

SUBJECT: Identifying by foreign ID individuals acknowledging written instruments

COMMITTEE: Judiciary and Civil Jurisprudence — favorable, without amendment

VOTE: 8 ayes — Hunter, Alonzo, Hartnett, Jackson, Lewis, Madden, Martinez, Woolley

0 nays

3 absent — Hughes, Branch, Leibowitz

SENATE VOTE: On final passage, April 22 — 29-1 (Williams)

WITNESSES: (*On House companion bill, HB 3091:*)
For —Allen Place, Texas Land Title Association

Against — None

BACKGROUND: Civil Practice and Remedies Code, ch. 121 authorizes certain officers, such a court clerk or notary public, to take an acknowledgment or proof of a written instrument. Sec. 121.005 provides that an officer may not take the acknowledgment of a written instrument unless the officer knows or has satisfactory evidence of the identity of the acknowledging person. Current law limits “satisfactory evidence” to the oath of a credible witness personally known to the officer or a current identification card or other document issued by the federal government or any state government that contains the photograph and signature of the acknowledging person.

DIGEST: SB 2065 would amend Civil Practice and Remedies Code, sec. 121.005(a) to authorize an officer to accept as ID for a person seeking to acknowledge a written instrument a current identification card or other document, that contained the acknowledging person’s photograph and signature, issued by a foreign government.

The bill would take effect September 1, 2009.

SUPPORTERS SAY: SB 2065 would provide a faster, more reliable way to identify, among others, foreign nationals who bought property in Texas and wished to

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acknowledge a written instrument related to the property. Currently, the only acceptable means of establishing the identity of these individuals is to have a credible witness personally known by an officer swear an oath. Tracking down these witnesses takes time and can inconvenience unnecessarily both the acknowledging person and the witness. Allowing an officer to accept an appropriate foreign identification would facilitate the process.

Fears that foreign ID acceptance would increase document fraud discount the provision that would permit, but not require, an officer to accept a foreign ID. This bill would not in any way remove an officer's discretion to reject an identification that the officer suspected was fraudulent.

**OPPONENTS
SAY:**

SB 2065 could make it easier for persons to obtain fraudulent acknowledgments through use of forged foreign IDs. Some foreign governments have lax standards for the issuance of identification, making them susceptible to copying and other fraudulent uses. The bill should contain additional safeguards to detect fraud and otherwise ensure that foreign identifications would not be used inappropriately.

NOTES:

The companion bill, HB 3091 by Veasey, was considered in a public hearing by the House Judiciary and Civil Jurisprudence Committee on April 22 and placed on the May 14 General State Calendar.