

New Hampshire Credit Unions



Creating Cooperative Power

HOUSE JUDICIARY COMMITTEE PUBLIC HEARING APRIL 27, 2021

A STATEMENT BY DAVID COLLINS ON BEHALF OF NEW HAMPSHIRE CREDIT UNIONS IN SUPPORT SB 134 AN ACT ADOPTING OMNIBUS LEGISLATION RELATIVE TO CIVIL ACTIONS AND CRIMINAL LIABILITY

The Cooperative Credit Union Association, Inc. (“Association”) is the state credit union trade association, serving 14 New Hampshire federally and state-chartered credit unions that are cooperatively owned by 761,000 consumers as members. On behalf of the New Hampshire credit union movement, the Association supports SB 134, *An Act Adopting Omnibus Legislation Relative to Civil Actions and Criminal Liability*. Testimony in support is limited to Part II of the bill relative to the revised uniform law on notarial acts and the uniform real property electronic recording act.

Overview of Notarial Acts

Notarial acts are a necessary component of the residential loan closing process. Credit unions are continually striving to meet member demand and convenience at every opportunity. New Hampshire credit unions support this legislation which would serve to increase their online capacity to efficiently and safely serve members’ needs in real estate transactions. This is a benefit that is currently enjoyed in most other states across the country.

The Association notes that the Uniform Electronic Transaction Act (“UETA”), and/or E-SIGN currently have the authorization to utilize electronic notarization. Yet even though both UETA and E-SIGN authorize electronic notarization, they do not provide a framework for performing notarial acts electronically. With the rapid advances that have come with online communication and electronic signing technology, which have only been magnified by the current Coronavirus pandemic, there is a need and a desire to have notarial acts be performed electronically. The Association submits that the authority to electronically notarize documents will lead to higher efficiency and less paper in the workplace, allowing credit unions to more efficiently service their members’ notarial needs.

Electronic Notarization vs. Remote Online Notarization:

Electronic notarization requires an individual to physically appear before a notary public for positive identification. The signatures of both the individual and the notary public can be done electronically. The notary public can electronically seal the document using this method of e-notarization. During this process, the document is electronic, the signatures and seal are electronic, but the individual still must physically appear before the notary public for identification purposes.

Remote online notarization provides a platform in which the individual requiring a notarial act can log into and share a document with a notary public online. The individual wishing to have their document notarized would provide positive identification by holding up their government-issued identification to a webcam. The platform uses positive identification technology to then confirm the individual's identity before allowing the notary to perform any notarial acts. The individual would then electronically sign their portions of the document and the notary would electronically sign and seal the document. The entire transaction would be completed online, further increasing the ease and efficiency of having documents notarized.

Overview of Senate Bill 134:

The Association supports consumer choice for remote online notarization. SB 134 is a legislative proposal that works to promote a modern, paperless mortgage closing process. It ensures that safety and soundness is preserved with a rigorous proposed statutory framework so that New Hampshire consumers, as prospective homeowners, and others receive the benefits of a system that protects document integrity and is secure, efficient and cost effective.

New Hampshire credit unions utilized without incident with the temporary authority granted by Executive Order granted at the beginning of the pandemic¹ which set guidelines for remote authorization. In addition, last session the Legislature passed Chapter 17, which authorized remote notarization of paper estate planning documents during the COVID-19 state of emergency. Finally, HB 287 relative to remote notarization remains pending before the House Judiciary Committee. Accordingly, the Association believes that both the volume and cumulative impact of all of these efforts underscores the need for favorable consideration today of SB 134 as a reasonable solution to permanently carry remote online notarization efforts forward.

