

BILL ANALYSIS

Senate Research Center
88R10362 JES-D

H.B. 255
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State Affairs
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

One of the primary functions of a notary public is to attempt to decrease the risk of fraud. Current law, however, prevents notaries public from recording information, such as the expiration date of identification documents presented to them, that may assist in that core function. What's more, notaries public do not have a statutory mechanism to decline a request to affix a notary's seal improperly, which could be exploited easily by a person looking to commit fraud. At the same time, notaries public have raised concerns about the legislative cap on what they can charge for their services, which does not keep up with inflation and has not been updated since the 1990s.

H.B. 255 would prohibit notaries public from providing copies of their seal to anyone else or from affixing their seal to any document except to authenticate their official act. It would authorize notaries public to record the expiration date of identification cards or passports that are presented to them for identification purposes. The bill also would update the service fee cap for notaries public and adjust the same every five years based on inflation. Accordingly, H.B. 255 would decrease fraud and ensure that notaries public are compensated fairly for their work.

H.B. 255 amends current law relating to notaries public and increases the amount of certain fees.

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 406.013, Government Code, by adding Subsection (e), as follows:

(e) Prohibits a notary public from:

- (1) providing a copy of the notary public's seal to another person; or
- (2) affixing or attaching the notary public's seal to any document except to authenticate the notary public's official act.

SECTION 2. Amends Section 406.014, Government Code, by adding Subsection (f), as follows:

(f) Authorizes a notary public to record the expiration date of an identification card issued by a governmental agency or passport issued by the United States if the signer, grantor, or maker of an instrument or document presents the card or passport to the notary public as identification.

SECTION 3. Amends Section 406.024, Government Code, as follows:

Sec. 406.024. FEES CHARGED BY NOTARY PUBLIC. (a) Authorizes a notary public or its employer to charge the following fees:

- (1)-(4) makes no changes to these subdivisions;

(5) for taking the acknowledgment or proof of a deed or other instrument in writing, for registration, including certificate and seal, a fee of \$10, rather than \$6, for the first signature and \$1 for each additional signature;

(6) for administering an oath or affirmation with certificate and seal, a fee of \$10, rather than \$6;

(7) for a certificate under seal not otherwise provided for, a fee of \$10, rather than \$6;

(8) for a copy of a record or paper in the notary public's office, a fee of \$1, rather than 50 cents, for each page; and

(9) for taking the deposition of a witness, \$1, rather than 50 cents, for each 100 words

(10) for swearing a witness to a deposition, certificate, seal, and other business connected with taking the deposition, a fee of \$10, rather than \$6; and

(11) for a notarial act not provided for, a fee of \$10, rather than \$6.

(b) Prohibits a fee charged for an acknowledgment or official act under Subsection (a) by a notary from exceeding the fee authorized by that subsection, as adjusted under Subsection (c).

(c) Requires the secretary of state (SOS), once every five years, to adjust the fees provided under Subsection (a) by the amount that results from applying the inflation rate, as determined by the Comptroller of Public Accounts of the State of Texas on the basis of the increase, if any, in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the United States Department of Labor, to the current fee amounts.

SECTION 4. Requires SOS to make the first adjustment in fees under Section 406.024(c), Government Code, as added by this Act, not later than December 31, 2028.

SECTION 5. Effective date: September 1, 2023.