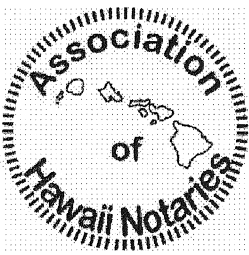


# SB313

Measure Title: RELATING TO NOTARIES.  
Report Title: Notaries Public; Attested Copies; Rules; Attorney General  
Description: Requires the attorney general to adopt rules to permit notaries public to attest to the authenticity of copies of original documents.  
Companion:  
Package: None  
Current Referral: CPH, JDL  
Introducer(s): KEITH-AGARAN, K. RHOADS, Gabbard, Kim



**Promoting integrity, diligence and skill  
in Hawaii Notarial Practice.  
66 C.J.S. Notaries 17**

[www.associationofhawaiinotaries.org](http://www.associationofhawaiinotaries.org)  
[associationofhawaiinotaries@gmail.com](mailto:associationofhawaiinotaries@gmail.com)

TESTIMONY RE: SB 313 Notaries Public; Attested Copies; Rules; Attorney General

COMMITTEE: SENATE COMMITTEE ON COMMERCE, CONSUMER PROTECTION AND HEALTH

TESTIFIER: WRITTEN AND ORAL COMMENTS

Cheryl Kaster, President, at 348-1892

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Chair Baker and Members of the Committee:

Thank you for the opportunity to present testimony on SB 313.

Barring clarification of the circumstances requiring otherwise, the Association of Hawaii Notaries (the "Association") opposes this bill because there is already a process available in Hawaii for certifying a copy of a document. That process is what is referred to as "Copy Certification by Document Custodian."

### **COPY CERTIFICATION BY DOCUMENT CUSTODIAN**

The Copy Certification is essentially an affidavit in which the "custodian" of a document swears to the fact that a copy attached to the Copy Certification is a "true, correct and complete photocopy" of a document attached to that affidavit. The form of a Copy Certification is attached for your information.

The notarial act executed by the Notary Public as part of the Copy Certification is what is commonly referred to as a "jurat." The jurat is the notarial certification by the Notary Public that the Notary asked the document signer to raise their right hand, and was then sworn to the truth of the statement they are making are the truth, the whole truth and nothing but the truth.

In the Copy Certification, the Notary makes no statement concerning the document(s) attached, other than that required to be made when administering the oath or affirmation.

This Copy Certification process does not require the Notary to see the original document, or make a copy of the document. The validity of the Custodian's statement is based on their sworn/affirmed statement.

While the Notary makes no comment in the notarial wording concerning the "copy" attached to the affidavit, the underlying principle here is that Notaries are not permitted to notarize any document they know, or suspect, to be fraudulent or untrue. I explain to my customers that while, as the Notary, I am not saying anything about the document that is attached, I still must confirm that what is attached, appears to be the document described in the body of the Copy Certification, itself.

This same principle applies to all documents presented for notarization. It is the duty of the Notary to review the document to determine whether exhibits or attachments identified as being part of the document are, in fact, attached.

If the attachments or exhibits identified as being attached are not attached, then the document is incomplete and cannot be notarized. A signer cannot be said to be aware of what they are signing and willing to sign a document as their free act and deed if the document does not contain all intended parts.

**The position of the Association of Hawaii Notaries is that the Copy Certification provides sufficient recourse for certifying a copy of a document, and serves no purpose except to add increased responsibility and liability to that already required of Hawaii Notaries.**

Please see example of a Copy Certification by Document Custodian attached hereto.

**COPY CERTIFICATION BY DOCUMENT CUSTODIAN**

State of Hawaii )  
 )  
City & County of Honolulu ) ss.

I, \_\_\_\_\_, hereby swear (or affirm) that the attached reproduction(s) of \_\_\_\_\_ is/are a true, correct and complete photocopy(ies) of a document (documents) in my possession.

\_\_\_\_\_  
Signature of Custodian of Original Document

\_\_\_\_\_  
Address

This undated COPY CERTIFICATION BY DOCUMENT CUSTODIAN, consisting of a total of \_\_\_\_\_ pages, was subscribed and \_\_\_\_\_ sworn, or \_\_\_\_\_ affirmed, to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, in the First Circuit of the State of Hawaii.

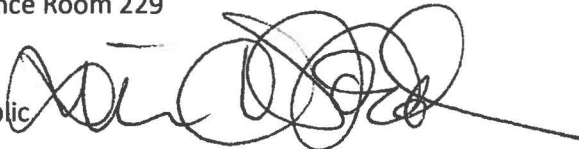
\_\_\_\_\_  
Cheryl R.L. Kaster  
Notary Public, State of Hawaii  
My Commission Expires: 4/24/2017

January 31, 2017

TO: Senator Rosalyn H. Baker, Chair  
Senator Clarence K. Nishihara, Vice Chair  
Committee on Commerce, Consumer Protection and Health

Thursday, February 2, 2017 at 9:00 am  
State Capitol, Conference Room 229

FROM: Lisa Wond, Notary Public

A handwritten signature in black ink, appearing to read 'Lisa Wond', written over a horizontal line.

SUBJECT: **S.B. 313, RELATING TO NOTARIES**

S.B. 313 requires the attorney general to adopt rules to permit notaries public to attest to the authenticity of copies of an original document but not to the authenticity of the original document. I could not find more information on the legislature's website explaining why this bill was introduced, or what problem or issue this bill is attempting to resolve.

I do not support this bill because its intent is unclear and ambiguous. "Permitting" notaries to attest to the authenticity of copies implies that there is also an option not to do so. Some notaries will attest, and others won't.

Attesting to the authenticity of a copy will require that the notary keep a copy of every document notarized, putting an undue burden on notaries. As a notary public, I am responsible for verifying and documenting that the person who is signing a document before me is who he says he is. I do this by examining a current and valid form of identification. The person signs my notary book and, alongside the person's signature, I record additional information about the document being signed. After notarizing the document, the document is returned to the signer. Notaries are not currently required to keep a copy of what they notarize. If enacted, notaries who agree to attest to copies will have to keep a copy of every document notarized.

Thank you for the opportunity to testify.