

FINAL BILL REPORT

SSB 5081

C 281 L 17
Synopsis as Enacted

Brief Description: Adopting the revised uniform law on notarial acts.

Sponsors: Senate Committee on Law & Justice (originally sponsored by Senators Pedersen and Miloscia; by request of Uniform Law Commission).

Senate Committee on Law & Justice
House Committee on Judiciary

Background: A notary public witnesses a transaction and preserves the integrity and reliability of the transaction with a notarized document. Under current law, notarial acts include taking an acknowledgement, administering an oath, witnessing a signature, or certifying a copy or act. A notary must adhere to standards such as determining and certifying, either from personal knowledge or from satisfactory evidence, that the person appearing before the notary is the person signing a document. The notarial act must be evidenced on a certificate signed and dated by the notary and accompanied by an impression of the official seal or stamp. Notaries are appointed and regulated by the Department of Licensing (DOL), may charge fees set by DOL, and are subject to revocation of appointment for incompetency, or criminal penalties for official misconduct.

In 1982, the Uniform Law Commission (ULC) produced the original Uniform Law on Notarial Acts (ULONA). It replaced the 1892 uniform law, the Uniform Acknowledgement Act. In 1985, Washington adopted the original ULONA. Use of electronic records in commerce and other advancing technologies have led to variations among states in notarial practice and in the state regulation of notary practice. The variability of the states' laws affects interstate commercial and lending transactions. Particularly for negotiated instruments and banking transactions, Washington's Department of Licensing (DOL) receives improper protests which result in sanctions for notaries who are unaware of protest requirements.

In 2010, the ULC updated and modernized the ULONA producing the Revised Uniform Law on Notarial Acts (RULONA). The revision updates the provisions on notary responsibilities, electronic recording, interstate recognition, and remedies. RULONA contains provisions which:

- require that notarizations be performed by notarial officers: commissioned notaries public, judges and their clerks, and others, including attorneys, as authorized by other state law;

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

- prohibit notarial officers from acting in any transaction in which the officer or their spouse, is a party or has a direct beneficial interest;
- prohibits notarial officers from using the title “notario publico” and outlaws false and deceptive advertising;
- requires notaries who do advertise to state they cannot practice law or act as immigration counselors;
- requires any person seeking a notarization to appear in person before the notarial officer;
- requires the notary to verify the identity of the person and to witness the signature or receive an acknowledgement or verification of the signature;
- permits a notarial officer to refuse to act if satisfactory identification is not provided or if not otherwise satisfied by the interaction—the notary may not refuse to act if the refusal would be prohibited by other law.
- requires a notary to evidence any notarial acts by certificates attached to the notarized record—specifies the contents of the certificate and provides for form and content;
- provides 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;
- provides minimum standards for receiving a commission, including optional provisions for surety bonds, examination of applicants, and maintenance of journals of notarial acts;
- allows the commissioning authority to establish rules for the implementation of the act and standards for notarization of electronic records; and
- implementing the provisions of the Uniform Electronic Transactions Act and the federal Electronic Signatures in Global and National Commerce Act, specifies the conditions for notarization of electronic records.

RULONA has been adopted by Oregon, Montana, North Dakota, Iowa, West Virginia, and Pennsylvania. Georgia and New Jersey have introduced bills adopting RULONA.

Summary: The bill is substantially similar to RULONA. A few key provisions of the bill make the following changes to law:

- a notary may obtain a license endorsement as an "electronic records notary public" from DOL;
- a notary may note a protest of a negotiable instrument only if the notary is licensed to practice law in this state, acting under the authority of a licensed attorney, or acting under the authority of a financial institution regulated by the state;
- notaries may not notarize their own signature or the signature of in-laws or step-relatives;
- notaries must compare the original document being notarized to a copy of the original document;
- notary certificates must be in English or in a dual language format with one language being English;
- the Director of DOL does not have authority to invalidate a notarial act; and
- DOL must create and maintain an electronic database of licensed notaries.

Differences in the bill as compared to RULONA are an exception from prohibited acts for limited license legal technicians acting within the scope of their license, and removal of DOL authority to require applicants and renewals to pass a course or exam.

Votes on Final Passage:

Senate	48	1	
House	98	0	(House amended)
Senate			(Senate refused to concur)
House	94	2	(House receded/amended)
Senate	48	1	(Senate concurred)

Effective: July 1, 2018.