
A BILL FOR AN ACT

RELATING TO NOTARIES PUBLIC.

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

1 SECTION 1. Chapter 456, Hawaii Revised Statutes, is
2 amended by adding four new sections to be appropriately
3 designated and to read as follows:

4 "§456- Definitions. As used in this chapter, unless the
5 context requires otherwise:

6 "Alter" means to change by means of erasure, obliteration,
7 deletion, insertion of new content, or transposition of content.

8 "Personally knowing" means having an acquaintance, derived
9 from association with the individual, which establishes the
10 individual's identity with at least a reasonable certainty.

11 "Proof of the signer's signature and identity" means
12 documentary evidence such as a current identification card or
13 document issued by the United States, this State, any other
14 state, or a national government that contains the bearer's
15 photograph and signature.

16 §456- Powers and duties of the attorney general. In
17 addition to any other powers and duties authorized by law, the
18 attorney general shall have all powers necessary or convenient



1 to effectuate the purposes of this chapter, including, without
2 limitation, the following powers:

3 (1) Issue notary public commissions to applicants pursuant
4 to this chapter;

5 (2) Adopt, amend, or repeal rules pursuant to chapter 91;

6 (3) Suspend or revoke any commission for any cause
7 prescribed by this chapter or for any violation of the
8 rules adopted pursuant to this chapter, and refuse to
9 issue any commission for any cause that would be
10 grounds for suspension or revocation of a commission;

11 and

12 (4) Impose administrative fines for any cause prescribed
13 by this chapter or for any violation of the rules
14 adopted pursuant to this chapter.

15 **§456- Failure to verify identity and signature.** (a) A
16 person commits the offense of failure to verify identity and
17 signature if the person is a commissioned notary public and
18 knowingly notarizes a document and:

19 (1) The person is a witness to the signing of the
20 instrument, fails to verify the identity of the signer
21 by personally knowing the signer or by comparing the



1 personal appearance of the signer with satisfactory
2 proof of the signer's identity; or

3 (2) The person is a witness to the signing of the
4 instrument, fails to verify the identity of the signer
5 by personally knowing the signer or by comparing the
6 personal appearance of the signer with satisfactory
7 proof of the signer's identity; or fails to verify the
8 signature of the signer by recognizing the signature
9 of the signer by personal familiarity with the
10 signature, or by comparing the signature with
11 satisfactory proof of the signer's signature.

12 (b) Any person who violates this section shall be guilty
13 of a misdemeanor and shall be sentenced in accordance with
14 chapter 706, except that the court shall impose a minimum
15 sentence of a fine of \$1,000.

16 (c) A conviction under this section shall result in the
17 automatic revocation of the notary public's commission.

18 **§456- Failure to authenticate with a certification**

19 **statement.** (a) A person commits the offense of failure to
20 authenticate with a certification statement if the person is a
21 commissioned notary public and knowingly notarizes a document



1 and fails to include any of the following in the notary
2 certification:

3 (1) Date of notarization and signature of the notary
4 public;

5 (2) The printed name and stamp or seal of the notary
6 public;

7 (3) Identification of the jurisdiction in which the
8 notarial act is performed;

9 (4) Identification or description of the document being
10 notarized, placed in close proximity to the
11 acknowledgment or jurat; and

12 (5) A statement of the number of pages and date of the
13 document.

14 (b) Any person who violates this section shall be guilty
15 of a misdemeanor and shall be sentenced in accordance with
16 chapter 706, except that the court shall impose a minimum
17 sentence of a fine of \$1,000.

18 (c) A conviction under this section shall result in the
19 automatic revocation of the notary public's commission."

20 SECTION 2. Chapter 710, Hawaii Revised Statutes, is
21 amended by adding to part V two new sections to be appropriately
22 designated and to read as follows:



1 **"§710-A Misrepresenting a notarized document in the first**
2 **degree.** (1) A person commits the offense of misrepresenting a
3 notarized document in the first degree if the person submits or
4 invites reliance on a document that the person knows has been
5 altered after the document had been notarized by a notary public
6 in this or any other jurisdiction, and:

7 (a) The offense was committed with intent to mislead a
8 public servant; or
9 (b) The offense was committed for purpose of commercial or
10 private financial gain.

11 (2) Misrepresenting a notarized document in the first degree
12 is a class C felony.

13 **§710-B Misrepresenting a notarized document in the second**
14 **degree.** (1) A person commits the offense of misrepresenting a
15 notarized document in the second degree if, with intent to
16 mislead another, the person submits or invites reliance on a
17 document that the person knows has been altered after the
18 document had been notarized by a notary public in this or any
19 other jurisdiction.

20 (2) Misrepresenting a notarized document in the second
21 degree is a misdemeanor."



1 SECTION 3. Section 456-7, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "~~§456-7 [Acts prohibited; penalty. No person shall be~~
4 ~~qualified to act as a notary public or shall enter upon any of~~
5 ~~the duties of the office or offer or assume to perform any such~~
6 ~~duties until the person has fully complied with each of the~~
7 ~~requirements in each of the foregoing sections of this chapter.~~
8 ~~Any person wilfully violating this section shall be fined not~~
9 ~~more than \$500, or imprisoned not more than one year, or both.]~~

10 Unauthorized practice as a notary public. (a) A person commits
11 the offense of unauthorized practice as a notary public if the
12 person knowingly engages in or offers to engage in any duties of
13 the office of a notary public without first complying with all
14 of the following:

- 15 (1) Being appointed and commissioned as a notary public by
16 the attorney general;
17 (2) Filing a copy of the person's commission, an
18 impression of the person's seal, and a specimen of the
19 person's official signature with the clerk of the
20 circuit court of the circuit in which the person
21 resides; and



1 (3) Executing an official surety bond pursuant to section
2 456-5.

