

Revised Uniform Law on Notarial Acts Workgroup

Meeting Minutes

Tuesday, March 12, 2019

Members in Attendance:

Assistant Secretary of State, Kathy Smith; Marilyn Bentley, Baltimore City Clerk of the Court; Toby Musser; Ellen Costa (for Penny Reed); Ken Krach; Lydia Williams; M. Clare Schuller; Nick D'Ambrosia; Michael Kasnic; Frieda McWilliams; Bill O'Connell; David Shean; Josaphine Yuzuik; Marquita Lewis; Michael Schlein

Members of the Public in Attendance:

Melissa Ross, Alex Scheiffler

Welcome

Assistant Secretary of State, Kathy Smith, called the meeting to order at 1:05PM. She welcomed everyone to the first meeting of the Revised Uniform Law on Notarial Acts (RULONA) Workgroup.

Introductions

Attendance was taken and everyone in attendance was invited to introduce themselves.

Ken Krach remarked that he now works in Financial Crimes, he advised there's no need to update the roster to reflect this change.

Background

Assistant Secretary Smith summarized the work of the 2018 Notary Workgroup and explained that forming the RULONA Workgroup was commissioned by the Secretary of State as the next logical step.

Assistant Secretary Smith explained that participants will not receive any special access or benefit in its dealings with the State as a result of their willingness to participate on the RULONA Workgroup. No compensation, reimbursement or other remuneration of any kind will be given to participants or the organizations that participants represent, as a result of participation on the RULONA Workgroup.

Purpose

Assistant Secretary Smith stated that the purpose of the RULONA Workgroup is as a follow up to discussion from the Notary Workgroup. The purpose is to study, review, and make recommendations about the entire body of work and determine its applicability, if any, for the State of Maryland.

Goal

Assistant Secretary Smith explained that the goal of the RULONA Workgroup is to study and determine if the Revised Uniform Law on Notarial Acts should be considered for adoption, in part or in full, or rejected in the State of Maryland.

Objectives of the RULONA Workgroup

Assistant Secretary Smith explained that the objectives of the RULONA Workgroup is to make a recommendation, if possible, about whether RULONA should be considered for adoption, in part or in full, or rejected by Maryland.

Recommendations of the RULONA Workgroup will be presented to the Secretary of State for review. The Office of the Secretary of State intends to make publicly available a final report of the RULONA Workgroup.

2018 Notary Work Group Final Report and Recommendations

Assistant Secretary Smith invited comments regarding the 2018 Notary Workgroup report.

Nick D'Ambrosia: Mentioned that the National Association of Realtors came out in favor of remote notarizations.

Toby Musser: Recommendation #11 from the Notary Workgroup is the linchpin for updated notary laws. Uniformity in record keeping and data storage is critical.

Clare Schuller: Asked for clarification on when the two years needed to implement remote notarizations starts.

Assistant Secretary Smith: When funding is disbursed and the infrastructure is in place, the two years will start.

Bill O'Connell: Ask for more clarification on what that means.

Assistant Secretary Smith: Reiterated that funding must be disbursed and the infrastructure must be in place in order for the Secretary of State to successfully implement remote notarizations, education and testing, and any other issues that may result from a new law.

Clare Schuller: Asked if the industry can assist in making it less than two years; that it is important for the industry in Maryland to keep up with the neighboring states.

There was a discussion about the need to take into account the current technological challenges faced by the Secretary of State's staff each day when discussing a timeline for implementation of a new law.

RULONA Summary Document

Assistant Secretary Smith invited comments regarding RULONA, the 2018 version, as drafted by the Uniform Law Commission.

Bill O'Connell: RULONA should be the model adopted in Maryland. It was adopted by the Uniform Law Commission, which has been in existence since at least the year 1900. The Uniform Law Commission adopted in person electronic notarizations in 2010 and remote notarizations in 2018. He explained that Maryland adopts many uniform laws; that uniform laws are designed to be harmonious with laws in other states but that you must weave uniform law into existing law. He also explained that uniform laws provide comments after every section to help understand what is meant in that section of the law and that case law is established in the courts that guide our judges on how to handle cases that occur in Maryland.

Assistant Secretary Smith: stated that about 40% of states have adopted RULONA; many states are curious about what case law will be established regarding remote notarizations.

Toby Musser: Section 19 of RULONA was listed as optional which he said is disappointing as there needs to be uniformity in record keeping and that he strongly suggests Section 19 of RULONA be in any law that is created in Maryland.

Bill O'Connell: Agreed with Toby Musser; that record keeping is necessary to have in the law.

Ken Krach: Uniform law helps with emerging technologies as well. The Uniform Law Commission gives updates on emerging issues and suggestions for changes so that they can be made by the states more quickly.

Assistant Secretary Smith surveyed the Workgroup, asking who has read RULONA (about five people raised their hands, which was less than half of the people). She asked that everyone review RULONA for 5-7 minutes.

