

GOVERNMENT CODE  
CHAPTER 405. SECRETARY OF STATE  
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 405.001. OFFICE. The secretary of state shall keep the office of secretary of state in Austin or if a session of the legislature is held in another place, in that place.  
Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 405.004. DEPUTY SECRETARY OF STATE. (a) The secretary of state shall appoint a deputy secretary of state who shall:

(1) perform the duties prescribed by law for the secretary of state when the secretary of state is absent or unable to act; and

(2) perform other duties required by the secretary of state.

(b) The deputy secretary of state serves at the pleasure of the secretary of state.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2005, 79th Leg., ch. 41, Sec. 1, eff. Sept. 1, 2005.

Sec. 405.005. ACCEPTANCE OF GIFTS, GRANTS, AND DONATIONS. (a) The secretary of state may accept or solicit gifts, grants, and donations of money or property on behalf of the state for any lawful public purpose related to the office or duties of the secretary of state.

(b) The secretary of state may decline to accept a gift, grant, or donation that is made for a specific purpose if the secretary of state determines the gift may not be used reasonably or economically for the designated purpose.

Added by Acts 1997, 75th Leg., ch. 365, Sec. 1, eff. May 27, 1997.

SUBCHAPTER B. DUTIES

Sec. 405.011. OFFICIAL DOCUMENTS. (a) The secretary of state shall arrange and preserve books, maps, parchments, records, documents, and papers properly deposited in the secretary of state's office and sealed with the state seal.

(b) A copy of an original deposited under this section is as legal and conclusive in evidence in a state court as the original.

(c) On request of the governor, the legislature, or a house of the legislature, the secretary of state shall furnish a copy of an original deposited under this section.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 297, Sec. 3, eff. Aug. 28, 1989.

Sec. 405.012. EXCHANGES. (a) The secretary of state shall send, as the secretary of state considers appropriate, copies of laws and judicial reports printed and published by order of the legislature at the expense of the state to:

(1) the librarian of congress;

(2) the United States secretary of state;

(3) the United States secretary of the treasury;

(4) the executive department of each state; and

(5) each foreign librarian or government with whom a system of library exchange is established.

(b) Subject to the requirements of Subsection (c), the secretary of state, for the benefit of The University of Texas law library, shall exchange the reports of the supreme court, court of criminal appeals, and courts of appeals, state session laws and revised statutes, and other state publications and state department reports for similar material of the United States, other states, or foreign countries.

(c) The secretary of state shall keep on hand a sufficient number of copies of state publications to meet the reasonable demands of the state.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 405.013. COURT REPORTS. (a) The secretary of state shall receive the printed and bound volumes of the Supreme Court Reports and the Reports of the Court of Criminal Appeals from the supreme court reporter.

(b) The secretary of state may sell single copies of these reports for a price equal to the contract price for printing, excluding postage or express charges, and, after receiving the price for a volume, may send advance sheets of the volume as publishing progresses.

(c) The secretary of state shall deliver money received from sales under this section to the comptroller and shall make a full statement of the sales in the secretary of state's biennial report.

(d) The secretary of state shall deliver one copy of these reports to:

- (1) the governor;
- (2) the attorney general;
- (3) each appellate and district judge;
- (4) each county judge, for the use of the county;
- (5) each law professor of The University of Texas; and
- (6) the librarian of The University of Texas.

(e) The secretary of state shall deliver to each United States district judge for Texas one copy of these reports for each branch of the judge's court.

(f) The secretary of state may not send more than one copy of a report to a person under Subsection (d) or (e) unless it is proved, as evidenced by certificate of the person requesting the additional copy, that the first copy of the report has been destroyed by fire or rendered valueless by long use.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 8.11, eff. Sept. 1, 1997.

Sec. 405.014. ACTS OF THE LEGISLATURE. At each session of the legislature the secretary of state shall obtain the bills that have become law. Immediately after the closing of each session of the legislature, the secretary of state shall bind all enrolled bills and resolutions in volumes on which the date of the session is placed.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 297, Sec. 4, eff. Aug. 28, 1989; Acts 1991, 72nd Leg., 2nd C.S., ch. 8, Sec. 2.48, eff. Sept. 1, 1991.

Sec. 405.015. RECEIVING OFFICER. When an officer receives a copy of a report, statute, digest, or journal, the officer shall give a receipt to the distributing officer, who shall file the receipt in his office. This material is the property of the receiving officer's office and is open to inspection by the public at all reasonable hours. An officer who does not deliver the material to the successor to the office is liable to the successor for the cost of replacing the material.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 405.016. COMMISSION. The secretary of state is not required to send copies of laws to or attest the authority of a state officer who does not take out the officer's commission.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 405.017. MISCELLANEOUS DUTIES. The secretary of state shall:

(1) affix the state seal to all official documents issued from the secretary of state's office;

(2) unless provided otherwise by law, commission state officers;

(3) keep in a separate suitable book a register of all state officers;

(4) immediately on receipt, deliver to the person in charge of the state library all books, maps, charts, printed volumes of the laws of a nation, territory, or another state, or other political or miscellaneous publications received in the secretary of state's office;

(5) immediately on receipt, deliver to the supreme court librarian reports of courts of a nation, territory, or another state received in the secretary of state's office; and

(6) perform such other and further duties as may be directed by the governor.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 297, Sec. 5, eff. Aug. 28, 1989; Acts 1995, 74th Leg., ch. 961, Sec. 1, eff. Sept. 1, 1995.

