Seventeen (17) other states, are considering it with active bills.

Many organizations have actively supported the adoption of laws that support e and online notary, including the National Association of Secretaries of State, the Uniform Law Commission, the American Land Title Association, the National Notary Association, the American Society of Notaries, the National Association of Realtors, and the Mortgage Bankers Association. **Moreover, consumers want it as well because they want a choice of how and where they execute documents.**

I have talked with many real estate professionals across the state over the last couple of years. A large majority of them want such convenience and better security as part of their transactions.

Ridgway written Testimony - SB636, February 20,2020 (cont'd)

There is no reason that the current legislation, as passed, should not be implemented October 1, 2020.

The legislation, **already passed by the General Assembly**, is self- implementing; no regulations need to be created and implemented, no money needs to be devoted or appropriated for the law to be operational.

There is only one thing the Secretary of State has to do as part of the currently passed legislation- to create a pre-commissioning training program and a renewal training program. The office has had 16 months to create this and nothing has been done in that time frame. That should not stop the already passed legislation from going into effect on October 1, 2020.

If you are so inclined to delay anything in the legislation at all, you should limit the delay **solely** to Sections 18-102, the provision dealing with the implementation of the pre -commissioning and renewal training course and testing.

It was the Secretary of State's office that wanted these provisions in the passed legislation. To delay the legislation going into effect for the benefit of the Maryland consumer and business people because the Secretary of State's office could not or would not get their act together would be a travesty to Maryland consumers and business people.

Remote Notarization will provide better protection to consumers and those service providers in the financial services industry by leveraging technology. Remote notarization will increase the security to both notaries and consumers in the real estate settlement environment. Consumers will not have to invite notaries into their homes for execution of real estate settlement documents and notaries, most of whom are women, will not have to feel insecure attending a settlement at a stranger's house.

In summary, the RULONA law, already passed to go into effect on October 1, 2020 is good for consumers, it is good for Maryland commerce and it enhances and improves the security and convenience for all stakeholders in each and every transaction it is utilized. As a locally based Maryland business person who performs many transactions annually without the benefit of quality technology, I strongly encourage Senate Judicial Proceedings Committee to OPPOSE SB 636.

However, I am in support of an Amendment to the current Bill, SB 636 that would delay **solely** Section 18-102, the provision dealing with the implementation of the pre -commissioning and renewal training course and testing.

It would be a travesty to Maryland consumers and businesspeople to not have access to Remote Notarizations available like so many other citizens of other states have.

Sincerely,

A handwritten signature in black ink that reads "Michael Ridgway". The signature is written in a cursive, flowing style.

Michael C. Ridgway

CEO and President

cc: Senate Judicial Proceedings Committee Members