


Government of the District of Columbia
Office of the Chief Financial Officer



Jeffrey S. DeWitt
Chief Financial Officer

MEMORANDUM

TO: The Honorable Phil Mendelson
Chairman, Council of the District of Columbia

FROM: Jeffrey S. DeWitt
Chief Financial Officer 

DATE: June 5, 2018

SUBJECT: Fiscal Impact Statement - Notarial Acts Modernization Act of 2018

REFERENCE: Bill 22-324, Committee Print as shared with the Office of Revenue
Analysis on May 24, 2018

Conclusion

Funds are not sufficient in the fiscal year 2018 budget and proposed fiscal year 2019 through 2022 budget and financial plan to implement the bill. The bill will cost \$80,000 in fiscal year 2019.

Background

The bill makes several changes to the District's notary program and codifies existing practice. The District's notary program is administered by the Office of Notary Commissions and Authentications (ONCA) within the Office of the Secretary (OS). Specifically, the bill:

- Requires notarial officers when performing a notarial act¹ to confirm, either through personal knowledge or satisfactory evidence, the identity of an individual;
- Specifies the documentation notarial officers can use to confirm an individual's identity;
- Grants notarial officers the authority to refuse to perform a notarial act;
- Specifies that notarial acts may be performed by a notary public, judge, clerk of a court, or deputy clerk of a court;
- Specifies that notarial acts performed in other states and in federally-recognized Indian tribe jurisdictions by a notary public, judge clerk of a court, or deputy clerk of a court, have the same effect under the law as notarial acts performed by District of Columbia notarial officers;

¹ See Bill 22-234, § 2(7). Notarial acts include taking an acknowledgment, administering an oath or affirmation, taking a verification on oath or affirmation, witnessing or attesting a signature, noting a protest of a negotiable instrument, taking and certifying the acknowledgment or proof of powers of attorney, mortgages, deeds, other instruments of writing, and taking affidavits to be used before any court, judge, or court officer within the District.

- Specifies that notarial acts performed under federal authority, such as the military or United States Department of State, foreign states, and multinational or international governmental organizations, have the same effect under the law as notarial acts performed by District of Columbia notarial officers;
- Requires notarial acts performed in the District to be evidenced by a certificate;
- Requires the notarial seal to include the notary public's name, the words "District of Columbia," the commission expiration date, and other information required by the ONCA;
- Requires notary publics to maintain a journal of all notarial acts that a notary public or electronic notary performs;
- Sets the notary public application fee at \$75 to conform with current regulations;
- Specifies that a notary public must be 18 years of age, be a legal resident of the United States, be a resident or have a primary place of employment in the District, and meet any qualifications established by the ONCA;
- Requires notary public applicants to take an oath of office, complete training, file their signature, and indicate the language that they will use when completing notarial acts to be granted a commission;
- Requires notary public applicants to submit a \$2,000 surety bond or its equivalent to become commissioned;
- Exempts notary publics commissioned on behalf of the government of the District of Columbia from submitting a surety bond;
- Allows individuals holding a notary public commission to apply to become an electronic notary;²
- Requires electronic notaries to select one or more tamper-evident technologies to perform notarial acts;
- Requires electronic notaries to complete an OS training class;
- Allows the ONCA to deny, refuse to renew, revoke, suspend, or impose a condition on a commission as a notary public for any acts demonstrating a lack of honesty, integrity, competence, or reliability; and,
- Requires the ONCA to create an electronic database of notaries public and electronic notaries.

Financial Plan Impact

Funds are not sufficient in the fiscal year 2018 budget and proposed fiscal year 2019 through 2022 budget and financial plan to implement the bill. The bill will cost \$80,000 in fiscal year 2019.

The ONCA is in the process of upgrading its information technology platform in order to computerize the notary public program. Once fully computerized, the ONCA will need \$80,000 in fiscal year 2019 to launch an electronic notary program. These funds will be used to digitize notarial records and to purchase start-up supplies and training materials.

The ONCA will charge a non-refundable electronic notary license fee to offset the costs of providing training materials once the program is up and running. The licensing fees will be deposited into a special purpose revenue fund and will be used to conduct the electronic notary training sessions. Because the fee is not yet established, there is no estimate for revenue collections at this time.

² *Id.* at § 2(3). An electronic notary is an individual commissioned as a notary public in the District and is commissioned by the Office of the Secretary to perform notarial acts on electronic documents.

The Honorable Phil Mendelson

FIS: "Notarial Acts Modernization Act of 2018," Committee Print as shared with the Office of Revenue Analysis on May 24, 2018.

Bill 22-324 - Notarial Acts Modernization Act of 2018						
Total Fiscal Impact						
	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	Total
Program Start-up Costs	\$0	\$80,000	\$0	\$0	\$0	\$80,000
Total	\$0	\$80,000	\$0	\$0	\$0	\$80,000