



---

MORTGAGE BANKERS ASSOCIATION

February 12, 2019

Ms. Pat Fry  
Chair, Revised Uniform Law on Notarial Acts (RULONA) Task Force  
Uniform Law Commission  
111 N. Wabash Avenue, Suite 1010  
Chicago, Illinois 60602

Dear Ms. Fry,

The Mortgage Bankers Association (MBA)<sup>1</sup> is writing to express support for the recent update to the Uniform Law Commission's (ULC) Revised Uniform Law on Notarial Acts (RULONA) to include new language permitting remote online notarizations (RON). Moreover, we wish to express the appreciation of our members for the work of the expert legal volunteers and staff who served to develop these amendments to RULONA.

As you may know, MBA has long supported uniformity in the laws that govern the real estate finance industry. Such consistency creates greater legal certainty for our member companies and also helps drive efficiency and lower operational costs. These conditions translate into enhanced marketplace competition for consumers in terms of better service and lower prices.

In support of this approach, MBA and the American Land Title Association (ALTA) partnered with each other to prepare model state RON legislation. Both associations believe that all states should adopt laws and promulgate regulations that permit consumers the choice to conduct their real estate finance transactions using RON. The need for legal consistency on this issue was underscored by recommendations offered last summer in a paper by the United States Treasury Department entitled, *Nonbank Financials, Fintech, and Innovation*.<sup>2</sup> The report suggests that states should pursue RON legislation and that Congress consider legislation to provide a minimum uniform national standard for electronic and RON notarizations.

The MBA-ALTA model was based on compromise legislation enacted in Texas and Nevada. It was developed with diverse stakeholder input from members of both associations. It was also widely shared before release with key federal housing industry participants including the Federal Housing Administration, Fannie Mae and Freddie Mac. Additionally, input was received from the National Association of Secretaries of State (NASS) and members of the ULC. With the Texas

---

<sup>1</sup> *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. For additional information, visit MBA's website: [www.mba.org](http://www.mba.org).*

<sup>2</sup> See page 109 of <https://home.treasury.gov/sites/default/files/2018-08/A-Financial-System-that-Creates-Economic-Opportunities---Nonbank-Financials-Fintech-and-Innovation.pdf>

and Nevada laws as the starting point, the MBA-ALTA model is consistent with core principles shared by both associations which include:

- The protection of consumer rights and optionality;
- That RON acts be considered equivalent to traditional notarizations without any additional restrictions or unnecessary barriers;
- The need to develop standards for the implementation of RON consistent with those established by national standard setting bodies, including the Mortgage Industry Standards Maintenance Organization (MISMO);
- That public policy regarding technology should permit flexibility in order to foster innovation but should always maintain vendor neutrality;
- The need for identity proofing and credential analysis; and,
- That any notarized real estate transaction clearly indicate whether the notarial act was made in-person or through a remote online means.

MBA believes that the ULC's RON updates to RULONA are consistent with these principles and that the language of the RULONA update is similar to the MBA-ALTA model. Indeed, several MBA member companies, that have been key stakeholders in the development of the MBA-ALTA model, offered their views to the ULC during its important work.

As a result, states now have two paths to RON adoption. MBA will continue to support the MBA-ALTA model, but in states which have already adopted RULONA their legislators and governors should look to the new ULC language to update their laws. The ULC's addition of RON language to RULONA may be a simpler path for these states to achieve consistency with the RON laws of other states. MBA will support legislation that advances either model bill.

MBA will also work to improve on proposals that do not hold to the core principles shared by MBA and ALTA. As of this writing, laws permitting RON have been enacted in ten states, and as many as twenty bills have been introduced in states this year to expand RON adoption. It is vital that states not move independently on RON. Multiple different approaches would fuel legal jeopardy for the real estate finance industry and increase compliance costs. Such costs cannot be absorbed by MBA members and would have to be passed on to borrowers.

While MBA remains confident in the ability to achieve consistency among states through adoption of the MBA-ALTA model, MBA also believes the ULC's important work on RON can contribute to the desired outcome. It now falls upon state policy makers to consider and use either model in an effort to provide consumers and our member companies the opportunities offered by RON real estate finance transactions.

Thank you,



Pete Mills  
Senior Vice President  
Residential Policy and Member Engagement