**2019 MLTA Legislative Update**

1. **SB 678 State Government – Notarial Acts and Notaries Public PASSED**

More than simply adopting Remote Online Notarization (RON) into our current notary laws, the MLTA submitted an overhaul of Notary Legislation by adopting the Uniform Law Commissions’ 2018 Revised Uniform Law on Notarial Acts. Since 1957, Maryland Notaries have been operating under the 1939 version of the Uniform Acknowledgements Act.

* 1. Support and Resistance to the Bill

The bill was sponsored and tirelessly supported by Senator JB Jennings, who was essential in combating strong resistance to the act from the Secretary of State’s Office. The Secretary of State had no specific objections to the bill, other than the apparent administrative and monetary cost.

The bill was supported by a coalition of stakeholders including Notarize.com, the MD Realtors Association, the MD Bankers Assoc., the MD Mortgage Brokers, and the national and State Notary Associations, who all wrote and called legislators, as well as testified at the numerous hearings and workgroup markup meetings in support of the bill.

MLTA Membership also turned out on Lobby Day and each met with their legislators to help educate and advocate on the bill. Thank you to all who participated!

* 1. Bill becomes effective October 1, 2020

This gives the Secretary of State time to promulgate regulations, but the bill has default standards to follow even if not actions are taken by the Secretary.

* 1. Bill highlights

RULONA is designed to modernize and clarify the law governing notaries public, their responsibilities and duties, and to provide a stable infrastructure for the performance of notarial acts with respect to electronic records. Among other things, RULONA does all the following:

* Harmonizes treatment of notarization of all records, whether on paper or

electronic. It works together with the Uniform Electronic Transactions Act (MD Code, Commercial Law Article § 21-101 *et seq.* [2000]) and the federal Electronic Signatures in Global and National Commerce Act (15 USC 7003 aka “ESIGN” [2000]), as wellas the Uniform Real Property Electronic Recording Act (MD Code, Real Property Article § 3-701 *et seq.* [2018]).

* Requires first time applicants to take a course of study and pass a test before receiving their commission and requires continuing education for renewal every four years.
* Prevents incidents of conflict of interest for notaries. The act prohibits notarial officers from acting in any transaction in which the officer or his or her spouse, is a party or has a direct beneficial interest.
* Prevents false and deceptive advertising by prohibiting notarial officers from using the title “notario publico” and requires notaries who do advertise to state they cannot practice law or act as immigration counselors.
* Preserves the integrity and reliability of notarized documents. The RULONA requires any person seeking a notarization to appear in person before the notarial officer. Additionally, the notary must verify the identity of the person and to witness the signature or receive an acknowledgement or verification of the signature.
* Works with notarial acts conducted in other jurisdictions by providing for recognition of valid notarizations from other states, from federally recognize.
* Provides that an individual may appear before a notary public by means of communication technology and thereby comply with the provisions of RULONA calling for appearance before a notary public.
* Defines communication technology as any means or process that allows a notary public and a remotely located individual to communicate with each other simultaneously. Specific technology is not identified so that changes and improvements in technology can be accommodated in the future.
* Specifies the means by which a notary public must identify a remotely located individual. This includes personal knowledge of the identity of the individual, and evidence of the identity of the remotely located individual by oath or affirmation from a credible witness.
* Permits a notary public to identify a remotely located individual by at least two different types of identity-proofing processes or services. This may include having a remote individual answer questions for which there is a high probability that only the true individual would be able to answer correctly or using biometric identification technology or credential analysis.

1. **HB 222 – Escrow Agents – PASSED**

This bill was introduced by the MD Realtors Association, without direct support from the MLTA. Our position was that the bill was not necessary, and that the negotiated Escrow Agreement introduced last year was adequate.

The bill requires certain persons holding escrow money to have an agreement between the parties to the real estate transaction detailing how the escrow money will be handled and released. If an agent is asking your title company to hold an earnest money deposit in escrow, be sure to have the MLTA/MRA escrow agreement executed by all parties.

The MLTA insisted upon the addition of the following language to protect the consumer’s right to select their title company “NOTHING HEREIN SHALL BE CONSTRUED TO PROHIBIT AN ESCROW AGENT FROM TRANSFERRING THE ESCROWED FUNDS TO ANOTHER ESCROW AGENT CHOSEN BY THE PURCHASER OF THE RESIDENTIAL REAL ESTATE”

This language was included in the final version.

1. **SB 25 – Conservation Easements - PASSED**

After a careful reading, this bill was supported by MLTA, it allows the State to record notices of their perpetual conservation easements after 40 years. The concern by the State is that these easements were becoming lost as they aged out of the title industry standard search periods. The MLTA felt that it was in the best interest of the Title Industry to have the State, and eventually the Counties, file these notices so they are not unknowingly insured-over.

1. **SB 136 – Electronic Corporate Records – PASSED**

The legislation authorizes “certain records of a corporation to be maintained by means of any information storage device, method, or electronic network or database, including a distributed electronic network or database, under certain circumstances; requiring a corporation to convert a record maintained in a certain manner into a clearly legible written form on request of a certain person.”

Just because a corporation retains its records electronically, does not mean we cannot request them to be converted in to a written form upon request. So title reviewers should not have to decipher code to review corporate authorities.

1. **SB 484 – Expiration of Tax Liens – PASSED**

Increases the number of years that a lien for unpaid inheritance tax continues to 20 years and reduces the number of years that a lien for unpaid real and personal property taxes to 20 years.

Does not apply to liens relating to unpaid State income tax. The original version included income taxes, and the MLTA provided a letter of support for that version.

1. **Bills of Note that did not pass**
   1. HB 250 Condominium Act – priority of liens

MLTA opposed the bill due to its failure to include a cap on the condo association’s lien post-foreclosure.

* 1. HB 485 Blackstone v. Sharma legislation

The State’s Attorney sponsored legislation to block foreclosures by lenders who are not licensed as debt collectors. The legislation was problematic for the MLTA due to the lack of a clearly effective final ratification of judgement for title insurers to rely on. The MLTA agreed to support the Bill if an amendment was added to protect the rights of third-party purchasers of value.

* 1. HB 753 Ground Rent Leases

Would prohibit a ground rent owner from being able to collect past due ground rents if not registered. This would eliminate the vast majority of ground rent escrows for title companies.