



TESTIMONY OF THE DEPARTMENT OF THE ATTORNEY GENERAL TWENTY-SEVENTH LEGISLATURE, 2013

ON THE FOLLOWING MEASURE:
S.B. NO. 891, RELATING TO NOTARIES PUBLIC.

BEFORE THE:
HOUSE COMMITTEE ON FINANCE

DATE: Wednesday, March 27, 2013 **TIME:** 4:45 p.m.
LOCATION: State Capitol, Room 308
TESTIFIER(S): David M. Louie, Attorney General, or
Shari Wong, Deputy Attorney General

Chair Luke and Members of the Committee:

The Department of the Attorney General supports this measure.

The purpose of the bill is to improve the regulation of notaries by: (1) clarifying that a notary public is required to include the notary public's commission number on the notary public's stamp or seal; and (2) authorizing the Attorney General to adjust the fees to become a notary public and to renew a notary commission, and to establish and adjust other fees related to the regulation of notaries, by the adoption of administrative rules pursuant to chapter 91, Hawaii Revised Statutes.

The Department strongly supports section 1 of this bill, which requires a notary public to include the notary public's commission number on the notary public's stamp or seal. This requirement will help to deter the fraudulent use of notary stamps or seals in that the commission number can be used to quickly ascertain whether the notary public was properly commissioned in this State.

In addition, notarized documents are frequently copied numerous times so that subsequent generations of the originals are blurry or difficult to read. Given the sometimes small size of notary stamps or seals, the names of the notaries public are difficult to read or ascertain. Names are often similar. The additional identifying information of the commission number is unique and will assist in ascertaining the correct notary public.

In other instances, a notary public may marry or change the notary public's name. Because the commission number is unique, our office will be able to better track the notary public, regardless of change in name or marital status.

Lastly, commission numbers are assigned to notaries public according to the year in which they are commissioned. Thus, the inclusion of this identifying number on a notary public's stamp or seal may help in locating that notary public's record books.

Several other states, such as California, Oregon, and New York, similarly require the commission number on the notary public's stamp or seal.

The Department also strongly supports section 2 of this bill, which authorizes the Attorney General to adjust the fees to become a notary public, to renew a notary commission, and to establish and adjust other fees related to the regulation of notaries. Although the Attorney General has the authority to adopt rules governing fees for many aspects of the regulation of notaries, the fees for initial commissioning and renewal of commissions are set by statute. This bill makes it clear that the Attorney General can change those two particular fees through the rulemaking process, pursuant to chapter 91, Hawaii Revised Statutes, to reflect the costs of administering the notary regulatory program.

Fees for notaries were last increased fourteen years ago in 1998, when they increased from \$35 to \$40. Over the years, the number of notaries has tremendously increased, largely due to the rising number of notaries employed with real estate companies, mortgage companies, title companies, financial institutions, and law firms. With this ever-growing number of notaries comes a likewise rising number of inquiries from employers, applicants, notaries themselves, and affected consumers. Similarly, with the economic downturn, we received an increase in the number of complaints against notaries and requests for copies of entries in notary record books related to disputed or litigated transactions.

In addition, the adoption of administrative rules regarding the Notary Public Program resulted in an increase in the number of inquiries about the rules. We undertook an active role in bettering the public's understanding of the rules and the appropriate role and responsibilities of notaries by conducting educational seminars; improving our website to allow email inquiries; actively investigating, prosecuting, and resolving complaints; and starting to develop an online

program to encourage applicants to apply for a notary commission online and current notaries to renew online.

This bill will allow fees related to the regulation of notaries public to be established and adjusted upon the adoption of administrative rules pursuant to chapter 91. Such flexibility will enable the Notary Public Program to continue its efforts to improve the processing of applications and renewals, research and timely respond to inquiries, requests, and complaints, and generally regulate notary practice and conduct. As the development of its online program progresses, the need for staffing assistance may lessen and the program's revenues may be more in line with its costs.

We respectfully urge passage of this bill.