HOUSE OF REPRESENTATIVES
TWENTY-FOURTH LEGISLATURE, 2008
STATE OF HAWAII

H.B. NO. 2920

A BILL FOR AN ACT

RELATING TO FRAUD PREVENTION.

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

SECTION 1. The legislature finds that every notary public must keep an engraved seal of office or a rubber stamp facsimile seal that clearly shows, when embossed, stamped, or impressed upon a document, the notary's name and the words, "notary public" and "State of Hawaii." The notary public must authenticate all the notary's official acts, attestations, certificates, and instruments and always add to an official signature the typed or printed name of the notary and a statement showing the date that the notary's commission expires.

The legislature also finds that each time a notary public notarizes a document, the notary public must record the type, date, and time of day of the notarial act, the title or type and date of the document or proceeding, the signature, printed name, and address of each person whose signature is notarized and of each witness, other parties to the instrument, and the manner in which the signer was identified. All copies or certificates granted by the notary must be under the notary's hand and

notarial seal and shall be received as evidence of such transactions.

The legislature further finds that, notwithstanding the requirements that attend notarization of documents, there is an alarming increase in the alteration of notarized documents for the purpose of identity theft and fraud. For example, a Hawaii man with a federal criminal record involving bank fraud, bogus names, and false checks was recently convicted of identity theft and other offenses arising from the use of a notarized document relating to the sale of an automobile to transfer land and property.

The purpose of this Act is to ensure that notarized documents can not be altered by substituting material that does not relate to the document to which the notarial seal originally was applied.

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

"**§456-3 Seal[~~,~~]; placement.** (a) Every notary public shall constantly keep an engraved seal of office or a rubber stamp facsimile seal [~~which~~] that shall clearly show, when embossed, stamped, or impressed upon a document, the notary's name, and the words[~~,~~] "notary public" and "State of Hawaii".

The notary public shall authenticate all the notary's official acts, attestations, certificates, and instruments therewith[~~,~~] and shall always add to an official signature the typed or printed name of the notary and a statement showing the date that the notary's commission expires. The notary public shall emboss, stamp, or impress the notary's seal over a succinct phrase describing the document.

(b) Upon resignation, death, expiration of term of office without reappointment, or removal from or abandonment of office, [~~the notary public shall immediately deliver~~] the notary's seal shall immediately be delivered to the attorney general who shall deface or destroy the same. If any notary fails to comply with this section within ninety days of the date of the notary's resignation, expiration of term of office without reappointment, or removal from or abandonment of office or if the notary's personal representative fails to comply with this section within ninety days of the notary's death, then the notary public or the notary's personal representative shall forfeit to the State not more than $200, in the discretion of the court, to be recovered in an action to be brought by the attorney general on behalf of the State."

SECTION 3. Section 456-8, Hawaii Revised Statutes, is amended to read as follows:

"**§456-8 Rules.** The attorney general, subject to chapter 91, may prescribe such rules as the attorney general deems advisable concerning the administration of this chapter, the appointment and duties of notaries public, [~~and~~] the duties of other officers thereunder[~~.~~], and such measures as may be necessary to prevent the fraudulent use of a notarized document after placement of the notary's seal. The rules shall have the force and effect of law."

SECTION 4. Section 456-15, Hawaii Revised Statutes, is amended to read as follows:

"**§456-15 Record; copies as evidence.** Every notary public shall record at length in a book of records all acts, protests, depositions, and other things, by the notary noted or done in the notary's official capacity. For each official act, the notary shall enter in the book:

(1) The type, date, and time of day of the notarial act;

(2) The title or type and date of the document or proceeding[~~;~~] and the nature of the act, transaction, or thing to which the document relates;

(3) The signature, printed name, and address of each person whose signature is notarized and of each witness;

(4) Other parties to the instrument; and

(5) The manner in which the signer was identified.

All copies or certificates granted by the notary shall be under the notary's hand and notarial seal[,] and shall be received as evidence of such transactions."

SECTION 5. This Act shall not apply to any document notarized prior to its effective date.

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 7. This Act shall take effect upon its approval.

INTRODUCED BY: _____

Kirk Caldwell

Calvin K.Y. Say

JAN 22 2008

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Report Title:
Fraud Prevention; Notary Public

Description:
Requires notary public to place seal over a succinct phrase describing document being notarized and to separately record a description of the document. Authorizes attorney general to adopt rules to prevent fraudulent use of notarized documents.