Sec. 405.018. COMPUTER INFORMATION. (a) The secretary of state may establish a system to provide access by electronic data transmittal processes to information that is:

(1) stored in state computer record banks maintained by the secretary of state;

(2) not classified as confidential under a statute or court decision; and

(3) not maintained by the secretary of state under:

(A) Chapter 572;

(B) Title 15, Election Code; or

(C) Chapter 305, Government Code.

(b) The secretary of state may:

(1) develop computer software to facilitate the discharge of the constitutional and statutory duties of the office; and

(2) enter agreements to transfer the software on the

terms and conditions specified in the agreements.

(c) Computer software developed under Subsection (b) shall be reviewed and certified by the Automated Information and Telecommunications Council.

(d) The secretary of state shall set and charge a fee for access to information under Subsection (a) in an amount reasonable and necessary to cover the costs of establishing and administering the system under that subsection. The secretary of state may assess a reasonable fee for a transfer of software under Subsection (b).

(e) The secretary of state may set and charge a fee for access to public information through telephone information banks in an amount reasonable and necessary to cover the costs of providing the information. The secretary of state may contract with a third party to provide the telephone service and to bill the users of the service.

Added by Acts 1989, 71st Leg., ch. 4, Sec. 2.12(a), eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 3.01(a), eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(40), eff. Sept. 1, 1995.

Sec. 405.019. LIST OF STATES REQUIRING AN OFFICIAL SEAL FOR CERTAIN DOCUMENTS. (a) The secretary of state annually shall compile a list of those states or territories within the United States that require a notary public to validate a certificate of an acknowledgement, proof of a written instrument, or a jurat by attaching an official seal.

(b) The secretary of state shall send the list to each of the county clerks of this state before January 1 of each year.

(c) The secretary of state shall amend the list and immediately send the amended list to the county clerks of this state if the secretary learns that a state or territory has changed its requirements relating to a notary public in a manner that requires it to be added to or deleted from the list.

Added by Acts 1995, 74th Leg., ch. 603, Sec. 3, eff. June 14, 1995.

Sec. 405.020. PUBLIC RECORDS. (a) The secretary of state shall permanently maintain as a public record any instrument, or the information included in any instrument, that is filed with the secretary of state evidencing the organization of, or otherwise in connection with, any entity formed under the laws of this state.

(b) The secretary of state shall maintain the records required under Subsection (a) in any form the secretary of state considers appropriate.

Added by Acts 2003, 78th Leg., ch. 572, Sec. 22, eff. Sept. 1, 2003.

Sec. 405.021. FILING OR RECORDING OF FRAUDULENT DOCUMENT.

Text of section as added by Acts 2005, 79th Leg., ch. 407, Sec. 2

If the secretary of state believes in good faith that a document filed with the secretary of state to create a lien is fraudulent, the secretary of state shall:

(1) request the assistance of the attorney general to determine whether the document is fraudulent before filing or recording the document;

(2) request that the prospective filer provide to the secretary of state additional documentation supporting the existence of the lien, such as a contract or other document that contains the alleged debtor or obligor's signature; and

(3) forward any additional documentation received to the attorney general.

Added by Acts 2005, 79th Leg., ch. 407, Sec. 2, eff. Sept. 1, 2005.

For text of section as added by Acts 2005, 79th Leg., ch. 828, Sec. 1, see Sec. 405.021, post.

Sec. 405.021. REPORT ON STATE-FUNDED PROJECTS SERVING COLONIAS.

Text of section as added by Acts 2005, 79th Leg., ch. 828, Sec. 1

(a) In this section, "colonia" means a geographic area that:

(1) is an economically distressed area as defined by Section 17.921, Water Code; and

(2) is located in a county any part of which is within 62 miles of an international border.

(b) Based on information provided under Subsections (c) and (d), the secretary of state shall establish and maintain a classification system that allows the secretary of state to track the progress of state-funded projects in providing water or wastewater services, paved roads, and other assistance to colonias.

(c) The secretary of state shall compile information received from the Office of Rural Community Affairs, the Texas Water Development Board, the Texas Transportation Commission, the

Texas Department of Housing and Community Affairs, the Department of State Health Services, and any other agency considered appropriate by the secretary of state for purposes of the classification system.

(d) The secretary of state shall compile information on colonias that is received from the colonia ombudsmen under Section 775.004.

(e) The secretary of state shall:

(1) prepare a report on the progress of state-funded projects in providing water or wastewater services, paved roads, and other assistance to colonias; and

(2) submit the report to the presiding officer of each house of the legislature not later than December 1 of each even-numbered year.

