

H.C.R. 36  
Judiciary Committee Hearing  
Tuesday, 3/27/18 2 p.m.  
Conference Room 325

Chair Nishimoto  
Vice-Chair San Buenavetura  
Members of the Judiciary Committee

My name is Cheryl Kaster. I am the founder, current Board President, and Executive Director of the Association of Hawaii Notaries (the "Association").

In FYE 2014, the state auditor's review of the Notaries Public Revolving Fund disclosed that the fund was unsustainable with a balance in that account of \$2,000, with which to carry out its mandated duties going forward.

The Attorney General's Notary Office has been less than forthcoming with requests for Notaries Public Revolving Fund budget information for fiscal years 2010 thru 2014 during which \$675,000 was spend out of the Notaries Public Revolving Fund, leaving \$2,000 in the fund at the end of FYE 2014.

Mr. Vincent, the Supervising Deputy Attorney General over the Recovery Division, and the new supervising department of the Notary Office, suggested to me that possibly the Legislature "raided" the fund, because they "do that all the time." I responded that it didn't matter who "raided" the fund, the Notary Office was responsible for the funds.

The concern is not solely the amount that was spent and concerns that we have about the actual operation of the Notary Office in fulfilling its duty and responsibility to Hawaii Notaries will be addressed in the future.

However, for the time being, there are two elephants in the room:

**First**, in 2013, SB 891 was submitted in which the the issue was a "straw man" suggesting there was a need for clarification that the Official Seal of Hawaii Notaries Public must contain, in addition to other information, the Notary's Commission number.

I say this was a "straw man" because since 2008 (Act 175 For the Prevention of Fraud) Notaries have been required to have their commission numbers on their seals. This is not an ambiguous or arbitrary matter. It is not possible to purchase a Notary Seal from a reputable provider that DOES NOT HAVE the commission number as part of that seal. Those vendors know what the law is and will not produce notary seals that do not comply with the law.

The need for clarification further suggested that making multiple generations of copies results in the degradation of the readability of the Notary Seal. That is likely true, but that is an issue that will not be rectified by "clarifying" what is already a known fact. That should be the RESPONSIBILITY OF THOSE MAKING THE COPIES and not an excuse for being given carte blanche to raise what Notaries are charged for their commissions, as was done in SB 891.

**Second**, the opening “straw man” act to demonstrate their diligence and interest in Notary things, was followed by a successful effort to get *carte blanche* from the Legislature to increase the fees they charge Hawaii Notaries WITHOUT COMING BACK TO THE LEGISLATURE.

**Third**, in introducing SB 891, there were two possible scenarios. Either the Notary Office was aware of the financial situation and soon demise of the Notaries Public Revolving Fund, OR they weren't aware of the financial crisis looming at the end of FY 2014.

I'm not sure which should be a bigger concern because either one demonstrates an amazing inability to be accountable for the funds from which they are to administer the Notary Public Office.

I believe they were aware and came to the legislature in an attempt to be able to do what they did in 2016: Raise the fees Hawaii Notaries pay for their commissions 300%

Please hold the Notary Public Office accountable for how they spend the money Notary Employers and Notaries, themselves, must pay for their commissions.

In the interest of full disclosure, there have been two attempts to provide information in response to our request. Both of which fell woefully short of an Income vs. Expenditure budget that demonstrates how much was received and how much and for what purpose the money went out.

Thank you.