

## **BILL ANALYSIS**

Senate Research Center  
84R9420 CAE-F

H.B. 2235  
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State Affairs  
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Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Section 406.004 of the Government Code sets forth the eligibility requirements of a Texas notary public. This provision clearly mandates that an individual with a conviction for a crime involving moral turpitude is not eligible to be appointed and commissioned as a notary public. Section 406.009(a) provides that the “secretary of state may, for good cause, reject an application or suspend or revoke the commission of a notary public.” “Good cause” is defined by Section 406.009(d) to include a “final conviction for a crime involving moral turpitude.”

Since mid-2009, after receiving a Texas Attorney General Opinion, which was based on rules of statutory construction, the Texas secretary of state has taken the position that it has no discretionary authority with respect to rejecting an applicant who has a final conviction for a crime involving moral turpitude. The purpose of this legislation is to codify the attorney general opinion and clarify that the secretary of state has no discretion to commission an individual who does not meet the conditions set forth in Section 406.004.

H.B. 2235 amends current law relating to the eligibility requirements of a notary public.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 406.004, Government Code, as follows:

Sec. 406.004. ELIGIBILITY. (a) Creates this subsection from existing text. Requires each person appointed and commissioned as a notary public to be at least 18 years of age and a resident of the State of Texas and not have been convicted of a felony or crime involving moral turpitude.

(b) Requires the secretary of state, if the secretary of state discovers, at any time, that an applicant to be a notary public or a commissioned notary public is not eligible to serve as a notary public, to:

- (1) reject the notary application; or
- (2) revoke the notary commission.

SECTION 2. Amends Section 406.009(d), Government Code, to delete from the definition of “good cause” the inclusion of a final conviction for a crime involving moral turpitude, and to make nonsubstantive changes.

SECTION 3. Effective date: September 1, 2015.