

Department of Planning and Budget 2024 Session Fiscal Impact Statement

1. **Bill Number:** HB1372

House of Origin Introduced Substitute Engrossed
Second House In Committee Substitute Enrolled

2. **Patron:** Simon

3. **Committee:** Courts of Justice

4. **Title:** Notarial acts; knowledge-based authentication assessment; requirements.

5. **Summary:** Adds a knowledge-based authentication assessment to the methods by which a notary public may obtain satisfactory evidence of identity of an individual. As defined in the bill, a knowledge-based authentication assessment requires a principal to take a quiz composed of at least five questions related to the principal's personal history or identity and to score at least 80 percent on such quiz. The bill provides that if the principal fails to achieve a score of at least 80 percent, he may attempt up to two additional quizzes within 48 hours following the first failed quiz. The bill also provides that no notarial act shall be invalidated solely based on the failure of a notary public to perform a duty or meet a requirement as required by law; however, the validity of a notarial act shall not prohibit an aggrieved person from invalidating a record or transaction or from seeking other remedies as allowed by law. The bill provides that these provisions shall apply retroactively to any notarial act that was performed before July 1, 2024.

6. **Budget Amendment Necessary:** See Item 8.

7. **Fiscal Impact Estimates:** Preliminary – indeterminate, see Item 8.

8. **Fiscal Implications:** This legislation would allow public notaries to use knowledge-based authentication (KBA) assessments as a means of establishing a principal's identity during an electronic notarization. KBA assessments are typically provided by a third-party service and based on initial research, such services generally charge between \$3 and \$5 per transaction or assessment.

It is unclear from the bill if the Secretary of the Commonwealth ("the Secretary") is intended to procure a KBA assessment service and make it available to notaries, or if individual notaries would be responsible for engaging with such a service on their own. If the Secretary is responsible for procuring such a service, the Secretary's office indicates that there would be an indeterminate fiscal impact to do so. It is currently unknown how many notaries would utilize this service, and by extension how many transactions they would perform. Any final cost would also be dependent on proposals sent in by offerors as part of any request for proposals.

If the notaries are responsible for paying for the service, no fiscal impact is expected.

9. Specific Agency or Political Subdivisions Affected: Secretary of the Commonwealth

10. Technical Amendment Necessary: No.

11. Other Comments: None.

Date: February 5, 2024

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