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Testimony on House Bill 4128

Chair Barker, members of the committee, my name is Peter Threlkel; I am the Director of the Corporation Division for the Secretary of State's office, here to talk with you about House Bill 4128.

The Corporation Division is responsible for issuing commissions to Notaries Public under ORS 194. We also provide education in proper notary procedures, conduct investigations into notary complaints and alleged violations and enforce notary law by issuing findings and sanctions against notaries found to be in violation. Notaries are most important for witnessing the signing of documents and administering oaths.

The Taskforce on Immigration Consultant Fraud recommended the solutions in House Bill 4128 as a way to more effectively prevent, deter and prosecute those who would victimize vulnerable populations and communities.

Oregon law prohibits anyone other than a licensed attorney or federally authorized accredited representatives to serve as an immigration consultant. This includes helping someone select and fill out immigration forms.

Misrepresenting qualifications to offer legal advice can have severe implications for immigrants including missed deadlines, the filing of incorrect or incomplete forms, or the filing of false claims with the government. An immigrant may miss opportunities, could be deported or can be subject to civil or criminal liability for the filing of false claims.

While the crime is immigration consultant fraud, notario or notario publico services are the terms commonly used to advertise the services. The term "notario" or "notario publico" refers to someone in Latin American and other countries that has received the equivalent of a law license and authorized to represent others before the government. It is easily confused with the legitimate function of a notary public.

Under Oregon law, a non-attorney notary must not use the term "notario" or "notario publico", and must display a statement in any advertisement that states:

"I am not an attorney licensed to practice law. I am not allowed to draft legal records, give advice on legal matters, including immigration, or charge a fee for those activities."

In spite of these restrictions, individuals calling themselves “notarios” continue to take advantage of new immigrants who are not aware of the distinction between a “notario publico” and notary public.

A number of government agencies investigate and enforce violations of notario and immigration fraud. The Secretary of State enforces notary violations under ORS 194 - the Notarial Act; the Attorney General enforces illegal immigration consultant violations under ORS 646 - the Unlawful Trade Practices Act; the Oregon State Bar enforces illegal immigration consultant violations under ORS 9.160 - Unlawful Practice of Law, and District Attorneys prosecute criminal violations.

House Bill 4128 provides these agencies with tools that are more effective and increased penalties to better coordinate joint efforts to combat “notario” abuse and illegal immigration consultant fraud. By expanding the list of violations the Secretary of State can use to reject and revoke a notary commission, House Bill 4128 will help protect vulnerable communities and preserve the integrity and reputation of Oregon’s 38,000 legitimate and law-abiding notaries.

The bill has no fiscal impact.

Thank you for allowing my testimony. I would be happy to answer any questions that you have.