

By: Anchía, Anderson

H.B. No. 3657

A BILL TO BE ENTITLED

AN ACT

relating to notaries public; creating a criminal offense.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 406.006, Government Code, is amended to read as follows:

Sec. 406.006. QUALIFICATION. An individual qualifies by:

- (1) properly completing the application form;
- (2) executing the statement;
- (3) providing the bond, if required;
- (4) paying the required filing fees; ~~and~~
- (5) meeting the eligibility requirements; and
- (6) successfully completing the education

requirements established under Section 406.023.

SECTION 2. Section 406.009(d), Government Code, is amended to read as follows:

(d) In this section, "good cause" includes:

(1) a false statement knowingly made in an application;

(2) the failure to comply with Section 406.017;

(3) a final conviction for a violation of a law concerning the regulation of the conduct of notaries public in this or another state;

(4) the imposition on the notary public of an administrative, criminal, or civil penalty for a violation of a law

1 or rule prescribing the duties of a notary public; [~~or~~]

2 (5) performing any notarization when the person for  
3 whom the notarization is performed did not personally appear before  
4 the notary at the time the notarization is executed; or

5 (6) failure to maintain records under Section 406.014.

6 SECTION 3. Subchapter A, Chapter 406, Government Code, is  
7 amended by adding Section 406.0091 to read as follows:

8 Sec. 406.0091. OFFENSE OF NOTARIZATION FOR PERSON NOT  
9 PERSONALLY APPEARING. (a) A person commits an offense if, as a  
10 notary public, the person performs any notarization with knowledge  
11 that the signer, grantor, maker, or principal for whom the  
12 notarization is performed did not personally appear before the  
13 notary public at the time the notarization is executed.

14 (b) An offense under this section is a Class A misdemeanor,  
15 except that it is a state jail felony if the document being  
16 notarized involves the transfer of real property.

17 (c) It is an affirmative defense to prosecution under  
18 Subsection (a) that the person who personally appeared before the  
19 notary public knowingly presented an apparently valid proof of  
20 identification identifying the person as the signer, grantor,  
21 maker, or principal for whom the notarization was purported to be  
22 performed, regardless of the identity of the person.

23 (d) For purposes of this section, a person personally  
24 appears before a notary public if:

25 (1) for a notarization other than an online  
26 notarization, the person physically appears before the notary  
27 public at the time of the notarization in a manner that permits the

1 notary public and the person to see, hear, communicate with, and  
2 provide proof of identification to each other; and

3 (2) for an online notarization, the person appears at  
4 the time of the notarization by an interactive two-way video and  
5 audio conference technology that meets the standards adopted for  
6 online notarization under Section 406.104.

7 SECTION 4. Section 406.011, Government Code, is amended by  
8 adding Subsection (c) to read as follows:

9 (c) A notary public who has applied for reappointment must  
10 successfully complete the continuing education requirements  
11 established under Section 406.023 before being reappointed.

12 SECTION 5. Section 406.014, Government Code, is amended by  
13 adding Subsection (f) to read as follows:

14 (f) A notary public shall retain the records required by  
15 Subsection (a) until the 10th anniversary of the date of  
16 notarization.

17 SECTION 6. Section 406.023, Government Code, is amended by  
18 adding Subsection (d) to read as follows:

19 (d) The secretary of state shall adopt rules necessary to  
20 establish education requirements for appointment as a notary public  
21 and continuing education requirements for reappointment. The rules  
22 may not require a person to complete more than two hours of  
23 education for appointment or two hours of continuing education for  
24 reappointment as a notary public. The rules may not require a  
25 person appointed as a notary public before September 1, 2023, to  
26 complete education requirements required for initial appointment  
27 as a notary public on or after that date.

1           SECTION 7. Not later than January 1, 2024, the secretary of  
2 state shall adopt rules necessary to implement the change in law  
3 made by this Act.

4           SECTION 8. The change in law made by this Act applies only  
5 to an application for a notary public appointment or reappointment  
6 submitted on or after January 1, 2024. An application submitted  
7 before January 1, 2024, is governed by the law as it existed  
8 immediately before the effective date of this Act, and that law is  
9 continued in effect for that purpose.

10          SECTION 9. This Act takes effect September 1, 2023.