(f) The report to the legislature must include a list of colonias with the highest health risk to colonia residents, based on factors identified by the secretary of state.

(g) In conjunction with the establishment of the classification system required by this section, the secretary of state shall establish and maintain a statewide system for identifying colonias.

(h) The secretary of state may contract with a third party to develop the classification system or the identification system or to compile or maintain the relevant information required by this section.

Added by Acts 2005, 79th Leg., ch. 828, Sec. 1, eff. Sept. 1, 2005. For text of section as added by Acts 2005, 79th Leg., ch. 407, Sec. 2, see Sec. 405.021, ante.

#### SUBCHAPTER C. FEES

Sec. 405.031. GENERAL FEES. (a) The secretary of state shall charge for the use of the state the following:

(1) for each official certificate, a fee of \$15;

(2) for a certified copy of a record in the secretary of state's office, a fee of \$1 a page in addition to the fee for the certificate;

(3) for preparing and furnishing for a corporation, limited partnership, limited liability company, or registered limited liability partnership a certificate of existence or authorization that reflects any filing effecting changes to the entity's organizational documents or certificate of registration or authorization and the dates of those filings, a fee of \$25; and

(4) for the maintenance by the secretary of state of a record of the service of any process, notice, or demand authorized to be made on the secretary of state as agent, and for forwarding the process, notice, or demand, a fee of \$40 per person or party served through the secretary of state.

(a-1) Notwithstanding Subsection (a)(1), the secretary of state shall charge for the use of the state a fee of \$10 for the issuance of an apostille requested for use in proceedings related to the adoption of a child in another country, provided that the total fees charged for apostilles issued in connection with the adoption of one child may not exceed \$100.

(b) The secretary of state may charge a fee of \$5 for a search of records in the secretary of state's office if written evidence of the search is required.

(c) The secretary of state may charge for purchases of public information by commercial users an additional amount, established by the secretary of state, based on employees' time in providing the information. For the purposes of this subsection "commercial user" means a purchaser of microfilm, microfiche, computer tapes, or computer printouts for the purpose of selling, advertising, or distributing a commodity or rendering professional or personal services.

(d) The fees established by the attorney general under Chapter 552 apply to uncertified copies of records in the secretary of state's office.

(e) The secretary of state may set and charge a fee for the use of a credit card to pay a fee assessed by the secretary of state in an amount reasonable and necessary to reimburse the secretary of state for the costs involved in the use of the card. The secretary of state shall deposit the money in the state treasury.

(f) A fee paid under Subsection (a), (a-1), (b), (c), or (d) shall be paid in advance to the secretary of state's office. Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 4, Sec. 2.13(a), eff. Sept. 1, 1989;

Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 3.02(a), eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(96), eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 948, Sec. 1, eff. Sept. 1, 1997; Acts 2005, 79th Leg., ch. 716, Sec. 10, eff. Sept. 1, 2005; Acts 2005, 79th Leg., ch. 885, Sec. 1, eff. Sept. 1, 2005.

Sec. 405.032. EXPEDITED HANDLING. (a) The secretary of state may set and collect the following:

(1) for the expedited handling of a certified record search or expedited filing of a document in the security interest and financing statement records of the secretary, a fee of not more than \$15;

(2) for the expedited filing or reviewing of a document relating to a profit or nonprofit corporation, professional corporation or association, cooperative association, unincorporated nonprofit association, limited or general partnership, or limited liability company, a fee of not more than \$25;

(3) for the expedited access or access by electronic data transmittal processes to data that is stored in state computer record banks maintained by the secretary, a fee in an amount reasonable and necessary to cover the costs of establishing and administering the system. Notwithstanding any other provision of this code, the secretary is authorized to maintain a system to provide expedited access by electronic data transmittal processes to all information that is stored in state computer banks maintained by the secretary and that is not classified as confidential by statute or a court decision; and

(4) for the expedited handling of a request for a certified copy or certificate of fact relating to a corporation, limited partnership, assumed name, trademark document, or other document filed for public record with the corporations section of the office of the secretary of state, a fee of not more than \$10 a copy or certificate.

(b) If the secretary of state collects a fee under Subsection (a)(2), the secretary of state shall collect it in advance.

(c) The secretary of state shall deposit the fees in the state treasury to the credit of the general revenue fund.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 398, Sec. 1, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 3.03, eff. Sept. 1, 1991; Acts 1999, 76th Leg., ch. 1214, Sec. 1, eff. Sept. 1, 1999.

Sec. 405.033. REVOCATION OF FILING FOR NONPAYMENT. The secretary of state may revoke the filing of a document filed with the office of the secretary of state if the secretary of state determines that the filing fee for the document has not been paid or was paid by an instrument that was dishonored when presented by the state for payment. The secretary of state shall return the document and give notice of revocation to the filing party by regular mail. Failure to give or receive notice does not invalidate the revocation.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 1214, Sec. 2, eff. Sept. 1, 1999.

Sec. 405.034. REFUND. If the secretary of state deposits in the state treasury a fee that is not due or is in an amount exceeding the amount due the state, the fee or excess is subject to refund.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.