

BILL ANALYSIS

Senate Research Center

C.S.S.B. 220
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Jurisprudence
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Committee Report (Substituted)

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 reported for 2001. Many of the schemes used to commit acts of mortgage fraud involve the use of fake identities and forged documents.

As these numbers continue to grow at an alarming rate, the notary, who has been called the "guardian of property rights," must be equipped to deal with the threat that fraud and identity crimes pose to consumer and public safety.

C.S.S.B. 220 allows notary publics to maintain their journal records electronically in a computer or other storage device.

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 406.014, Government Code, by amending Subsection (a) and adding Subsection (e), as follows:

(a) Requires a notary public other than a court clerk notarizing instruments for the court to keep in a book a record of certain information, including the signature of the signer, grantor, or maker.

(e) Authorizes a notary public to maintain the records required by Subsection (a), other than the signature of the signer, grantor, or maker, electronically in a computer or other storage device.

SECTION 2. Effective date: September 1, 2005.