

By Senator Grant

13-566A-98

1 A bill to be entitled
2 An act relating to notaries public; amending s.
3 117.01, F.S.; clarifying provisions relating to
4 appointment of a notary public; increasing the
5 amount of the bond required of a notary public;
6 providing requirements for a resigning notary
7 public; amending s. 117.03, F.S.; deleting
8 obsolete language; amending s. 117.04, F.S.;
9 providing for acknowledgements by a notary;
10 creating s. 117.045, F.S.; providing for
11 solemnizing rites of marriage by a notary;
12 limiting fees; amending s. 117.05, F.S.;
13 providing that the official seal and
14 certificate of commission are the exclusive
15 property of the notary public; providing a
16 criminal penalty for unlawful possession of a
17 notary public official seal or papers;
18 specifying the elements of a notarial
19 certificate; revising provisions relating to
20 identification; deleting specified
21 circumstances under which a signature may not
22 be notarized; revising provisions relating to
23 copying certain documents; requiring a notary
24 public to make reasonable accommodations to
25 provide notarial services to disabled persons;
26 amending s. 117.10, F.S.; conforming a
27 cross-reference; amending s. 117.103, F.S.;
28 providing that a notary public's commission is
29 not required to be filed with the clerk of the
30 circuit court; providing for certification of
31 the commission from the Secretary of State;

1 amending s. 117.107, F.S.; revising certain
2 provisions relating to prohibited acts;
3 providing a civil penalty; amending s. 117.20,
4 F.S.; providing for electronic notarizations;
5 amending ss. 11.03, 475.180, 713.08, 713.13,
6 713.135, 713.245, 727.104, 732.503, and
7 747.051, F.S.; revising certain forms;
8 providing an effective date.

9

10 Be It Enacted by the Legislature of the State of Florida:

11

12 Section 1. Subsections (1) and (2), paragraph (g) of
13 subsection (4), and subsections (5) and (7) of section 117.01,
14 Florida Statutes, are amended to read:

15 117.01 Appointment, application, suspension,
16 revocation, application fee, bond, and oath.--

17 (1) The Governor may appoint ~~for a term of 4 years~~ as
18 many notaries public as he or she deems necessary, each of
19 whom shall be at least 18 years of age and a legal resident of
20 the state. A permanent resident alien may apply and be
21 appointed and shall file with his or her application a
22 recorded Declaration of Domicile. The residence required for
23 appointment must be maintained throughout the term of
24 appointment. Notaries public shall be appointed for 4 years
25 and shall use and exercise the office of notary public within
26 the boundaries of this state. An applicant must be able to
27 read, write, and understand the English language.

28 (2) The application for appointment shall be signed
29 and sworn to by the applicant and shall be accompanied by a
30 fee of \$25, together with the \$10 commission fee required by
31 s. 113.01, and a surcharge of \$4, which \$4 is appropriated to

1 the Executive Office of the Governor to be used to educate and
2 assist notaries public. However, no commission fee shall be
3 required for the issuance of a commission as a notary public
4 to a veteran who served during a period of wartime service, as
5 defined in s. 1.01(14), and who has been rated by the United
6 States Government or the United States Department of Veterans
7 Affairs or its predecessor to have a disability rating of 50
8 percent or more; such a disability is subject to verification
9 by the Secretary of State, who has authority to adopt
10 reasonable procedures to implement this act. The oath of
11 office and notary bond required by this section shall also
12 accompany the application and shall be in a form prescribed by
13 the Department of State which shall require, but not be
14 limited to, the following information: full name, residence
15 address and telephone number, business address and telephone
16 number, date of birth, race, sex, social security number,
17 citizenship status, driver's license number or the number of
18 other official state-issued identification, affidavit of good
19 character from someone unrelated to the applicant who has
20 known the applicant for 1 year or more, a list of all
21 professional licenses and commissions issued by the state
22 during the previous 10 years and a statement as to whether or
23 not the applicant has had such license or commission revoked
24 or suspended, and a statement as to whether or not the
25 applicant has been convicted of a felony, and, if there has
26 been a conviction, a statement of the nature of the felony and
27 restoration of civil rights. The applicant may not use a
28 fictitious or assumed name other than a nickname on an
29 application for commission. The application shall be
30 maintained by the Department of State for the full term of a
31 notary commission. A notary public shall notify, in writing,

1 the Department of State of any change in his or her business
2 address, home telephone number, business telephone number,
3 home address, or criminal record within 60 days after such
4 change. The Governor may require any other information he or
5 she deems necessary for determining whether an applicant is
6 eligible for a notary public commission. Each applicant must
7 swear or affirm on the application that the information on the
8 application is true and correct ~~to the best of his or her~~
9 ~~knowledge.~~

10 (4) The Governor may suspend a notary public for any
11 of the grounds provided in s. 7, Art. IV of the State
12 Constitution. Grounds constituting malfeasance, misfeasance,
13 or neglect of duty include, but are not limited to, the
14 following:

15 (g) Failure to report a change in business or home
16 address or telephone number, or failure to submit
17 documentation to request an amended commission after a lawful
18 name change, within the specified period of time.

19 (5)(a) If a notary public receives notice from the
20 Department of State that his or her office has been declared
21 vacant, the notary shall forthwith mail or deliver to the
22 Secretary of State his or her notary commission.

23 (b) A notary public who wishes to resign his or her
24 commission, or a notary public who does not maintain legal
25 residence in this state during the entire term of appointment,
26 or a notary public whose resignation is required by the
27 Governor, shall send a signed letter of resignation to the
28 Governor and shall return his or her certificate of notary
29 public commission. The resigning notary public shall destroy
30 his or her official notary public seal of office, unless the
31 Governor requests its return.