3 (b) Any person who violates this section shall be guilty
4 of a misdemeanor and shall be sentenced in accordance with
5 chapter 706, except that the court shall impose a minimum
6 sentence of a fine of \$2,000 for the first offense and a fine of
7 not less than \$3,000 for any subsequent offense.

8 (c) Nothing in this section shall be construed to restrict
9 or to do away with any liability for civil damages."

10 SECTION 4. Section 456-9, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "**\$456-9 Fees[-] and administrative fines.** (a) The
13 attorney general shall charge and collect the following fees
14 for:

- 15 (1) Issuing the original commission, \$40; and
16 (2) Renewing the commission, \$40.

17 Notwithstanding the foregoing, the attorney general may
18 establish and adjust fees pursuant to chapter 91.

19 ~~[The foregoing fees collected by the attorney general shall~~
20 ~~be deposited into the notaries public revolving fund established~~
21 ~~by section 456-9.5, except that if that fund is terminated, the~~



1 ~~foregoing fees shall thereafter be deposited with the director~~
2 ~~of finance to the credit of the general fund.]~~

3 (b) The court fees for filing a copy of a commission and
4 for each certificate of authentication shall be specified by the
5 supreme court.

6 (c) The attorney general may impose and collect the
7 following administrative fines for a notary public's failure to:

8 (1) Maintain an official seal of one type, either a single
9 engraved seal or a single rubber stamp facsimile seal,
10 on which shall be inscribed the name of the notary
11 public, and the words "notary public" and "State of
12 Hawaii" only, \$20;

13 (2) Surrender the notary public's seal and certificate to
14 the attorney general within ninety days of
15 resignation, removal from office, or the expiration of
16 a term without renewal, \$200;

17 (3) Authenticate every acknowledgment or jurat with a
18 certificate that shall be signed and dated by the
19 notary, include the printed name and official stamp or
20 seal of the notary, identify the jurisdiction in which
21 the notarial act is performed, describe in close
22 proximity to the acknowledgment or jurat the document



- 1 being notarized, and state the number of pages and
2 date of the document, \$500;
- 3 (4) Record all of the notary public's transactions as
4 prescribed by section 456-15 and applicable rules,
5 \$200;
- 6 (5) Notify the attorney general of a change in occupation,
7 residence, or employment, within thirty days of such
8 change, \$10;
- 9 (6) Display signage notifying the availability of notary
10 services to the public, \$10;
- 11 (7) Offer notary services, whether by appointment only or
12 not, during all normal business hours of operation
13 where the notary public is employed, \$10;
- 14 (8) If choosing to renew a commission, timely renew the
15 notary public commission by failing to submit a
16 completed renewal application, pay the renewal fee, or
17 complete the processing and filing of a commission for
18 renewal by the date of expiration of the notary
19 public's commission, \$60;
- 20 (9) Surrender the notary public's record books to the
21 attorney general within ninety days of the end date of



1 the commission, resignation, or removal from office,
2 \$500; and

3 (10) Notify the attorney general within ten days after
4 loss, misplacement, or theft of the notary public's
5 seal, stamp, or any record book, inform the
6 appropriate law enforcement agency in the case of
7 theft, and deliver a copy of the law enforcement
8 agency's report of the theft to the attorney general,
9 \$20.

10 (d) The foregoing moneys collected by the attorney general
11 pursuant to this section shall be deposited into the notaries
12 public revolving fund established by section 456-9.5, except
13 that if that fund is terminated, the foregoing moneys shall
14 thereafter be deposited with the director of finance to the
15 credit of the general fund."

16 SECTION 5. Section 456-9.5, Hawaii Revised Statutes, is
17 amended by amending subsection (a) to read as follows:

18 "(a) There is established in the state treasury the
19 notaries public revolving fund into which shall be deposited:

20 (1) All fees, administrative fines, charges, or other
21 payments received pursuant to section 456-9;



1 (2) Penalties and fines for violations of section 456-3,
2 456-7, or 456-16;

3 (3) Appropriations made for deposit into the notaries
4 public revolving fund; and

5 (4) Interest earned on money in the notaries public
6 revolving fund."

7 SECTION 6. Section 456-16, Hawaii Revised Statutes, is
8 amended to read as follows:

9 **"§456-16 Disposition of records, penalty.** (a) The
10 records of each notary public shall be deposited with the
11 [~~office~~] department of the attorney general upon the
12 resignation, death, expiration of each term of office, or
13 removal from or abandonment of office. If any notary public
14 fails to comply with this section within ninety days of the date
15 of the resignation, expiration of any term of office, or removal
16 from or abandonment of office or if the [~~notary's~~] notary
17 public's personal representative fails to comply with this
18 section within ninety days of the [~~notary's~~] notary public's
19 death, then the notary public or the [~~notary's~~] notary public's
20 personal representative shall forfeit to the State not less than
21 \$50 nor more than \$500, in the discretion of the court, in an
22 action brought by the attorney general on behalf of the State.



1 (b) The department of the attorney general shall keep
2 record books for a period not less than six years after being
3 submitted by a notary public, but thereafter may dispose of the
4 record books."

5 SECTION 7. In codifying the new sections added to chapter
6 710, Hawaii Revised Statutes, by section 2 of this Act, the
7 revisor of statutes shall substitute appropriate section numbers
8 for the letters used in the designations of, and references to,
9 those new sections in this Act.

10 SECTION 8. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 9. This Act shall take effect on July 1, 2112.



Report Title:

Notaries Public

Description:

Clarifies the powers and duties of the Attorney General with respect to notaries public. Identifies criminal conduct with regard to notarization, notarized documents, and related matters. Identifies conduct that would subject a notary to fines. Establishes a six-year retention policy for notary public record books. (HB3053 HD1)

