

BILL ANALYSIS

Senate Research Center
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S.B. 219
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Jurisprudence
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AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

The proliferation of computer technology into everyday life has given rise to an inescapable dependence on electronic transactions in the nation's economy. As industries go paperless, electronic transactions can potentially save consumers and businesses time and money. Whereas paper-based transactions require pen-and-ink signatures, electronic transactions allow signatures to be handwritten, typed, spoken, or mouse-clicked.

While conducting electronic transactions has made business cheaper, faster, and more convenient, the damaging economic impact of mortgage fraud, identity theft, and similar crimes necessitates a common sense response to the exchange of electronic business transactions.

Identity theft and fraud complaints, for example, have grown from fewer than 40,000 in 1992 to 9.91 million in 2003. Similarly, fraud in the nation's mortgage industry is running rampant. According to a recent Federal Bureau of Investigation report, banks reported more than 12,100 instances of suspicious activity through the first nine months of 2004; almost triple the 4,220 cases of mortgage fraud for 2001. Many of the schemes used to commit acts of mortgage fraud involve the use of fake identities and forged documents.

Currently, Florida, North Carolina, Missouri, California, and Pennsylvania have an education requirement for notaries in order to assure the public that notaries have at least minimal knowledge of their basic duties. While the notary bond and a civil lawsuit are existing remedies, unfortunately, they are after-the-fact remedies available to victims of identity crimes. Education of notaries, however, can prevent such crimes from occurring.

S.B. 219 provides for a three-hour educational requirement for new notaries and for notaries seeking reappointment. The educational requirement will assure the public that notaries receive minimal knowledge about basic notarial duties, including identity theft prevention. S.B. 219 also alters the fees notaries may charge for performing notarial acts.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 406.005, Government Code, by adding Subsection (c), to require the application to include a statement that the applicant has completed the educational course and passed the test that is given at the end of the course under Section 406.0061.

SECTION 2. Amends Section 406.006, Government Code, as follows:

Sec. 406.006. QUALIFICATION. Sets forth actions by which an individual qualifies, including the completion of the educational course and passing the test that is given at the end of the course under Section 406.0061 during a period beginning six months before the date of the application and ending on the date of the application. Makes a conforming change.

SECTION 3. Amends Subchapter A, Chapter 406, Government Code, by adding Section 406.0061, as follows:

Sec. 406.0061. EDUCATIONAL COURSE. (a) Requires an individual to complete an educational course and pass a test on the material covered by the course as provided by this section to qualify for appointment or reappointment as a notary.

(b) Requires the course to cover the duties and responsibilities of being a notary public, sets forth certain areas of instruction that must be included in the course.

(c) Authorizes the course to be administered through classroom, computer, or correspondence course instruction.

(d) Requires the course to be approved by the secretary of state and be at least three hours in length.

(e) Requires the person providing the course to allow each individual completing the course to take a test on the material covered by the course. Requires the test to be approved by the secretary of state.

SECTION 4. Amends Section 406.024, Government Code, by amending Subsection (a) to make conforming changes and adding Subsection (c) to prohibit a notary public from charging a fee for any notarial act performed for a United States military veteran or a firefighter, police officer, or sheriff's deputy applying for a pension, allotment, allowance, compensation, insurance policy, or other benefit resulting from public service.

SECTION 5. (a) Makes application of SECTIONS 1-3 of this Act prospective to an individual who applies for appointment or reappointment as a notary public on or after September 1, 2005.

(b) Makes application of SECTION 4 of this Act prospective to a fee charged by a notary public on or after September 1, 2005.

SECTION 6. Effective date: September 1, 2005.