1 (7)(a) A notary public shall, prior to executing the
2 duties of the office and throughout the term of office, give
3 bond, payable to any individual harmed as a result of a breach
4 of duty by the notary public acting in his or her official
5 capacity, in the amount of \$10,000~~\$5,000~~, conditioned for the
6 due discharge of the office and shall take an oath that he or
7 she will honestly, diligently, and faithfully discharge the
8 duties of the notary public. The bond shall be approved and
9 filed with the Department of State and executed by a surety
10 company for hire duly authorized to transact business in this
11 state.

12 (b) Any notary public whose term of appointment
13 extends beyond January 1, 1999~~1992~~, is required to increase
14 the amount of his or her bond to \$10,000~~\$5,000~~ only upon
15 reappointment on or after January 1, 1999~~1992~~.

16 (c) Beginning July 1, 1996, surety companies for hire
17 which process notary public applications, oaths, affidavits of
18 character, and bonds for submission to the Department of State
19 must properly submit these documents in a software and hard
20 copy format approved by the Department of State.

21 Section 2. Section 117.03, Florida Statutes, is
22 amended to read:

23 117.03 Administration of oaths.--A notary public may
24 administer an oath and make a certificate thereof when it is
25 necessary for the execution of any writing or document to be
26 ~~attested, protested, or~~ published under the seal of a notary
27 public. The notary public may not take an acknowledgment of
28 execution in lieu of an oath if an oath is required.

29 Section 3. Section 117.04, Florida Statutes, is
30 amended to read:

31

1 117.04 ~~Marriages~~Acknowledgments.--A notary public is
2 authorized to ~~solemnize the rites of matrimony~~ and to take the
3 acknowledgments of deeds and other instruments of writing for
4 record, as fully as other officers of this state. For
5 ~~solemnizing the rites of matrimony, the fee of a notary public~~
6 ~~may not exceed those provided by law to the clerks of the~~
7 ~~circuit court for like services.~~

8 Section 4. Section 117.045, Florida Statutes, is
9 created to read:

10 117.045 Marriages.--A notary public is authorized to
11 solemnize the rites of matrimony. For solemnizing the rites of
12 matrimony, the fee of a notary public may not exceed those
13 provided by law to the clerks of the circuit court for like
14 services.

15 Section 5. Section 117.05, Florida Statutes, is
16 amended to read:

17 117.05 Use of notary commission; unlawful use; notary
18 fee; seal; duties; employer liability; name change;
19 advertising; photocopies; penalties.--

20 (1) No person shall obtain or use a notary public
21 commission in other than his or her legal name, and it is
22 unlawful for a notary public to notarize his or her own
23 signature. Any person applying for a notary public commission
24 must submit proof of identity to the Department of State if so
25 requested. Any person who violates the provisions of this
26 subsection is guilty of a felony of the third degree,
27 punishable as provided in s. 775.082, s. 775.083, or s.
28 775.084.

29 (2) The fee of a notary public may not exceed \$10 for
30 any one notarial act, except as provided in s. 117.045 ~~s.~~
31 ~~117.04.~~

1 (3)(a) A notary public seal shall be affixed to all
2 notarized paper documents and shall be of the rubber stamp
3 type and shall include the words "Notary Public-State of
4 Florida." The seal shall also include the name of the notary
5 public, the date of expiration of the commission of the notary
6 public, and the commission number. The rubber stamp seal must
7 be affixed to the notarized paper document in photographically
8 reproducible black ink. Every notary public shall print, type,
9 or stamp below his or her signature on a paper document his or
10 her name exactly as commissioned. An impression-type seal may
11 be used in addition to the rubber stamp seal, but the rubber
12 stamp seal shall be the official seal for use on a paper
13 document, and the impression-type seal may not be substituted
14 therefor.

15 (b) Any notary public whose term of appointment
16 extends beyond January 1, 1992, is required to use a rubber
17 stamp type notary public seal on paper documents only upon
18 reappointment on or after January 1, 1992.

19 (c) The notary public official seal and the
20 certificate of notary public commission are the exclusive
21 property of the notary public and must be kept under the
22 direct and exclusive control of the notary public. The seal
23 and certificate of commission must not be surrendered to an
24 employer upon termination of employment, regardless of whether
25 the employer paid for the seal or for the commission.

26 (d) A notary public whose official seal is lost,
27 stolen, or believed to be in the possession of another person
28 shall immediately notify the Department of State or the
29 Governor in writing.

30 (e) Any person who unlawfully possesses a notary
31 public official seal or any papers or copies relating to

1 notarial acts is guilty of a misdemeanor of the second degree,
2 punishable as provided in s. 775.082 or s. 775.083.

3 (4) When notarizing a signature, a notary public shall
4 complete a jurat or notarial certificate in substantially the
5 same form as those found in s. 117.05(13). The jurat or
6 certificate of acknowledgement shall contain the following
7 elements:

8 (a) The venue stating the location of the notarization
9 in the format, "State of Florida, County of"

10 (b) The type of notarial act performed, an oath or an
11 acknowledgement, evidenced by the words "sworn" or
12 "acknowledged."

13 (c) That the signer personally appeared before the
14 notary public at the time of the notarization.

15 (d) The exact date of the notarial act.

16 (e) The name of the person whose signature is being
17 notarized. It is presumed, absent such specific notation by
18 the notary public, that notarization is to all signatures.

