

S.B. NO. 2714

JAN 25 2012

A BILL FOR AN ACT

RELATING TO NOTARIES PUBLIC.

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

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

3 "§456-3 Seal. Every notary public shall constantly keep
4 an engraved seal of office or a rubber stamp facsimile seal
5 which shall clearly show, when embossed, stamped, or impressed
6 upon a document, only the notary's name, the notary's commission
7 number, and the words, "notary public" and "State of Hawaii".

8 The notary public shall authenticate all the notary's official
9 acts, attestations, certificates, and instruments therewith, and
10 shall always add to an official signature the typed or printed
11 name of the notary and a statement showing the date that the
12 notary's commission expires. Upon resignation, death,
13 expiration of term of office without reappointment, or removal
14 from or abandonment of office, the notary shall immediately
15 deliver the notary's seal to the attorney general who shall
16 deface or destroy the same. If any notary fails to comply with
17 this section within ninety days of the date of the notary's

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1 resignation, expiration of term of office without reappointment,
2 or removal from or abandonment of office or if the notary's
3 personal representative fails to comply with this section within
4 ninety days of the notary's death, then the notary public or the
5 notary's personal representative shall forfeit to the State not
6 more than \$200, in the discretion of the court, to be recovered
7 in an action brought by the attorney general on behalf of the
8 State."

9 SECTION 2. Section 456-9, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "**§456-9 Fees and administrative fines.** (a) The attorney
12 general shall charge and collect the following fees for:

13 (1) Issuing the original commission, [~~\$40-~~] \$60; and

14 (2) Renewing the commission, [~~\$40-~~] \$60.

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

17 (b) The court fees for filing a copy of a commission and
18 for each certificate of authentication shall be specified by the
19 supreme court.

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

22 (1) Maintain an official seal of one type, either a single
23 engraved seal or a single rubber stamp facsimile seal,

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1 on which shall be inscribed the name of the notary
2 public, the commission number of the notary public,
3 and the words "notary public" and "State of Hawaii"
4 only, \$20;

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

9 (3) Authenticate every acknowledgment or jurat with a
10 certificate that shall be signed and dated by the
11 notary, include the printed name and official stamp or
12 seal of the notary, identify the jurisdiction in which
13 the notarial act is performed, describe in close
14 proximity to the acknowledgment or jurat the document
15 being notarized, and state the number of pages and
16 date of the document, \$500;

17 (4) Record all of the notary public's transactions as
18 prescribed by section 456-15 and applicable rules,
19 \$200;

20 (5) Surrender the notary public's record books to the
21 attorney general within ninety days of the end of the
22 commission, resignation, or removal from office, \$500;
23 and

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

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

14 SECTION 3. Statutory material to be repealed is bracketed
 15 and stricken. New statutory material is underscored.

16 SECTION 4. This Act shall take effect upon its approval.

17

18 INTRODUCED BY: 

19

BY REQUEST

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Report Title:

Notaries Public

Description:

Clarify the information required to be on notary seals and increase the fees to become a notary and to renew a notary commission.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

JUSTIFICATION SHEET

DEPARTMENT: Attorney General

TITLE: A BILL FOR AN ACT RELATING TO NOTARIES PUBLIC.

PURPOSE: To clarify the information required to be on notary seals and to increase the fee to become a notary public and to renew a notary commission.

MEANS: Amend sections 456-3 and 456-9, Hawaii Revised Statutes.

JUSTIFICATION: Section 5-11-5(a), Hawaii Administrative Rules, requires every notary public to "obtain and keep an official seal of one type, either an engraved seal or a rubber stamp facsimile seal, on which shall be inscribed the name of the notary public, the commission number of the notary public, and the words 'notary public' and the 'State of Hawaii.'"

The new requirement of the commission number of the notary on the notary's seal or stamp was added to help deter fraudulent use of notary seals or stamps in that the commission number could be used to quickly ascertain whether the notary was properly commissioned in this State. Several other states such as California, Oregon, and New York similarly require the commission number on the notary's stamp or seal.

Currently, sections 456-3 and 456-9, Hawaii Revised Statutes, require notaries to have an engraved seal or rubber stamp seal with the notary's name, "and the words, 'notary public' and 'State of Hawaii.'" The amendment of sections 456-3 and 456-9, Hawaii Revised Statutes, will clarify that the commission number of the notary public

is required on the notary public's stamp or seal.

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. We receive thousands of inquires and complaints each year, as well as time-consuming requests for copies of notary record books.

Research of notary fees across the nation shows that Hawaii's fees are on the low side, whereas states such as New York (\$75) and California (\$92) are much higher.

In addition, due to the increase in notary applications, inquiries, complaints, and record requests, additional staff has been tasked to assist the Notary Office. The Notary Revolving Fund pays a portion of the salaries of these staff positions.

Impact on the public: Because notaries already obtain new stamps or seals in compliance with section 5-11-5(a), Hawaii Administrative Rules, two of the amendments will have no negative impact on the public. In fact, it will help reduce confusion and assist notaries in clarifying exactly what information is required on notary stamps or seals.

The increase in fees will result in a \$5 per year increase for a notary's four-year commission term, a nominal cost given the fourteen years since the last increase.

Impact on the department and other agencies:
These statutory amendments will help reduce the amount of time spent by the Department's staff in responding to questions about notary's stamps and seals. The increase in fees will enable the Department to respond more timely to inquiries, complaints, and record book searches, as well as process applications and renewals.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: ATG 100.

OTHER AFFECTED
AGENCIES: None.

EFFECTIVE DATE: Upon approval.