



**The California League of Independent Notaries
PO Box 640873
San Francisco, CA 94164**

05/25/2022

To: Subcommittee on Consumer Protection and Commerce Members and Staff

Re: Hearing on “Legislative Hearing to Protect Consumers and Strengthen the Economy”

Dear Members and Staff,

I am writing to express our strong opposition to H.R. 3692, the Securing and Enabling Commerce Using Remote Online Notarization Act (SECURE Notarization Act of 2021). This bill would impose remote online notarization immediately onto all states and in doing so will harm the privacy of Americans and impact the ability of courts to determine whether notarized documents are valid or fraudulent. Also, the proposal would interfere with states’ long-standing ability to enact and enforce their own laws regarding the authenticity of critical documents by weakening the requirements for notarization to a vague federal standard.

Remote online notarization creates significantly greater data privacy issues than traditional notarization. This is especially true given public concerns about facial recognition and voice biometrics. An online notary public will capture much more data than a traditional notary would including facial recognition biometrics, identification credentials and the contents of personal legal documents. Unfortunately, there is no prohibition in the bill against selling, sharing or using the data collected during an online notarization by the online notary public or the companies providing the platform used to conduct online notarizations, such as using recordings as a training set for a facial recognition algorithm. Also, there is no requirement for the online notary to inform a person how their personal information will be stored and secured and how that would differ from traditional notarization.

This bill does not include privacy and security requirements to protect the personal information and important documents involved in notarizations. Online notaries would be required to keep audio/video recordings of online notarizations as evidentiary value records and be required to take "reasonable steps" to protect this data from unauthorized use, but those steps are not specified. In addition, privacy and security requirements for the platforms available to facilitate remote online notarizations are not specified and would not be uniform in their levels of security and privacy safeguards. Further, this bill provides no incentives for these platforms to create secure systems since the liability for not keeping records falls on the individual notary and not the platform. Also, this bill lacks guidance on what happens if data were lost, stolen or if an online notary platform were to go out of business without first securing or transferring data, despite the risk being far greater than that of a traditional notary.

The bill under consideration does not require a notary to register before performing electronic notarizations. Further, it does not require states to maintain a publicly accessible, online database of electronic notaries to enable the public to confirm notarial credentials. More troubling, the bill does not require an electronic notary to have any specific training or pass any examination to perform online notarizations. Nor does the bill make any provision for the posting of surety bonds by online notaries or platform providers to protect the public from notarial misconduct.

Finally, this bill provides no guidance or standards to govern the adoptions of any of the new regulations contained in the proposal. While imposing the burden of adopting new rules on states immediately, it makes no provision to pay the expenses which the adoption of these regulations will entail. Also, the bill does not provide any source of new revenue for states to cover these costs.

For these reasons, I urge Congress to abandon any attempts to impose minimum standards for remote online notarization onto states and to allow the policing of notarization of documents to continue as an individual state concern. Thank you for your attention to this matter; if you have any questions, please feel free to contact me directly at: matt@mmmobilenotary.net.

Sincerely,

A handwritten signature in black ink, appearing to read "Matt Miller", with a horizontal line extending to the right.

Matt Miller, President
The California League of
Independent Notaries