19 (f) The specific type of identification the notary
20 public is relying upon in identifying the signer, either based
21 on personal knowledge or satisfactory evidence specified in s.
22 117.05(5).

23 (g) The notary's official signature.

24 (h) The notary's name, typed, printed, or stamped
25 below the signature.

26 (i) The notary's official seal affixed below or to
27 either side of the notary's signature.~~sign and date a~~
28 ~~notarial certificate or jurat and shall specify which~~
29 ~~signature is being notarized and that the signer personally~~
30 ~~appeared before the notary public at the time of notarization.~~

31

1 ~~It is presumed, absent such specific notation by the notary~~
2 ~~public, that notarization is to all signatures.~~

3 (5) A notary public may not notarize a signature on a
4 document unless he or she personally knows, or has
5 satisfactory evidence, that the person whose signature is to
6 be notarized is the individual who is described in and who is
7 executing the instrument. A notary public shall certify in the
8 certificate of acknowledgment or jurat the type of
9 identification, either based on personal knowledge or other
10 form of identification, upon which the notary public is
11 relying.

12 (b) For the purposes of this subsection, "satisfactory
13 evidence" means the absence of any information, evidence, or
14 other circumstances which would lead a reasonable person to
15 believe that the person whose signature is to be notarized
16 ~~making the acknowledgment~~ is not the person he or she claims
17 to be and any one of the following:

18 1. The sworn written statement of one ~~a~~ credible
19 witness personally known to the notary public or ~~that the~~
20 ~~person whose signature is to be notarized is personally known~~
21 ~~to the witness;~~

22 ~~2.~~ the sworn written statement of two credible
23 witnesses whose identities are proven to the notary public
24 upon the presentation of satisfactory evidence that each of
25 the following is ~~are~~ true:

26 a. That the person whose signature is to be notarized
27 is the person named in the document;

28 b. That the person whose signature is to be notarized
29 is personally known to the witnesses;

30 c. That it is the reasonable belief of the witnesses
31 that the circumstances of the person whose signature is to be

1 notarized are such that it would be very difficult or
2 impossible for that person to obtain another acceptable form
3 of identification;

4 d. That it is the reasonable belief of the witnesses
5 that the person whose signature is to be notarized does not
6 possess any of the identification documents specified in
7 subparagraph 2.3-; and

8 e. That the witnesses do not have a financial interest
9 in nor are parties to the underlying transaction; or

10 2.3- Reasonable reliance on the presentation to the
11 notary public of any one of the following forms of
12 identification, if the document is current or has been issued
13 within the past 5 years and bears a serial or other
14 identifying number:

15 a. A Florida ~~An~~ identification card or driver's
16 license issued by the public agency authorized to issue
17 driver's licenses ~~Department of Highway Safety and Motor~~
18 ~~Vehicles~~;

19 b. A passport issued by the Department of State of the
20 United States; ~~or~~

21 c. A passport issued by a foreign government if
22 ~~Reasonable reliance on the presentation of any one of the~~
23 ~~following forms of identification, if the document is current~~
24 ~~or has been issued within the past 5 years and bears a serial~~
25 ~~or other identifying number, and, if the document is a~~
26 ~~passport,~~ the document is stamped by the United States
27 Immigration and Naturalization Service; ~~+~~

28 ~~(I) A passport issued by a foreign government;~~

29 d. ~~(II)~~ A driver's license or an identification card
30 issued by a public agency authorized to issue driver's
31 licenses in a state other than Florida, a territory of the

1 United States, or Canada or Mexico ~~territory of the United~~
2 ~~States or a state other than Florida or by a Canadian or~~
3 ~~Mexican public agency authorized to issue drivers' licenses;~~
4 ~~(III) An identification card issued by a territory of~~
5 ~~the United States or a state other than Florida;~~
6 e.(IV) An identification card issued by any branch of
7 the armed forces of the United States;
8 f.(V) An inmate identification card issued on or after
9 January 1, 1991, by the Florida Department of Corrections for
10 an inmate who is in the custody of the department; ~~or~~
11 g. An inmate identification card issued by the United
12 States Department of Justice, Bureau of Federal Prisons, for
13 an inmate who is in the custody of the department;
14 h. A sworn, written statement from a sworn law
15 enforcement officer that the forms of identification for an
16 inmate in an institution of confinement were confiscated upon
17 confinement and that the person named in the document is the
18 person whose signature is to be notarized; or
19 i.(VI) An identification card issued by the United
20 ~~States Department of Justice, Immigration, and Naturalization~~
21 ~~Service.~~
22 ~~(6) A notary public may not notarize a signature on a~~
23 ~~document if:~~
24 ~~(a) The person whose signature is being notarized is~~
25 ~~not in the presence of the notary public at the time the~~
26 ~~signature is notarized. Any notary public who violates this~~
27 ~~paragraph is guilty of a civil infraction, punishable by~~
28 ~~penalty not exceeding \$5,000, and that conduct constitutes~~
29 ~~malfeasance and misfeasance in the conduct of official duties.~~
30 ~~It is no defense to the civil infraction specified in this~~
31 ~~paragraph that the notary public acted without intent to~~

1 ~~defraud. A notary public who violates this paragraph with the~~
2 ~~intent to defraud is guilty of violating s. 117.105.~~

3 ~~(b) The document is incomplete. However, an~~
4 ~~endorsement or assignment in blank of a negotiable or~~
5 ~~nonnegotiable note and the assignment in blank of any~~
6 ~~instrument given as security for such note is not deemed~~
7 ~~incomplete.~~

