



DELBERT HOSEMANN
Secretary of State

Electronic Notarization Study Group

June 6, 2018

Greeting and Introduction

Secretary of State Delbert Hosemann began the meeting by welcoming everyone to the study group meeting. Following his welcoming remarks, Secretary Hosemann gave a brief synopsis of what exactly a Study Group is, explaining it is an opportunity for individuals to give their input regarding a specific issue as the Secretary of State's office decides if and how they should draft potential regulations and legislation. Secretary Hosemann mentioned that Mississippi is the only state with a fully electronic Secretary of State's office. Secretary Hosemann added that roughly 20,000 new businesses are incorporated in Mississippi each year using a fully-electronic process. The mention of Mississippi being on the cutting edge of technology in its Secretary of State's Office led to the introduction of the topic of electronic notarization (e-notary). Secretary Hosemann introduced Assistant Secretary of State for Business Services, Tom Riley. Tom spoke briefly about how the topic of e-notary had been raised by Ken Farmer, of the First American Title Insurance Company, approximately 5 years prior.

Policy and Research Presentation

Brittany Ridinger, attorney in the Policy and Research Division of the Secretary of State's Office, presented a PowerPoint outlining the division's findings on the topic. She began by explaining that the process for e-notary is the same as the process of traditional notarization—the notary and the signing party are in the same room and follow the same process as they would if the notary were using a traditional stamp. The primary difference is found in the requirements for e-notarizing a document—signatures and the seal are in electronic format. In lieu of an embossed seal, the notary would affix either an electronic seal or some other unique identifier depending on the technology adopted. Brittany explained that 29 states already allow e-notary and that Tennessee had recently passed e-notary legislation that would be effective July 2019. She clarified that “remote notary”, which takes place over a type of video chat program, is not something the Secretary of State's office would be interested in pursuing at this time. Brittany discussed the two most common types of technology used for e-notary: 1) the Document Authentication Number (DAN); and 2) Electronic Solution Providers. Brittany addressed several security concerns associated with adopting e-notary. One such concern was the potential

consequence of a notary maintaining a notarized, sensitive document on their own computer or device. Additionally, Brittany noted that even though the electronic solution providers often advertise that their systems are impenetrable, recent world events have shown us that these “big ships” are not unsinkable. Brittany concluded her remarks by addressing the benefits and disadvantages of e-notary. The primary benefit, she noted, was that Mississippi already has legislation in place that authorizes electronic signatures and electronic recording, so electronic notarization would be the final piece to establishing an end-to-end electronic transaction for real estate closings.

Discussion

Ken Farmer presented for discussion three potential approaches to drafting electronic notarization legislation. Tom Riley presented an example of how the electronic notarization process would look, specifically in the context of a real-estate transaction. Tom made it clear that he was more in favor of using the DAN system, rather than the electronic solution providers at this time.

Brittney Batton, attorney for Policy and Research, then posed an important question to the group: is e-notarization worth pursuing? Ronny Lot, Madison County Chancery Clerk, expressed that he believed the Mississippi Recorder’s Association would be in favor of implementing e-notarization. Eddie Jean Carr, Hinds County Chancery Clerk conveyed her belief that most Chancery clerks would be in favor of pursuing it as well. Although an obvious proponent of e-notary, Ronny Lott mentioned that only 15% of people were currently using e-recording in their real estate transactions in Madison County. Robert Praytor of the Mississippi Real Estate Commission expressed concern that some companies were beginning to advertise their ability to have documents notarized remotely. None of the other attendees were aware of such advertisements, but acknowledged that the matter needed to be looked into further.

The Hinds County Chancery Clerk asked if all notaries would have to sign up as e-notaries, but Tom Riley made it clear that the choice would be left to the individual notaries. Joy Phillips of Hancock Bank and Saundra Strong of BancorpSouth both asked if the DAN system would be a sufficient instrument for e-notary or if some other technology would have to be tethered to it, to which it was explained that as long as the DAN met the specifications required by law, it would suffice.

Secretary Hosemann then voiced some of his comments and concerns. He discussed also being opposed to implementing remote notarization at this time. Secretary Hosemann stressed that many other states had already approved e-notary, and it was time for Mississippi to jump on board. After a brief discussion about the method used to identify qualified vendors of e-notary software, Ken Farmer said that it would be most appropriate to just outline requisite specifications rather than name specific vendors. Secretary Hosemann raised for discussion the

idea of implementing just one method—either the DAN system or one of the other more technologically advanced options—instead of offering the option to use both.

Joy Phillips then inquired about the possible impact e-notarization would have on counties without e-recording. Brittany Ridinger suggested that it should not pose a problem because an electronically notarized document could still be printed out and accepted so long as the document bore the appropriate “seal”—whether embossed or electronic. Extensive discussion of the DAN system ensued, including how it would function in practice. One exceptionally relevant question was posed by Allyson Winter of Trustmark National Bank: if you are notarizing several documents pertaining to the same transaction would you have to have a different DAN for each document? Secretary Hosemann asked what would be the notary’s preference in that situation, to which Nicole Lewellyn of Priority One Bank responded, “One number!” There was then some discussion about how the electronic solutions software would work. Brittney Batton reiterated that the DAN system, standing alone, would be an effective way to e-notarize a document.

Conclusion

At 12:56 PM, Secretary Hosemann thanked all of the members of the study group and the meeting concluded.

Study Group Members in Attendance	
Eddie Jean Carr	Hinds County Chancery Clerk
Kenneth D. Farmer	First American Title Insurance Company
Gordon Fellows	Mississippi Bankers Association
Megan Hall	ERA Real Estate Professionals
Donna Hardin	Butler Snow
J. Kenneth Harmon	Brunini Grantham Grower and Hewes
Nicole Lewellyn	Priority One Bank
Ronny Lott	Madison County Chancery Clerk
Steven Miller	Mississippi Real Estate Commission
Joseph Moss	BancorpSouth
Joy Phillips	Hancock Bank
Robert Praytor	Mississippi Real Estate Commission
Janice Shows	ERA Real Estate Professionals
Sandra Strong	BancorpSouth
Dorothy Thompson	DST Realty, Inc.
Blake Trehern	Tommy Morgan, Inc., Realtors
Chris Wilson	First Choice, PLLC
Allyson Winter	Trustmark National Bank
Clarke Wise	Mississippi REALTORS

SOS Staff in Attendance	
Brittney Batton	Attorney: Policy and Research
Kay Earles	Division Coordinator: Policy and Research
Jim Ellington	Legislation
Delbert Hosemann	Secretary of State
Anna Moak	Senior Executive Counsel
Sam Newman	Intern
Brittany Ridinger	Attorney: Policy and Research
Tom Riley	ASOS: Business Services
Leah Smith	ASOS: Communications
Nathan Upchurch	Chief of Staff