Seven (7) minutes passed.

Assistant Secretary Smith: Asked if the time was sufficient for reviewing RULONA and asked for comments.

Toby Musser: Asked Bill O'Connell if the education portion, listed as optional in RULONA, should be mandatory.

Bill O'Connell: Believes that education should be included in any law in Maryland. The purpose of mandating education is to make the Notary more professional.

Toby Musser: Asked if it will be challenging to force approximately 80,000 notaries to take a class or test; will there be resistance? He expressed concern that 80,000 notaries may call their Senators to complain about this requirement.

Bill O'Connell: Does not believe there will be opposition to requiring a class. He asserted that there is no direct evidence to support that but that the evidence is anecdotal. He said that he routinely asks notaries about needing education and

those that he asks always answer that education would be great. He said that all of the notaries who testified in favor of SB 678, a bill related to notaries, supported an education requirement. He also stated that the Notary Work Group agreed that education of notaries is needed.

Assistant Secretary Smith: Asked Mr. O’Connell for context and asked how many notaries testified at the Hearing.

Mr. O’Connell: Stated three (3) notaries testified.

Assistant Secretary Smith: Asked Michael Schlein to comment on education.

Michael Schlein: Explained how the Secretary of State made a notary that violated the law take a class before allowing them to notarize again. The class requirement was successful. Almost all notaries thank us for requiring them to take the class after taking it, even those that were resistant at first. He explained that there is a question on the current notary application about reading the notary handbook. The applicants always check “yes” even though it is clear that most applicants have not read the handbook, or at the very least, do not understand it.

Assistant Secretary of Smith: Education is critical.

Toby Musser: Wants to make sure we not only look at why it’s good to implement RULONA; but also to consider all sides and the impact.

Assistant Secretary of State invited suggestions on how to review RULONA.

Clare Schuller: Suggested looking at the 2018 Notary Workgroup recommendations and seeing where RULONA already addresses those recommendations; allowing us to focus on RULONA aspects not already address by the 2018 Notary Work Group.

Ken Krach: Suggested subgroups to ensure all aspects of RULONA get equal attention.

Clare Schuller: Suggested splitting RULONA into four sections.

Assistant Secretary Smith: After all comments were received, the RULONA Table of Contents was split into four (4) Subgroups: 1: Sections 1-8 of RULONA, 2: Sections 9-16 of RULONA, 3: Sections 17-24 of RULONA; and 4: Sections 25-33 of RULONA.

Assistant Secretary Smith asked the Workgroup to review the 2018 Notary Workgroup recommendations and determine ~~see~~ where they align with the RULONA Table of Contents and the newly formed Subgroups.

About 10 minutes passed.

Assistant Secretary Smith: Asked the group for suggestions about aligning the 2018 Notary Workgroup Recommendations with the Subgroups that were formed.

Following a discussion about the 2018 recommendations, the RULONA Workgroup decided that the 2018 recommendations fit into the RULONA subgroups as follows:

1. Subgroup 1: 10, 13, 19
2. Subgroup 2: 5, 6, 9, 13, 14, 15, 16, 19
3. Subgroup 3: 2, 7, 8, 9, 11, 12, 14, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28
4. Subgroup 4: 1, 2, 3, 4, 5, 10, 11, 12, 15, 19, 20, 25

Staffing Subgroups: After a discussion, Assistant Secretary Smith advised that the Office will e-mail the Workgroup the list of subgroups to confirm the subgroups were accurately captured and asked members to reply stating their preference(s) to participate in one or more subgroups. The following volunteered to serve on the following Subgroups:

1. Subgroup 1: Frieda McWilliams (leader), Nick D’Ambrosia
2. Subgroup 2: Michael Kasnic (leader), Bill O’Connell, Ken Krach

3. Subgroup 3: Toby Musser (leader), Josaphine Yuzuik, Bill O'Connell, Frieda McWilliams, Marquita Lewis, Michael Kasnic
4. Subgroup 4: Nick D'Ambrosia, Toby Musser, Bill O'Connell

Clerk Bentley: Volunteered for whichever group she is needed.

Meeting Schedule

Assistant Secretary Smith: Reviewed the meeting scheduled with the RULONA Workgroup members. Meetings are scheduled for the second Tuesday of each month, from March through August. The September will be held on the third Tuesday due to room availability. She asked the Subgroups to schedule their first meeting and be prepared to report at the April meeting. She noted a leader is needed for Subgroup 4, members were asked to advise Michael Schlein of their ability to serve as the Subgroup 4 leader.

Questions/Comments

Assistant Secretary Smith asked if there were any questions or comments. There were none.

Adjournment

Assistant Secretary Smith thanked everyone for their commitment to participating in the RULONA Workgroup.

The meeting adjourned at 2:45 P.M.