8 ~~(c) The notary public actually knows that the person~~
9 ~~signing the document has been adjudicated mentally~~
10 ~~incapacitated, and the notarization relates to a right that~~
11 ~~has been removed pursuant to s. 744.3215(2) or (3), and that~~
12 ~~the person has not been restored to capacity as a matter of~~
13 ~~record.~~

14 ~~(d) The person whose signature is to be notarized is~~
15 ~~the spouse, son, daughter, mother, or father of the notary~~
16 ~~public.~~

17 ~~(e) The notary public has a financial interest in or~~
18 ~~is a party to the underlying transaction; provided, however, a~~
19 ~~notary public who is an employee may notarize a signature for~~
20 ~~his or her employer and this employment is not a financial~~
21 ~~interest in the transaction nor is he or she a party to the~~
22 ~~transaction under this subsection unless he or she receives a~~
23 ~~benefit other than salary and any fee for services authorized~~
24 ~~by law. For purposes of this paragraph, a notary public who~~
25 ~~is an attorney does not have a financial interest in and is~~
26 ~~not a party to the underlying transaction evidenced by a~~
27 ~~notarized document if he or she notarizes a signature on that~~
28 ~~document for a client for whom he or she serves as an attorney~~
29 ~~of record and the attorney has no interest in the document~~
30 ~~other than a fee paid to him or her for legal services and any~~
31 ~~fee authorized by law for services as a notary public.~~

1 (6)~~(7)~~ The employer of a notary public shall be liable
2 to the persons involved for all damages proximately caused by
3 the notary's official misconduct, if the notary public was
4 acting within the scope of his or her employment at the time
5 the notary engaged in the official misconduct.

6 (7)~~(8)~~ Any person who acts as or otherwise willfully
7 impersonates a notary public while not lawfully appointed and
8 commissioned to perform notarial acts is guilty of a
9 misdemeanor of the second degree, punishable as provided in s.
10 775.082 or s. 775.083.

11 ~~(9) Any person who unlawfully possesses a notary
12 public official seal or any papers or copies relating to
13 notarial acts is guilty of a misdemeanor of the second degree,
14 punishable as provided in s. 775.082 or s. 775.083.~~

15 (8)~~(10)~~ Any notary public who knowingly acts as a
16 notary public after his or her commission has expired is
17 guilty of a misdemeanor of the second degree, punishable as
18 provided in s. 775.082 or s. 775.083.

19 (9)~~(11)~~ Any notary public who lawfully changes his or
20 her name shall, within 60 days after such change,~~forthwith~~
21 request an amended commission from the Secretary of State and
22 shall send \$25, his or her current commission, and a notice of
23 change form, obtained from the Secretary of State, which shall
24 include the new name and contain a specimen of his or her
25 official signature. The Secretary of State shall issue an
26 amended commission to the notary public in the new name. A
27 rider to the notary public's bond must accompany the notice of
28 change form. After submitting the required notice of change
29 form and rider to the Secretary of State ~~requesting an amended~~
30 ~~commission~~, the notary public may continue to perform notarial
31

1 acts in his or her former name for 60 days or until receipt of
2 the amended commission, whichever date is earlier.

3 ~~(12) Any notary public who loses or misplaces his or~~
4 ~~her notary public seal of office shall forthwith mail or~~
5 ~~deliver notice of the fact to the Secretary of State.~~

6 (10)~~(13)~~ A notary public who is not an attorney who
7 advertises the services of a notary public in a language other
8 than English, whether by radio, television, signs, pamphlets,
9 newspapers, or other written communication, with the exception
10 of a single desk plaque, shall post or otherwise include with
11 the advertisement a notice in English and in the language used
12 for the advertisement. The notice shall be of a conspicuous
13 size, if in writing, and shall state: "I AM NOT AN ATTORNEY
14 LICENSED TO PRACTICE LAW IN THE STATE OF FLORIDA, AND I MAY
15 NOT GIVE LEGAL ADVICE OR ACCEPT FEES FOR LEGAL ADVICE." If the
16 advertisement is by radio or television, the statement may be
17 modified but must include substantially the same message.

18 (11)~~(14)~~ Literal translation of the phrase "Notary
19 Public" into a language other than English is prohibited in an
20 advertisement for notarial services.

21 (12)~~(15)~~(a) A notary public may supervise the making
22 of a photocopy of an original document and attest to the
23 trueness of the copy, provided the document is neither a vital
24 record in this state, another state, a territory of the United
25 States, or another country, nor a public record, if a copy can
26 be made by the custodian of the public record. ~~A notary~~
27 ~~public may not supervise the making of a photocopy and may not~~
28 ~~attest to the trueness of a photocopy of a public record if a~~
29 ~~copy can be made by another public official.~~

30
31

1 (b) A notary public must use a certificate in
2 substantially the following form in notarizing an attested
3 copy:

4
5 STATE OF FLORIDA
6 COUNTY OF

7
8 On this day of, 19...., I attest that the
9 preceding or attached document is a true, exact, complete, and
10 unaltered photocopy made by me of ...(description of
11 document)... presented to me by the document's custodian,
12, and, to the best of my knowledge, that the
13 photocopied document is neither a vital public record nor a
14 public record ~~publicly recordable document~~, certified copies
15 of which are available from an official source other than a
16 notary public.

17
18 ... (Official Notary Signature and Notary Seal)...
19 ... (Name of Notary Typed, Printed or Stamped)...

20
21 (13)~~(16)~~ The following notarial form certificates are
22 sufficient for the purposes indicated, if completed with the
23 information required by this chapter. The specification of
24 forms under this subsection does not preclude the use of other
25 forms.

