



Real Property Section

To: Members of the Senate Judicial Proceedings Committee

From: William A. O'Connell, Chair, Legislative Committee, Real Property Section

Date: March 5, 2021

Subject: **SB 735** – State Government - Notarial Acts - Remote Notarizations

Position: **Support with Amendments**

The Maryland State Bar Association (MSBA) Real Property Section **supports, with amendments attached hereto, Senate Bill 735** State Government - Notarial Acts - Remote Notarizations. The bill seeks to clarify some provisions in existing law and seeks to allow paper remote online notarizations. Existing law allows for remote online notarization with the record resulting in an electronic document. This bill will allow the resulting document to be in a tangible (i.e. paper) form but still require the protections afforded in connection with execution of documents remotely before a notary.

The attached amendment of Government Code §18-107 will allow much needed relief for Maryland notaries so they may complete online notarizations without having to come out of pocket each time they complete one. The current fee allowed to be charged in connection with a remote online notarization is \$4. This allowable charge is set so low that no notary can do it without losing money each time. As such, Maryland consumers are forced to use out of state notaries to execute their documents because they can use an out of state notary as easily as an in-state notary. But the out of state notary is not subject to Maryland law or regulations promulgated by the Secretary of State. That is not good for Maryland consumers.

The proposed cap on the fee is set at \$50 but it is subject to regulations adopted by the Secretary of State. In other words, the Secretary of State will set the fee after consultation with notary stakeholders and conducting their own independent study to determine what a reasonable fee would be for a notary to charge. And it will allow the fee to be set without having to amend the statute every time the Secretary of State determines the fee should be increased. The same concept applies to in person notarial charges, but that cap is proposed to be \$25.

For these reasons, the MSBA Real Property Section **supports with amendments SB 735** and asks for a **favorable report**. Thank you for your consideration. Please do not hesitate to contact me at (443) 741-4536 or waoconnell@firstam.com.

[Md. STATE GOVERNMENT Code Ann. § 18-107](#)

Statutes current through legislation effective January 1, 2021

MD - Annotated Code of Maryland > STATE GOVERNMENT > TITLE 18. NOTARIAL ACTS > SUBTITLE 1. NOTARIES PUBLIC.

§ 18-107. Notary fees and travel expenses

(a) Limits on fees. --

(1) The Secretary of State shall adopt regulations to establish fees, not to exceed \$ 25 for an original notarial act, and an appropriate lesser amount for the repetition of that original notarial act or to make a copy of the matter addressed by that original notarial act.

(2) A notary public or person acting on behalf of a notary public may charge a fee, not to exceed \$ 50, for the performance of a notarial act under § 18-214 of this title, SUBJECT TO REGULATIONS ADOPTED BY THE SECRETARY OF STATE.

(b) Travel expenses and fees. --

(1) Subject to paragraph (2) of this subsection, a notary public may charge the prevailing rate for mileage established by the Internal Revenue Service for business travel per mile and a fee not to exceed \$ 5, as compensation for travel required for the performance of a notarial act.

(2)

(i) The Secretary of State may set by regulation a different amount that a notary public may charge under paragraph (1) of this subsection.

(ii) An amount set under subparagraph (i) of this paragraph may exceed the amount established under paragraph (1) of this subsection.