

BILL ANALYSIS

Senate Research Center
88R25594 MP-D

C.S.H.B. 1195
By: Holland (Hall)
Local Government
5/10/2023
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, in a county with a population under 800,000, someone can file a deed to a property he/she does not own without presenting an ID to the county clerk. By forging a signature and getting a notary to stamp and sign the property document, one can fraudulently assume ownership of a property. A public notary is required to validate one's identity, but if the person committing the fraud is a notary, the crime is easily accomplished, as was the case a few years ago when a man transferred the titles of 20 homes in Dallas, Harris, and Tarrant counties to companies he controlled. Most of the properties belonged to deceased persons whose families had allowed the houses to fall into disrepair, or there were tax liens against the properties. The man was a public notary (though his certification was expired at the time) and forged others' signatures. In another example, a rogue notary had been notarizing the signatures of people who had been dead for decades.

While these are egregious examples, extending the ID requirement to all counties does not impose an appreciable burden on the filer when he/she would have already had to show an ID when seeking notarization. This simple safeguard will prevent the fraud described above and should be applied throughout the state.

H.B. 1195:

- Amends the Local Government Code to allow a county clerk in any county to require a person to present a photo ID when filing a record in the real property records of the county.
- Removes the minimum population threshold of 800,000 so that a county clerk in a county of any size may require the presentation of an ID.

Committee substitute changes in House of Representatives:

- Given feedback we have received from the land title industry, C.S.H.B. 1195 will replace the population threshold with language that distinguishes between counties that provide for electronic filing and those that do not.
- Additionally, C.S.H.B. 1195 specifies that a county clerk in a county that allows for electronic filing may not accept a property document or other instrument for filing if the individual decides to file in person and does not have or refuses to provide a photo ID.

(Original Author's/Sponsor's Statement of Intent)

C.S.H.B. 1195 amends current law relating to the authority of certain county and district clerks to obtain and retain information that identifies a person filing a document or requesting services.

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 191.010(b), Local Government Code, as follows:

(b) Authorizes a county clerk in a county that allows for electronic filing of documents in the real property records of the county, rather than a county with a population of 800,000 or more, to require a person presenting a document in person for filing in the real property records, rather than the real property records of the county, to present a photo identification to the clerk.

SECTION 2. Amends Section 191.011, Local Government Code, by amending Subsection (b) and (d) and adding Subsection (b-1), as follows:

(b) Authorizes a county clerk or district clerk in a county that allows for electronic filing or recording of documents or other instruments, rather than a county with a population of 3.3 million or more, to require an individual to present photo identification and copy or record identifying information, including a document on which the information is viewable, if the individual takes certain actions. Makes nonsubstantive changes.

(b-1) Prohibits a county clerk or district clerk who requires an individual to present photo identification under Subsection (b) from accepting a document or other instrument for filing or recording if the individual presents the document or other instrument in person and does not have or refuses to provide a photo identification.

(d) Deletes existing text prohibiting a county clerk or district clerk, except as otherwise required or authorized by law, from refusing to file or record a document or other instrument or refusing to provide a public service on the ground that an individual described by Subsection (b) does not have or refuses to provide identifying information. Makes nonsubstantive changes.

SECTION 3. Effective date: upon passage or September 1, 2023.