



September 1, 2018

VIA OVERNIGHT MAIL

The Honorable Representative David Osborne
Kentucky House of Representatives
702 Capitol Avenue
Annex Room 332 C
Frankfort, KY 40601

Re: H.B. 333 – E-Notary Bill

Dear Representative Osborne:

I am writing to you on behalf of the National Association of Independent Land Title Agents (NAILTA) which represents independent settlement service providers, including land title examiners, agents and lawyers from across the United States and within your district.

We want to address H.B. 333 and its potentially adverse impact on Kentucky small business owners. In particular, H.B. 333 makes certain accommodations for out-of-state, online electronic notarization vendors to notarize real estate documents, including deeds and mortgages without setting foot in Kentucky. This bill jeopardizes the current ability of Kentucky land title agents, Notaries and attorneys to conduct real estate settlement services for the benefit of Kentucky homeowners.

Your support for protective language in H.B. 333 to require the physical presence of a Kentucky Notary at any electronic notarization-required real estate settlement would strengthen the Bill and the ability of small business owners to protect consumers from the growing risks of real estate-related cyber fraud. Therefore, we urge you to consider language offered by the Kentucky Land Title Association (KYLTA) to address this weakness in H.B. 333.

Physical appearance, in-person, before a Notary is the bedrock principle of a notarial acknowledgment. Without requiring a physical proximity between the Notary and the principal, large out-of-state corporations will begin closing real estate transactions by substituting an in-person Kentucky Notary for a webcam-produced notarization performed by a foreign Notary from anywhere in the world.

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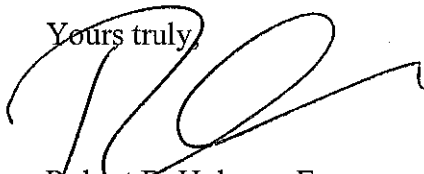
Requiring the physical presence of the principal will also reduce potential for fraudulent exploitation and legal challenge due to inaccurate verifications. Furthermore, notaries must evaluate a principal's mental capacity to make decisions, enter into contracts, and assess their ability to exercise free will without undue coercion. The ability to properly evaluate a principal's mental capacity is significantly reduced if not performed via an in-person interaction.

A few states that have adopted or are currently considering similar notarial statutes have included a physical proximity requirement. A physical proximity requirement means the principal and the notary are physically close enough to see, hear, communicate, and give identification credentials to each other without reliance on an electronic device such as a telephone, webcam or similar device.

An in-person requirement preserves business in the state of Kentucky, reduces fraudulent transactions and allows Notaries to properly examine a principal's mental capacity. For the foregoing reasons, we urge you to please consider including language in H.B. 333 that requires the physical presence between the principal and Notary for all remote notarizations.

If you have any questions about this letter or our organization, please feel free to contact me at (800) 344-7445. I look forward to hearing from you.

Yours truly,



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