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November 13, 2020

Dear Secretary of State:

Thank you for the opportunity to submit feedback regarding the new rules for remote notarizations. While by and large we support the establishment of remote notarization, we do have objections to two provisions. We also have recommendations regarding the required training.

### **Objectionable Sections of the New Rules**

- **Rule 5.2.7. Ten Dollar Fee.** This fee is too small for the service provided by independent notaries public and unfairly favors businesses. The cost of the technology to perform remote notarizations far outweighs the amount a notary can charge her customer. Notaries who provide crucial services that normal businesses don't (E.g., weekends, nights, private business deals, etc.) for the public at large will likely find the cost of the technology too expensive. Furthermore, setting the fee at \$10 promotes hidden pricing like service charges to recoup the cost of performing the notarial act. If the intent of this office is to see that remote notarization flourishes, the Secretary should increase the fee limit to \$20.
- **Rule 5.2.2. Approved Course of Instruction.** This rule prohibits firms like ours from providing a course for instruction. The reasoning for this seems arbitrary and unnecessary. For the past ten years, approved vendors have provided trusted training approved by your office to notaries public throughout the state. Vendors should be given the opportunity to provide remote notary training.

We provide things that the state can't including:

- A notary training geared specifically to new notaries and renewing notaries.
- Monthly newsletters that highlight changes to the law.
- Hand Holding through the application process.
- Answering general notary public questions (thus relieving the burden on your office to answer these questions).
- Recommendations on challenging notarizations.
- Responsive website design for the overwhelming majority of notaries who watch training through their mobile device.

There is no reason why the state should enjoy a monopoly over providing this training. The state should be permitted to set the topics that must be covered, but permit trusted vendors to provide the training.

### **Notary Insurance Recommendation**

While not contemplated in the new law or rules, the state should consider a notary insurance requirement. In many states, notary insurance forms the cornerstone of a notary commission. The time has come to reevaluate its importance because of these new rules. The new rules provide opportunities for the Colorado based notary to perform remote notarizations for people outside the State of Colorado. This exposes the notary to liability in foreign jurisdictions.

For instance, if a Kentucky business deal went awry and a remote Colorado notary was used, subject matter and personal jurisdiction in the matter would be established in Kentucky. This leaves the notary to defend her interests in Kentucky. Without insurance, the notary would be required to appear in Kentucky or hire counsel to appear on her behalf. As you are aware, failure to appear may result in civil and criminal liability. The most common remedy is transfer or risk otherwise known as insurance. Given the great expenses involved in court proceedings, notaries public who intend to become remote notaries should be made aware of this predicament.