

South Dakota Electronic Recording Commission
Teleconference Meeting
Wednesday, August, 29, 2018
9:30 pm MT / 10:30 pm CT

MINUTES

The South Dakota Electronic Recording Commission members participated in the meeting via a teleconference/audio link on Wednesday, August, 29, 2018. Commission Chair, Julie Risty called the meeting to order at 10:33 pm CT / 9:33 pm MT.

Roll call was held and quorum was established with the following South Dakota Electronic Recording Commission Members present:

Julie Risty, Minnehaha County Register of Deeds
Elaine Reimer – Brule County Register of Deeds
Lana Anderson – Meade County Register of Deeds
Haven Stuck – South Dakota State Bar Association Representative
Greg Wick – South Dakota Land Title Association Representative
Donald Straka – South Dakota Bankers Association Representative – Joined later
Mitch LaFleur – South Dakota Land Title Association Representative – Joined later
Monte Watembach – Information Technology Professional

Kris Jacobsen – SDACO Deputy Director was present in the SDACO office

Absent: Deb Young, Davison County Register of Deeds
Peggy Johnson – Sully County Register of Deeds

Guests: Travis Martin – Black Hills Title
Michael O’Neal, Vice President – Corporate Underwriting, 1st American Title Company
Grace Beck – Redstone Law Firm
Tom Deadrick – Secretary of State’s Office
Senator Craig Kennedy
Representative Timothy Johns

A motion to approve the Minutes of July 26, 2018 was made by Greg Wick, seconded by Elaine Reimer. With no abstention or opposition, motion carried by unanimous roll call vote.

A motion to approve the Agenda was made by Haven Stuck, seconded by Greg Wick. With no abstention or opposition, motion carried by unanimous roll call vote.

To begin discussion, Commission Chair Julie Risty gave a brief background summary of HB1170, which was introduced during the 2018 Legislative session by Representative Tim Johns and Senator Craig Kennedy, as prime sponsors for HB1170.

The initial bill was based on the national Uniform Law and Notarial Acts; however, various revisions occurred during the legislative process which removed the SD Secretary of State from the bill, as well as certain important standard security requirements for e-notarization that are included in laws used in other states, such as types of identity proofing. Therefore, the bill was tabled in an effort to allow redrafting. Representative Johns also discussed the bill and gave a brief summary of the legislative process it went through as well. Representative Johns mentioned that there will be an upcoming meeting in October to work with the LRC on a proposed bill. Representative Johns then excused himself from the meeting.

Michael O'Neal, VP – Corporate Underwriting, 1st American Title, gave in-depth information on the Uniform Law and the standards for remote notarization, emphasizing the importance of identity proofing and involvement of the Secretary of State's office. Mr. O'Neal further reviewed the discussion held during the July 26, 2018, Electronic Recording Commission meeting.

Mr. O'Neal mentioned again that the Secretary of State offices in Texas and Pennsylvania have not had any sizable expense to implement the Uniform e-Notary Law. It was discussed that currently there is a searchable notary database on the SD Secretary of State's website, so implementing the new system, or simply including e-notaries in the current system, could possibly be done at low to no cost.

Many states are modeling their proposed law after the Texas notary law. MISMO is currently working on the Mortgage Bankers Association-American Land Title Association Model Legislation for Remote Online Notarization Act. This Act should be finalized by the end of 2018 and would be an excellent guide for South Dakota to follow. Mr. O'Neal agreed to share the Texas Notary Regulations and the MBA and ALTA Model Act with the commission.

Mr. O'Neal addressed the concerns and questions that were raised on Section 20 of the proposed Revised Uniform Law On Notarial Acts (2018). Section 20 allows an electronic notary to certify that a tangible or paper copy of a record is an accurate copy and authorize the recorder to accept this "papered out" copy for recording. Mr. O'Neal explained this section is being reviewed and may be altered before approval of the revision.

Commission Chair Julie Risty, asked if there was anyone on the teleconference from the public who wished to speak. There was no one at the main office or anyone that provided public comment.

A motion to adjourn was made by Don Straka, seconded by Lana Anderson. Motion carried unanimously by roll call vote.