26 (a) For an oath or affirmation:

27
28 STATE OF FLORIDA
29 COUNTY OF

30
31 ~~...(Signature of Applicant)...~~

1 Sworn to (or affirmed) and subscribed before me this
2 day of,...(year).....19....., by ...(name
3 of person making statement)....
4
5 ...(Signature of Notary Public - State of Florida)...
6 ...(Print, Type, or Stamp Commissioned Name of Notary
7 Public)..
8 Personally Known OR Produced Identification
9
10 Type of Identification Produced.....
11
12 (b) For an acknowledgment in an individual capacity:
13
14 STATE OF FLORIDA
15 COUNTY OF
16
17 The foregoing instrument was acknowledged before me this
18 day of,...(year).....19....., by ...(name
19 of person acknowledging)...
20
21 ...(Signature of Notary Public - State of Florida)...
22 ...(Print, Type, or Stamp Commissioned Name of Notary
23 Public)..
24 Personally Known OR Produced Identification
25
26 Type of Identification Produced.....
27
28 (c) For an acknowledgment in a representative
29 capacity:
30
31 STATE OF FLORIDA

1 COUNTY OF

2

3 The foregoing instrument was acknowledged before me this

4 day of, ... (year) 19, by ... (name

5 of person)... as ... (type of authority, . . . e.g. officer,

6 trustee, attorney in fact)... for ... (name of party on behalf

7 of whom instrument was executed)...

8

9 ... (Signature of Notary Public - State of Florida)...

10 ... (Print, Type, or Stamp Commissioned Name of Notary

11 Public)...

12 Personally Known OR Produced Identification

13

14 Type of Identification Produced.....

15

16 (14) A notary public must make reasonable

17 accommodations to provide notarial services to persons with

18 disabilities.

19 (a) A notary public may notarize the signature of a

20 person who is blind after the notary public has read the

21 entire instrument to that person.

22 (b) A notary public may notarize the signature of a

23 person who signs with a mark if:

24 1. The document signing is witnessed by two

25 disinterested persons;

26 2. The notary prints the person's first name at the

27 beginning of the designated signature line and the person's

28 last name at the end of the designated signature line; and

29 3. The notary prints the words "his (or her) mark"

30 below the person's signature mark.

31

1 The foregoing instrument was acknowledged before me this
2 day of, ...(year)..., by ...(name of person
3 acknowledging)..., who signed with a mark in the presence of
4 these witnesses.....
5
6 ...(Signature of Notary Public - State of Florida)...
7
8 ...(Print, Type, or Stamp Commissioned Name of Notary
9 Public)...
10 Personally Known OR Produced Identification
11
12 Type of Identification Produced.....
13
14 (d) A notary public may sign the name of a person
15 whose signature is to be notarized when that person is
16 physically unable to sign or make a signature mark on a
17 document if:
18 1. The person with a disability directs the notary to
19 sign in his or her presence;
20 2. The document signing is witnessed by two
21 disinterested persons;
22 3. The notary writes below the signature the following
23 statement: "Signature affixed by notary, pursuant to s.
24 117.05(14), Florida Statutes," and states the circumstances of
25 the signing in the notarial certificate.
26 (e) The following notarial certificates are sufficient
27 for the purpose of notarizing for a person with a disability
28 who directs the notary to sign his or her name:
29
30 1. For an oath or affirmation:
31

1 STATE OF FLORIDA
2 COUNTY OF
3
4 Sworn to (or affirmed) before me this day of,
5 ...(year)..., by ...(name of person making statement)..., and
6 subscribed by ...(name of notary)... at the direction of and
7 in the presence of ...(name of person making statement)...,
8 and in the presence of these witnesses.....
9
10 ...(Signature of Notary Public - State of Florida)...
11
12 ...(Print, Type, or Stamp Commissioned Name of Notary
13 Public)...
14 Personally Known OR Produced Identification
15
16 Type of Identification Produced.....
17
18 2. For an acknowledgment in an individual capacity:
19
20 STATE OF FLORIDA
21 COUNTY OF
22
23 The foregoing instrument was acknowledged before me this
24 day of, ...(year)..., by ...(name of person
25 acknowledging)...and subscribed by ...(name of notary)... at
26 the direction of and in the presence of ..name of person
27 acknowledging)..., and in the presence of these
28 witnesses.....
29
30 ...(Signature of Notary Public - State of Florida)...
31

1 ...(Print, type, or Stamp Commissioned Name of Notary
2 Public)...
3 Personally Known OR Produced Identification
4
5 Type of Identification Produced.....
6

7 Section 6. Section 117.10, Florida Statutes, is
8 amended to read:

9 117.10 Law enforcement officers and correctional
10 officers.--Law enforcement officers, correctional officers,
11 and correctional probation officers, as defined in s. 943.10,
12 and traffic accident investigation officers, as described in
13 s. 316.640, and traffic infraction enforcement officers, as
14 described in s. 316.640 ~~318.141~~, are authorized to administer
15 oaths notaries public when engaged in the performance of
16 official duties. Sections 117.01, 117.04, 117.045, 117.05, and
17 117.103 do not apply to the provisions of this section. An
18 officer may not notarize his or her own signature.

