



REP. TOM PRICE, M.D. (R-GA), CHAIRMAN
 PAUL TELLER, EXECUTIVE DIRECTOR
 424 CANNON HOUSE OFFICE BUILDING
 WASHINGTON, DC 20515

rsc.price.house.gov ph (202) 226-9717 / fax (202) 226-1633

Legislative Bulletin.....November 17, 2010

Contents:

Disposing of the President’s Veto of H.R. 3808 – Interstate Recognition of Notarizations Act

Disposing of the President’s Veto of H.R. 3808 – Interstate Recognition of Notarizations Act (Aderholt, R-AL)

Order of Business: The bill is scheduled to be considered on Wednesday, November 17, 2010. The bill passed the House on April 27, 2010 by voice vote and the Senate on September 27, 2010 by unanimous consent. The President vetoed the bill on October 8, 2010. **This is a vote on passage of the bill notwithstanding the President’s veto. Therefore, a “yes” vote is a vote to pass the bill over the President’s objections. The bill needs a two-thirds majority in the House and the Senate to override a presidential veto.**

Summary: The bill requires any federal or state court to recognize any notarization, made by a notary public licensed by a state other than the state where the court is located, when such notarization occurs in or affects interstate commerce. The bill also requires a seal of office on physical documents. On electronic documents, the bill requires the tamper-resistant seal be securely attached or logically associated with the record.

Background: A notary public is a state-appointed official who witnesses when documents such as affidavits, deeds, and powers of attorney are signed. Some states require that these types of documents be notarized before they become legally binding. Some states do not recognize the validity of notarized documents from a different state.

President Obama vetoed H.R. 3808 in early October 2010. While the White House recognized that the bill was written to remove obstacles to interstate commerce, they raised concerns after the bill passed the House and the Senate that there could be unintended effects – especially on foreclosures. It has been suggested that the bill could create an opportunity for fraud – essentially allowing someone to notarize documents without going through regular notarization processes.

Supporters of the bill have argued that there is still the ability to challenge an affidavit if it seems fraudulent – and recently, the Ohio Attorney General announced that unlawful notarizations will result in criminal fraud charges. Furthermore, electronic notarization requires personal appearance and continues to do so under this bill. The bill also

strengthens consumer protection by requiring the seal of office for both paper and electronic documents (for the latter, it must be an electronic seal that is tamper resistant).

Memorandum of Disapproval from the President:

It is necessary to have further deliberations about the possible unintended impact of H.R. 3808, the “Interstate Recognition of Notarizations Act of 2010,” on consumer protections, including those for mortgages, before the bill can be finalized. Accordingly, I am withholding my approval of this bill. (The Pocket Veto Case, 279 U.S. 655 (1929)).

The authors of this bill no doubt had the best intentions in mind when trying to remove impediments to interstate commerce. My Administration will work with them and other leaders in Congress to explore the best ways to achieve this goal going forward.

To leave no doubt that the bill is being vetoed, in addition to withholding my signature, I am returning H.R. 3808 to the Clerk of the House of Representatives, along with this Memorandum of Disapproval.

Barack Obama.

Committee Action: H.R. 3808 was introduced on October 14, 2009, and referred to the House Judiciary Subcommittee on Courts and Competition Policy. The bill then passed the House on April 27, 2010 by voice vote and the Senate on September 27, 2010 by unanimous consent.

Cost to Taxpayers: No CBO score is available.

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: Yes.

Constitutional Authority: A committee report citing constitutional authority is not available.

RSC Staff Contact: Natalie Farr, natalie.farr@mail.house.gov, (202) 226-0718