



AMERICAN
LAND TITLE
ASSOCIATION



July 10, 2018

Mr. Chris Winters
Deputy Secretary of State
Office of the Secretary of State - Main Office
128 State Street
Montpelier, Vermont 05633-1101
chris.winters@sec.state.vt.us

Re: Vermont Regulations for Remote Online Notarization

Dear Mr. Winters,

With the recent enactment of Vermont H.526ⁱ, which provides your office the authority to implement remote online notarization (RON) in Vermont, the Vermont Mortgage Bankers Association (VMBA)ⁱⁱ, the New England Land Title Association (NELTA)ⁱⁱⁱ, the Mortgage Bankers Association (MBA)^{iv} and the American Land Title Association (ALTA)^v are writing to you to discuss our concerns with the new law and ask that you delay issuing regulations until certain key issues are addressed by the Vermont Legislature.

Our organizations are also advocating for the enactment of state RON laws that are safe for consumers, viable in the real estate finance industry, and consistent with the key principles of the MBA-ALTA model bill. The framework of the model is not only technology neutral, but is also flexible enough to permit innovation and improvements in consumer protection. We believe that the Vermont Legislature should review the recently enacted statute and provide additional legislative language encompassing these key principles before your office proceeds with implementing regulations.

By way of background, prior to 2017, the only approaches to RON were the very different statutes in place in Montana and Virginia, which created significant legal uncertainty. An MBA-ALTA effort began after Texas enacted an online notarization law

in 2017^{vi} that embraced the core principles espoused by both associations, which was quickly emulated by Nevada. Our partnership includes the development of model state legislation^{vii} based on these laws, because we believe that the implementation of RON laws that follow a common framework will provide certainty, lower costs and improve the mortgage experience for consumers nationwide.

Our organizations appreciate the intent of the Vermont Legislature to allow for the use of RON within the state. However, the law lacks specificity and alignment with core principles that are present in:

- legislation recently passed by other states;
- the draft of the Uniform Law Commission's revisions to the Revised Uniform Law on Notarial Acts (RULONA); and
- the MBA-ALTA model bill.

MBA, ALTA, their member companies, and state association partners like VMBA and NELTA are encouraging states to pass legislation that embraces the core principles of identity proofing, credential analysis, consumer optionality and vendor neutrality. Thus far in 2018, Minnesota, Indiana, Michigan and Tennessee enacted RON legislation that embraces these principles. Furthermore, the ULC plans to complete their update of RULONA to include RON by the end of the calendar year.

A parallel effort to help foster legal certainty and uniformity comes from the Mortgage Industry Standards Maintenance Organization (MISMO®),^{viii} which formed a working group in September 2017 to assist with the development of RON standards. As you may know, that Working Group has been sharing drafts of their proposed standards with Secretaries of State. The impact of MISMO's contributions can be best seen in the February 2018 addendum to the National Association of Secretaries of State (NASS) National Electronic Notarization Standards^{ix} and in the Texas Secretary of State's proposed rules to implement the Texas law.

For these reasons, we believe it is best for the Vermont Secretary of State to delay promulgating RON implementation regulations until the State Legislature revisits this issue in order to consider the work that is being done to drive consensus on consumer protections and legal certainty. Our organizations would be happy to serve as resources in the future for your Office.

Should you or your colleagues have any questions, please do not hesitate to contact Elizabeth Blosser at ALTA (eblosser@alta.org, 202-261-0310), Cathy Jones at NELTA (203-847-6885), Joshua Wolfe at VMBA (866-680-8622), or Kobie Pruitt at MBA (kpruitt@mba.org, 202-557-2870).

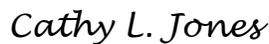
Sincerely,



Michelle L. Korsmo
Chief Executive Officer
American Land Title Association



Pete Mills
Senior Vice President, Public Policy
and Member Engagement
Mortgage Bankers Association



Cathy L. Jones
Executive Director
New England Land Title Association



Joshua Wolfe
Executive Director
Vermont Mortgage Bankers Association

ⁱ <https://legislature.vermont.gov/assets/Documents/2018/Docs/ACTS/ACT160/ACT160%20As%20Enacted.pdf>

ⁱⁱ The Vermont Mortgage Bankers Association (VMBA) is a non-profit association whose purpose is: to promote the welfare of the mortgage lending industry in the State of Vermont and to improve its service to the community; to encourage among its members sound and ethical business practices and methods in originating, marketing, and servicing mortgage investments; to sponsor meetings for the discussion of issues concerning the real estate finance professional, and to provide a forum for new ideas related to the mortgage banking industry; to inform members of changes in laws and of legislation affecting the real estate finance industry, and provide a platform from which members can express their views on practices and legislation affecting the industry; to develop and encourage the education of industry personnel; and to inform the public about mortgage bankers, the residential and commercial services they render, and their positive effect on the economy.

ⁱⁱⁱ New England Land Title Association (NELTA) is the title industry's premier resource for Education, Information and Networking. Organized in 1970, NELTA is a non-profit trade association for professionals engaged in all aspects of the title industry in each of the New England states.

^{iv} The Mortgage Bankers Association (MBA) is the national association representing the real estate finance industry, an industry that employs more than 280,000 people in virtually every community in the country. Headquartered in Washington, DC, the association works to ensure the continued strength of the nation's residential and commercial real estate markets; to expand homeownership; and to extend access to affordable housing to all Americans. MBA promotes fair and ethical lending practices and fosters professional excellence among real estate finance employees through a wide range of educational programs and a variety of publications. Its membership of over 2,200 companies includes all elements of real estate finance: mortgage companies, mortgage brokers, commercial banks, thrifts, REITs, Wall Street conduits, life insurance companies, and others in the mortgage lending field.

^v The American Land Title Association, founded in 1907, is a national trade association and voice of the real estate settlement services, abstract and title insurance industry. ALTA represents over 6,200 member companies. With more than 8,000 offices throughout the country, ALTA members operate in every county in the United States to search, review and insure land titles to protect home buyers and mortgage lenders who invest in real estate. ALTA members include title insurance companies, title agents, independent abstracters, title searchers and attorneys, ranging from small, one-county operations to large, national title insurers.

^{vi} <https://capitol.texas.gov/BillLookup/History.aspx?LegSess=85R&Bill=HB1217>

^{vii} Please see www.mba.org/remotetonlinenotarization or www.alta.org/RON.

^{viii} MISMO® is the standards development body for the mortgage industry. MISMO developed a common language for exchanging information for the mortgage finance industry. Today, MISMO standards are accepted and deployed by every type of entity involved in creating mortgages, and they are required by most regulators, housing agencies and the GSEs that participate in the industry. Use of MISMO's standards has been found to lower per loan costs, improve margins, reduce errors and speed up the loan process by reducing manual, paper-based processes while creating cost savings for the consumer. MISMO is a wholly owned subsidiary of the Mortgage Bankers Association. MISMO stands for Mortgage Industry Standards Maintenance Organization. MISMO standards are grounded in an open process to develop, promote and maintain voluntary consensus-based standards that allow participants in the mortgage industry such as mortgage lenders, investors in real estate and mortgages, servicers, industry vendors, borrowers and other parties to exchange information and more securely, efficiently and economically.

^{ix} https://www.nass.org/sites/default/files/resolutions/2018-02/nass-support-revised-enotarization-standards-winter18_0.pdf