

## REAL PROPERTY, PROBATE & TRUST LAW SECTION

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To: Senate Committee on Agriculture, Revenue and Financial Institutions  
Date: December 18, 2019  
Re: Support of SB 317 – Senate Substitute Amendment 1 on Revised Uniform Law on Notarial Acts (RULONA)

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The Real Property Probate Trust (RPPT) Section Board of the State Bar of Wisconsin supports the substitute amendment to SB 317 (RULONA). The section would also like to thank Sen. Olsen and Rep. Ballweg for their work on this important legislation.

The RPPT Board established a study committee to review SB 317/AB 293 and in conjunction with stakeholders worked with the authors to draft changes to SB 317 to better conform a recently passed uniform law on notarial acts to Wisconsin statutes. The substitute amendment would accomplish and correct the following issues:

- 1.) The substitute amendment creates a new standalone statutory chapter on Notarial Acts. This new chapter will allow citizens, a notary public, attorneys and regulatory agencies a standalone chapter to better locate and understand the law. The proposed amendment would combine and clean up current notarial law in other chapters, making it more understandable and readable in statute.
- 2.) The amendment fixes an issue in the original SB 317 draft that dealt with the Uniform Electronic Transfer Act (UETA) and possible noncompliance with federal law. The substitute would fix this issue and the new act will work with existing uniform acts that have already been adopted by Wisconsin. (UETA and the Uniform Real Property Electronic Recording Act)
- 3.) Adopting the uniform act it allows the state to better adapt and confirm to technological advances and changes in electronic transactions. The substitute allows for the use of remote online notarization and carefully set out standards and the process for those notarial acts that occur through electronic means.
- 4.) The substitute models a process used when the Uniform Real Property Electronic Recording Act was adopted. To assist the Department of Financial Institutions with the technical standards in RULONA, a Remote Notary would be created to assist in the process of carrying out the new act.

If you have any additional questions please contact Cale Battles, Government Relations Coordinator, at (608) 250-6077 or [cbattles@wisbar.org](mailto:cbattles@wisbar.org).

**The RPPT Section requests your support of the substitute amendment to SB 317.**

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*The State Bar of Wisconsin establishes and maintains sections for carrying on the work of the association, each within its proper field of study defined in its bylaws. Each section consists of members who voluntarily enroll in the section because of a special interest in the particular field of law to which the section is dedicated. Section positions are taken on behalf of the section only.*

*The views expressed on this issue have not been approved by the Board of Governors of the State Bar of Wisconsin and are not the views of the State Bar as a whole. These views are those of the Section alone.*



STATE BAR OF WISCONSIN



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**Luther S. Olsen**  
State Senator  
14th District

**TO:** Senate Committee on Agriculture, Revenue & Financial Services  
**FROM:** Senator Luther Olsen  
**DATE:** December 18, 2019  
**SUBJECT:** Testimony in favor of Senate Bill 317.

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Thank you Chairman Marklein and the Senate Committee on Agriculture, Revenue and Financial Services for holding a hearing and allowing me to testify in favor of Senate Bill 317.

This legislation modernizes current statutes relating to notary publics and notarization by allowing signatures to be notarized remotely online. This will save time and remove location barriers to receiving authentication.

In order to perform online notary services remotely, a person will need to obtain an additional commission as an online notary public from the Department of Financial Institutions (DFI). The term of the commission will be four years. This will allow an online notary public who is physically located in Wisconsin to perform an online notary for a person who is physically located in the United States or for a person who is located outside the United States if certain conditions are satisfied.

DFI must approve the process in which the signer and the notary are able to communicate during the process and the specific procedures for verification of the person's identity. Persons providing the online notarization identity verification systems must register with DFI and have their system approved. Online notary publics must agree to retain records themselves or with a repository for at least seven years.

In addition, there has been a substitute amendment introduced to address feedback received from DFI and the State Bar. The substitute amendment will adopt the Uniform Law Commission's Revised Uniform Law Act from 2018, create a Remote Notary Council and consolidate statutes related to notaries and notarial acts into one chapter.

Senate Bill 317 was crafted with the input of many stakeholder groups, including the Wisconsin Land Title Association, Wisconsin Realtors Association, Wisconsin Bankers Association, Wisconsin Credit Union League, Wisconsin Register of Deeds Association, Wisconsin Mortgage Bankers Association, Wisconsin State Bar, Department of Financial Institutions and others.

Thank you, members. I ask for your support and would be more than happy to answer any questions.



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CO-CHAIR, JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

41<sup>st</sup> ASSEMBLY DISTRICT

**Senate Bill 317: Online Notaries Public and Electronic Notarizations  
Testimony of Representative Joan Ballweg  
Senate Committee on Agriculture, Revenue and Financial Institutions  
December 18, 2019**

Thank you, Chair Marklein and members of the Committee on Agriculture, Revenue and Financial Institutions, for holding this public hearing on Senate Bill 317.

This legislation will allow signatures to be notarized remotely online, removing time and location barriers to receiving authentication and join 22 other states in modernizing laws regarding notaries public and notarization.

