

BILL ANALYSIS

C.S.H.B. 255
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Judiciary & Civil Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

One of the primary functions of a notary public is to attempt to decrease the risk of fraud; however, notaries public do not have the ability nor authority to record certain information that may assist in that core function or prevent a person from requesting a copy of the notary seal to determine the validity of the notary. Additionally, notaries public can neither record the expiration date of identification documents presented to them nor have a statutory mechanism to decline a request to improperly affix a notary's seal, both of which could be easily exploited by an individual 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 being frozen in statute, which does not keep up with inflation and has not been updated since the 1990s. C.S.H.B. 255 seeks to address these issues by setting out provisions to curb fraudulent practices and raise the cap on notary fees.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 255 amends the Government Code to authorize 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. The bill prohibits a notary public from doing the following:

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

C.S.H.B. 255 raises the cap on certain fees charged by a notary public, as follows:

- for taking the acknowledgment or proof of a deed or other instrument in writing, for registration, including certificate and seal, from \$6 to \$10 for the first signature;
- for administering an oath or affirmation with certificate and seal, from \$6 to \$10;
- for a certificate under seal not otherwise assigned a fee by statute, from \$6 to \$10;
- for a copy of a record or paper in the notary public's office, from 50 cents for each page to \$1 for each page;
- for taking the deposition of a witness, from 50 cents for each 100 words to \$1 for each 100 words;

- for swearing a witness to a deposition, certificate, seal, and other business connected with taking the deposition, from \$6 to \$10; and
- for a notarial act not otherwise assigned a fee by statute, from \$6 to \$10.

The bill requires the secretary of state, once every five years, to adjust all fees that may be charged by a notary public by the amount that results from applying the inflation rate, as determined by the comptroller of public accounts on the basis of the increase, if any, in the Consumer Price Index for All Urban Consumers (CPI-U), to the current fee amounts. The bill requires the secretary of state to make the first adjustment not later than December 31, 2028.

EFFECTIVE DATE

September 1, 2023.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 255 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute includes a prohibition not in the introduced against a notary public from:

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