19 Section 7. Section 117.103, Florida Statutes, is
20 amended to read:

21 117.103 Certification of notary's authority by
22 Secretary of State.--A notary public is not required to record
23 his or her notary public commission in an office of a clerk of
24 the circuit court. If certification of the notary public's
25 commission is required, it must be obtained from the Secretary
26 of State. Upon the receipt of a written request, the notarized
27 document, and a fee of \$10 payable to the Secretary of State,
28 the Secretary of State shall provide a certificate of notarial
29 authority. Documents destined for countries participating in
30 an International Treaty called the Hague Convention require an
31

1 Apostille, and that requirement shall be determined by the
2 Secretary of State.

3 Section 8. Section 117.107, Florida Statutes, is
4 amended to read:

5 117.107 Prohibited acts.--

6 (1) A notary public may not use a name or initial in
7 signing certificates other than that by which the notary
8 public is commissioned.

9 (2) A notary public may not sign notarial certificates
10 using a facsimile signature stamp unless the notary public has
11 a physical disability that limits or prohibits his or her
12 ability to make a written signature and unless the notary
13 public has first submitted written notice to the Department of
14 State with an exemplar of the facsimile signature stamp.~~A~~
15 ~~notary public may not acknowledge an instrument in which the~~
16 ~~notary public's name appears as a party to the transaction.~~

17 (3) A notary public may not affix his or her signature
18 to a blank form of affidavit or certificate of acknowledgment
19 and deliver that form to another person with the intent that
20 it be used as an affidavit or acknowledgment.

21 (4) A notary public may not take the acknowledgment of
22 or administer an oath to a person whom the notary public
23 actually knows to have been adjudicated ~~adjudged~~ mentally
24 incapacitated by a court of competent jurisdiction, where the
25 acknowledgment or oath necessitates the exercise of a right
26 that has been removed pursuant to s. 744.3215(2) or (3), and
27 where the person has not been restored to capacity as a matter
28 of record.

29 (5) A notary public may not notarize a signature on a
30 document if it appears that the person is mentally incapable
31 of understanding the nature and effect of the document at the

1 time of notarization. ~~A notary public may not take the~~
2 ~~acknowledgment of a person who is blind until the notary~~
3 ~~public has read the instrument to such person.~~

4 (6) A notary public may not take the acknowledgment of
5 a person who does not speak or understand the English
6 language, unless the nature and effect of the instrument to be
7 notarized is translated into a language which the person does
8 understand.

9 (7) A notary public may not change anything in a
10 written instrument after it has been signed by anyone.

11 (8) A notary public may not amend a notarial
12 certificate after the notarization is complete.

13 (9) A notary public may not notarize a signature on a
14 document if the person whose signature is being notarized is
15 not in the presence of the notary public at the time the
16 signature is notarized. Any notary public who violates this
17 subsection is guilty of a civil infraction, punishable by
18 penalty not exceeding \$5,000, and such violation constitutes
19 malfesance and misfesance in the conduct of official duties.
20 It is no defense to the civil infraction specified in this
21 subsection that the notary public acted without intent to
22 defraud. A notary public who violates this subsection with the
23 intent to defraud is guilty of violating s. 117.105.

24 (10) A notary public may not notarize a signature on a
25 document if the document is incomplete or blank. However, an
26 endorsement or assignment in blank of a negotiable or
27 nonnegotiable note and the assignment in blank of any
28 instrument given as security for such note is not deemed
29 incomplete.

30 (11) A notary public may not notarize a signature on a
31 document if the person whose signature is to be notarized is

1 the spouse, son, daughter, mother, or father of the notary
2 public.

3 (12) A notary public may not notarize a signature on a
4 document if the notary public has a financial interest in or
5 is a party to the underlying transaction; however, a notary
6 public who is an employee may notarize a signature for his or
7 her employer, and this employment does not constitute a
8 financial interest in the transaction nor make the notary a
9 party to the transaction under this subsection as long as he
10 or she does not receive a benefit other than his or her salary
11 and the fee for services as a notary public authorized by law.
12 For purposes of this subsection, a notary public who is an
13 attorney does not have a financial interest in and is not a
14 party to the underlying transaction evidenced by a notarized
15 document if he or she notarizes a signature on that document
16 for a client for whom he or she serves as an attorney of
17 record and he or she has no interest in the document other
18 than the fee paid to him or her for legal services and the fee
19 authorized by law for services as a notary public.

20 Section 9. Section 117.20, Florida Statutes, is
21 amended to read:

22 117.20 Electronic notarization.--

23 (1) The provisions of ss. 117.01, 117.03, 117.04,
24 117.05(1)-(11), (13), and (14)~~117.05(1)-(14) and (16)~~,
25 117.105, and 117.107 apply to all notarizations under this
26 section except as set forth in this section.

27 (2) An electronic notarization shall include the words
28 "Notary Public - State of Florida,"the name of the notary
29 public, exactly as commissioned, the date of expiration of the
30 commission of the notary public, the commission number, and
31 the notary's digital signature. Neither a rubber stamp seal

1 nor an impression-type seal is required for an electronic
2 notarization.

3 (3) Any notary public who seeks to perform electronic
4 notarizations and obtains a certificate from any certification
5 authority, as defined in s. 282.72(2), and who is licensed in
6 the state shall request an amended commission from the
7 Secretary of State as set forth in s. 117.05(9)~~s. 117.05(11)~~.
8 The Secretary of State shall issue an amended commission to
9 the notary public indicating that the notary is a subscriber
10 to the certification authority identified in the notary's
11 request for an amended commission. After requesting an
12 amended commission, the notary public may continue to perform
13 notarial acts, but may not use his or her digital signature in
14 the performance of notarial acts until receipt of the amended
15 commission. Any fees collected from such amended commissions
16 shall be used to fund the Secretary of State's administration
17 of electronic notary commissions.