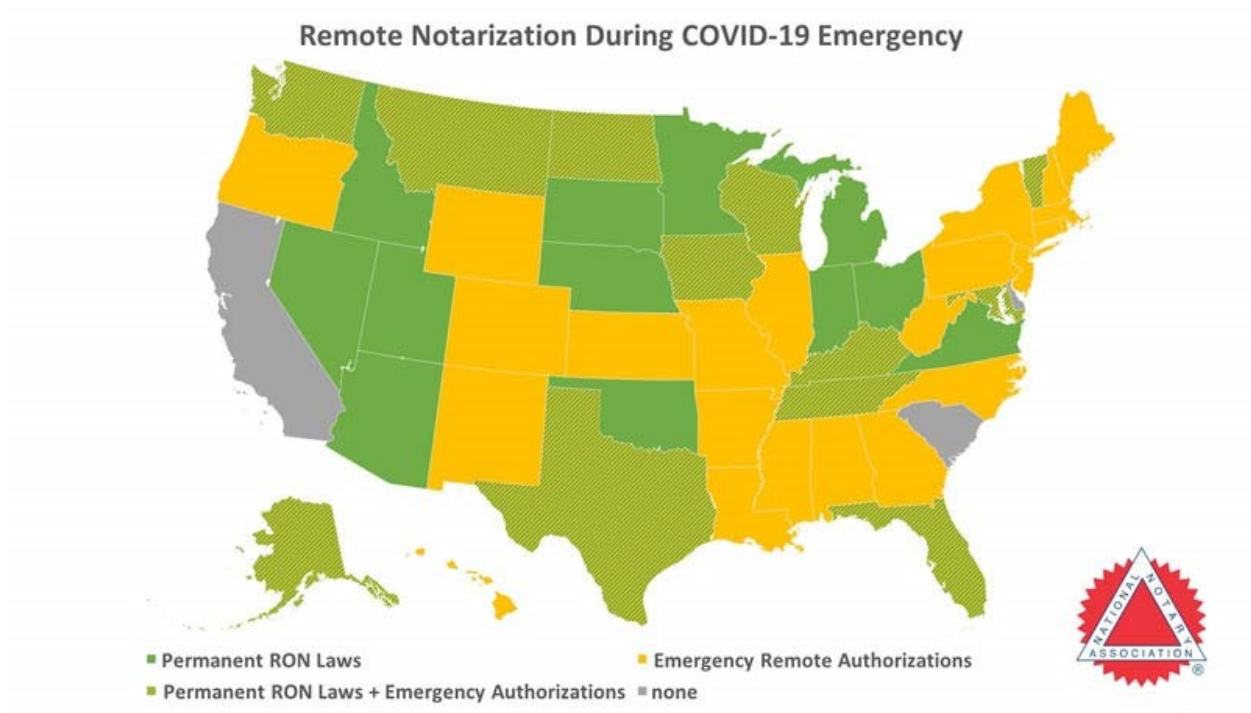
Credit Unions Seek to Improve Member Service by Senate Bill 134:

Service to members is the hallmark of the mission of credit unions as not-for-profit financial cooperatives. Furthermore, striving to improve service levels is a core component of the fabric of every credit union's strategic plans. The need for the authorities in SB 134 is the result of the goal of credit unions to enhance and to expedite current closing features which were brought to light and accelerated by the Know Before You Owe mortgage rule, promulgated by the federal Bureau of Financial Consumer Protection, effective October 3, 2015. One of the important requirements of the rule mandates that consumers receive a new, easier-to-use closing document, the Closing Disclosure, three business days before closing. This allocates more time for borrowers to understand mortgage terms and costs, and provides protection from surprises at the closing table. It also provides time for borrowers to consult with lawyers or housing counselors and ask

¹ Executive Order #11 issued March 23, 2020.

questions about the terms of their mortgage. The result is that greater informed consumers are at the closing table ready to move forward in the most expeditious manner as possible with an elevated expectation that New Hampshire lenders can accommodate their needs. In addition, consumers with experience in real estate closings in states that already permit e-notary closings are also familiar with and value the convenience. They seek the same convenience from their preferred local lender on property located in the Granite State.

Action by Other States:



Without favorable consideration of SB 134, the Association believes that the Granite State is falling significantly behind, with its reputation to help its residents safely, securely and expediently navigate the American dream of homeownership, as well as advance its business-friendly goals.

The Association appreciates the opportunity to provide input to the Committee, and respectfully requests favorable consideration of SB 134.