

CBA LPRC POSITION REQUEST FORM

The CBA Real Property Section **position request** is as follows:

1) Proposed legislative or regulatory concept:

To **OPPOSE** bills that would permit documents, including deeds and mortgages, to be notarized remotely, such as online, rather than in the physical presence of the person taking the acknowledgment.

Two such bills are Proposed Bill 5556, AAC Remote Performance of a Notarial Act, and Proposed Bill 5374, AAC Remote Notarization

2) Explanation and rationale for advancing this position:

Remote online notarization increase the chances of fraud and signing documents under duress. The purpose of an acknowledgment on a deed or mortgage is not efficiency. It is to assess (i) the signers are who they say they are, (ii) they are signing voluntarily and not under duress, and (iii) they are competent to understand the meaning of their actions. That is sometimes hard enough to do in someone's physical presence; harder to do online. Internet fraud is rampant and RON will make it easier.

RON will make it easier to violate UPL Laws. The courts, with Practice Book sec. 2-44a, and the legislature, with the passage of Public Act 19-88 just under two years ago, have made it clear that the representation of persons in real estate transactions and the conduct of closings is the practice of law. In spite of that, out of state persons continue to violate our UPL laws. Enactment of RON will make it even easier for these lay entities to conduct closings and violate UPL, because armed with remote online notarization, they can conduct a real estate closing without anyone ever having to step foot in Connecticut.

There is no reason to rush this bill.

- Not Best to be First. We don't need Connecticut to Beta test RON. Let other states experiment with RON and work out the kinks. Our present system has worked just fine for hundreds of years.
- There is no clamor for RON from consumers. The push for RON is reportedly coming from national notary companies, eager to encroach into the closing market. It is not coming from consumers. Most consumers want an in-person closing, where documents can more easily be explained to them, and questions answered.
- E-Recording is not widely used because conveyance taxes still cannot be paid online, as the Department of Revenue Services' mechanism does not work correctly. Thus, even if some documents are signed and notarized online, documents that are to be recorded, such as deeds and mortgages, still need to have wet-ink signatures. Connecticut is clearly not ready for remote notarization as its systems are not ready to accommodate it. There is no need to rush this bill.

3) Is draft regulation, legislation or proposed bill included?

Proposed Bills are in concept form only.

- 4) What is the date of any legislative hearing, if known? N/A
- 5) Was this position previously approved by the CBA? If so, when does/did it expire?
No
- 6) Is the CBA section or committee seeking to join a previously approved CBA section or committee position? No
- 7) Potential or actual CBA opposition from another CBA section or committee? None expected
- 8) Strength of section position (including process and results of section vote taken on issue):

Pursuant to its bylaws, the Executive Committee was polled in between meetings of the Section. Support for this position was unanimous in those responding to the poll (thirteen responses).
- 9) Fiscal impact (on the state): None.
- 10) Are you seeking “fast-track” approval? Yes