18 (4) If the notary public's private key corresponding
19 to his or her public key has been compromised, the notary
20 public shall immediately notify the Secretary of State in
21 writing of the breach of security and shall request the
22 issuing certification authority to suspend or revoke the
23 certificate.

24 (5) A notary public shall keep a sequential journal of
25 all acts performed as a notary public under the provisions of
26 this section.

27 (a) The journal must include, at a minimum, for every
28 notarial act, the date and time of the notarial act, the type
29 of notarial act, the type or name of the document, the
30 signer's printed name and signature, the signer's complete
31 address and telephone number, and the specific type of

1 identification presented by the signer, including both its
2 serial number and its expiration date.

3 (b) When requested in writing by the Governor's Office
4 or Department of State, the notary public must provide the
5 journal for inspection. The notary public must retain the
6 journal for safekeeping for at least five years beyond the
7 date of the last notarial act recorded in the journal.

8 (c) If the notary public journal is stolen, lost,
9 misplaced, destroyed, or rendered unusable within the time
10 period specified in paragraph (b), the notary public must
11 immediately notify the Governor's Office or the Department of
12 State in writing of the circumstances of the incident.

13 (6)(5) Failure to comply with this section constitutes
14 grounds for suspension from office by the Governor.

15 Section 10. Subsection (1) of section 11.03, Florida
16 Statutes, is amended to read:

17 11.03 Proof of publication of notice.--

18 (1) Affidavit of proof of publication of such notice
19 of intention to apply therefor, may be made, in substantially
20 the following general form, but such form shall not be
21 exclusive:

22
23 STATE OF FLORIDA
24 COUNTY OF

25 Before the undersigned authority personally appeared
26, who on oath does solemnly swear (or affirm) that she or
27 he has knowledge of the matters stated herein; that a notice
28 stating the substance of a contemplated law or proposed bill
29 relating to

30 ... (here identify bill) ...
31

1 has been published at least 30 days prior to this date, by
2 being printed in the issues of ...(here state day, month and
3 year of issue or issues)... of the, a newspaper or
4 newspapers published in County or Counties, Florida (or)
5 there being no newspaper, by being posted for at least 30 days
6 prior to this date at three public places in County or
7 Counties, one of which places was at the courthouse of said
8 county or counties, where the matter or thing to be affected
9 by the contemplated law is situated; that a copy of the notice
10 that has been published as aforesaid and also this affidavit
11 of proof of publication are attached to the proposed bill or
12 contemplated law, and such copy of the notice so attached is
13 by reference made a part of this affidavit.

14
15

16 Sworn to (or affirmed) and subscribed before me this
17 day of, ...(year)..., by ...(name of person
18 making statement).....

19
20 ...(Signature of Notary Public - State of Florida)...
21 ...(Print, Type, or Stamp Commissioned Name of Notary
22 Public)...

23 Personally Known OR Produced Identification
24

25 Type of Identification Produced.....
26

27 ~~Sworn to and subscribed before me this 19....~~

28 ~~(SEAL)~~

29 ~~...(Signature)...~~

30 ~~Notary Public, State of Florida.~~

31 ~~My commission expires~~

1 (the lienor herein) (the agent of the lienor herein),
2 whose address is; and that in accordance with a contract
3 with, lienor furnished labor, services, or materials
4 consisting of on the following described real property in
5 County, Florida:

6

(Legal description of real property)

8

9 owned by of a total value of \$...., of which there
10 remains unpaid \$...., and furnished the first of the items on
11, ... (year).....~~19....~~, and the last of the items on
12, ... (year).....~~19....~~; and (if the lien is claimed
13 by one not in privity with the owner) that the lienor served
14 her or his notice to owner on, ... (year).....~~19....~~,
15 by; and (if required) that the lienor served copies of
16 the notice on the contractor on, ... (year).....~~19....~~
17 ~~19....~~, by and on the subcontractor,, on
18 ... (year).....~~19....~~, by

19

...(Signature)...

20

Sworn to (or affirmed) and subscribed before me this

21

.... day of, ... (year)...., by ... (name of person

22

making statement).....

23

24

...(Signature of Notary Public - State of Florida)...

25

...(Print, Type, or Stamp Commissioned Name of Notary

26

Public)...

27

Personally Known OR Produced Identification

28

.....

29

Type of Identification Produced.....

30

31

1 ~~Sworn to and subscribed before me this day of,~~
2 ~~19.....~~
3 ~~...(Notary Public)... My commission expires:~~
4
5 Section 13. Paragraph (d) of subsection (1) of section
6 713.13, Florida Statutes, is amended to read:
7 713.13 Notice of commencement.--
8 (1)
9 (d) A notice of commencement must be in substantially
10 the following form:
11
12 Permit No..... Tax Folio No.....
13 NOTICE OF COMMENCEMENT
14 State of....
15 County of....
16
17 The undersigned hereby gives notice that improvement will be
18 made to certain real property, and in accordance with Chapter
19 713, Florida Statutes, the following information is provided
20 in this Notice of Commencement.
21 1. Description of property: ...(legal description of
22 the property, and street address if available)....
23 2. General description of improvement:.....
24 3. Owner information:.....
25 a. Name and address:.....
26 b. Interest in property:.....
27 c. Name and address of fee simple titleholder (if
28 other than Owner):.....
29 4. Contractor: ...(name and address)....
30 a. Phone number:.....
31

1 City.....
2 State..... Zip.....
3 Contractor's Name.....
4 Contractor's Address.....
5 City.....
6 State..... Zip.....
7 Job Name.....
8 Job Address.....
9 City..... County.....
10 Legal Description.....
11 Bonding Company.....
12 Bonding Company Address.....
13 City..... State.....
14 Architect/Engineer's Name.....
15 Architect/Engineer's Address.....
16 Mortgage Lender's Name.....
17 Mortgage Lender's Address.....