In order to perform remote online notary services, a person will need to obtain permission from the Department of Financial Institutions (DFI). DFI must approve the process in which the signor and the notary are able to communicate during the process and the specific procedures for verification of the person's identity. Persons providing the online notarization identity verification systems must register with DFI and have their system approved. Online notaries public must agree to retain records themselves or with a repository for at least seven years.

Senate Bill 317 was crafted with the input of many stakeholder groups, including the Wisconsin Land Title Association, Wisconsin Realtors Association, Wisconsin Bankers Association, Wisconsin Credit Union League, Wisconsin Register of Deeds Association, Wisconsin Mortgage Bankers Association, Wisconsin State Bar, Department of Financial Institutions and others.

There will be a substitute amendment introduced to address feedback received from DFI and the State Bar. Representatives from these organizations are here today, and I appreciate everyone's work on this legislation.

Thank you for your time, I'm happy to answer any questions.



To: Senate Committee on Agriculture, Revenue and Financial Institutions

From: Cori Lamont, Senior Director of Legal and Public Affairs and  
Tom Larson, Senior Vice President of Legal and Public Affairs

Date: December 18, 2019

Re: SB 317- Relating to: electronic notarizations

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The Wisconsin REALTORS® Association (WRA) supports the goals of SB 317, which recognizes the real estate transaction has evolved significantly requiring modern alternatives to be offered to consumers who would like to have certain documents notarized remotely.

Moreover, we very much appreciate the efforts of Senator Olsen and Representative Ballweg and other stakeholders to address identified concerns relating to consumers providing informed consent relating to the privacy of their information.

**Background** – Real estate over the last decade has become a global market, buyers and sellers are executing real estate transactions from one country to another, including properties and businesses in Wisconsin. Furthermore, with the advent of technology and the need to accommodate the busy lives of consumers involved in a real estate transaction, traditional face-to-face closings are a thing of the past. Generally, sellers execute their closing documents prior to the actual closing, a process referred to as pre-signing, thus eliminating the need for the seller to attend the closing. Moreover, buyers and sellers of all types of real estate often complete an entire transaction with digital signatures and without ever having to print a piece of paper. The only exception to this movement toward modernization of the real estate transaction under current Wisconsin law, is that a notarization must be done in person. Requiring notarizations to be accomplished in person is an antiquated method.

**Proposed Legislation and Substitute Amendment 1** – SB 317 identifies the need to modernize the notarization process in a real estate transaction by offering remote electronic notarization as an alternative to an in-person notarization. SB 317 Substitute Amendment 1 strikes a balance of offering remote electronic notarization while ensuring the protection of the consumer's private information. Specifically, Substitute Amendment 1 maintains consistency with current federal or future Wisconsin laws regulating privacy, while requiring a remote notary platform to provide a consumer an independent, written consent separate from any other permission, disclosure or acknowledgement if the remote notary platform is going to distribute the consumer's information collected during the remote notary process.

The WRA is supportive of SB 317 Substitute Amendment 1.

If you have questions, please contact us at (608) 241-2047.



**State of Wisconsin**  
*Department of Financial Institutions*

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Tony Evers, Governor

Kathy Blumenfeld, Secretary

**Written comments from the Department of Financial Institutions regarding Senate Bill 317**

*Submitted for the Senate Committee on Agriculture, Revenue and Financial Institutions Public Hearing  
on December 18, 2019*

The Department of Financial Institutions, the agency tasked with administering this proposed legislation, applauds the bipartisan team of sponsors and supporters who have worked with a wide range of stakeholders to bring the legislation to this point.

There are some one-time implementation costs, however, which were detailed in DFI's fiscal estimate and have not yet been addressed in the bill. Due to its relatively small size, DFI cannot readily absorb or avoid those costs. At present, three staff members process roughly 15,000 notary filings and handle another 15,000 emails and phone calls a year for Wisconsin's 80,000-plus notaries public, as well as maintaining the public database of Wisconsin notaries. This legislation will materially increase the number of notices required to be filed with DFI, add to the categories of information to be maintained in the database, and—we assume—increase the volume of emails and phone calls from notaries with new questions that staff do not (yet) have the training and expertise to answer.

As reflected in DFI's fiscal estimate, we presently believe we can meet those challenges through modest, one-time costs that do not require the addition of further staff or ongoing expenses. Most of those costs (estimated at \$175,734.89) are IT expenses for modifications to our agency's data systems to accommodate the new notary designations and online processing of the new filings required by section 45(7) of the bill. The remaining start-up costs (estimated at \$17,559.64) are to obtain third-party expert advice and staff training on standards and issues pertinent to online notarization, credential analysis, identity proofing, and communication technology.

To ensure that the law is implemented in the way the Legislature envisions, we ask that it make an appropriation in the bill or exercise any other viable avenue for ensuring that DFI is granted the authority it needs to incur these start-up expenses. We are willing to provide further information and do whatever we can to be helpful in that regard.

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