18
19 Application is hereby made to obtain a permit to do the
20 work and installations as indicated. I certify that no work
21 or installation has commenced prior to the issuance of a
22 permit and that all work will be performed to meet the
23 standards of all laws regulating construction in this
24 jurisdiction. I understand that a separate permit must be
25 secured for ELECTRICAL WORK, PLUMBING, SIGNS, WELLS, POOLS,
26 FURNACES, BOILERS, HEATERS, TANKS, and AIR CONDITIONERS, etc.

27
28 OWNER'S AFFIDAVIT: I certify that all the foregoing
29 information is accurate and that all work will be done in
30 compliance with all applicable laws regulating construction
31 and zoning.

1
2 WARNING TO OWNER: YOUR FAILURE TO RECORD A
3 NOTICE OF COMMENCEMENT MAY RESULT IN YOUR
4 PAYING TWICE FOR IMPROVEMENTS TO YOUR PROPERTY.
5
6 IF YOU INTEND TO OBTAIN FINANCING, CONSULT WITH
7 YOUR LENDER OR AN ATTORNEY BEFORE RECORDING
8 YOUR NOTICE OF COMMENCEMENT.
9 ...(Signature of Owner or Agent)...
10 ...(including contractor).....
11 STATE OF FLORIDA
12 COUNTY OF
13
14 Sworn to (or affirmed) and subscribed before me this
15 day of, ...(year)..., by ...(name of person
16 making statement).....
17
18 ...(Signature of Notary Public - State of Florida)...
19 ...(Print, Type, or Stamp Commissioned Name of Notary
20 Public)...
21 Personally Known OR Produced Identification
22
23 Type of Identification Produced.....
24 ...(Signature of Contractor)...
25
26 STATE OF FLORIDA
27 COUNTY OF
28
29 Sworn to (or affirmed) and subscribed before me this
30 day of, ...(year)..., by ...(name of person
31 making statement).....

1 ...(Print, Type, or Stamp Commissioned Name of Notary
2 Public)...
3 Personally Known OR Produced Identification
4
5 Type of Identification Produced.....
6
7 ~~Sworn to and subscribed before me,~~
8 ~~the undersigned authority, this~~
9 ~~.... day of, 19.....~~
10
11 ~~...(Name)...~~
12 ~~NOTARY PUBLIC~~
13 ~~My Commission Expires:~~
14
15 Any notice of bond recorded more than 90 days after the
16 recording of the claim of lien shall have no force or effect
17 as to that lien unless the owner, the contractor and the
18 surety all sign the notice of bond.
19 (6) The contractor may join in a certificate of
20 payment to the contractor at any time by recording a sworn
21 statement substantially in the following form:
22
23 JOINDER IN CERTIFICATE OF PAYMENT
24
25 TO: Owner ...(name and address from certificate of payment)...
26 Lienor ...(name and address from claim of lien)...
27 Surety ...(name and address)...
28
29 The undersigned joins in the Certificate of Payment to the
30 Contractor recorded on, ...(year).....~~19....~~, in
31 Official Records Book at Page of the Public Records

1 of County, Florida, and certifies that the facts
2 stated in the Certificate of Payment to the Contractor are
3 true and correct.

4
5 Dated this day of, ... (year)
6 19......
7 ... (Name) ...
8 ... (Address) ...
9
10
11

12 STATE OF FLORIDA
13 COUNTY OF
14

15 Sworn to (or affirmed) and subscribed before me this
16 day of, ... (year), by ... (name of person
17 making statement)
18

19 ... (Signature of Notary Public - State of Florida) ...
20 ... (Print, Type, or Stamp Commissioned Name of Notary
21 Public) ...

22 Personally Known OR Produced Identification
23
24 Type of Identification Produced
25

26 ~~Sworn to and subscribed before me,~~
27 ~~the undersigned authority, this~~
28 ~~.... day of, 19.....~~

29
30 ~~... (Name) ...~~
31 ~~NOTARY PUBLIC~~

1 ~~My Commission Expires:~~

2

3 (8) If the contractor disputes the certificate of
4 payment to the contractor, the contractor must record, not
5 later than 15 days after the date the clerk certifies service
6 of the certificate, a sworn statement in substantially the
7 following form:

8

9

NOTICE OF CONTEST OF PAYMENT

10

11 TO: Owner ...(name and address from certificate of payment)...
12 Lienor ...(name and address from claim of lien)...
13 Surety ...(name and address)...

14

15 Under penalties of perjury, the undersigned certifies
16 that the contractor has not been paid or has only been paid
17 \$.... for the labor, services, and materials described in the
18 Certificate of Payment to the Contractor recorded in Official
19 Records Book at Page of the Public Records of
20 County, Florida.

21

22 Dated this day of, ... (year)

23 ~~19.....~~

24

...(Name)...

25

...(Address)...

26

.....

27

.....

28

29 STATE OF FLORIDA

30 COUNTY OF

31

1 , hereinafter "assignor," and, whose address is,
2 hereinafter "assignee."

3 WHEREAS, the assignor has been engaged in the business
4 of

5 WHEREAS, the assignor is indebted to creditors, as set
6 forth in Schedule A annexed hereto, is unable to pay its debts
7 as they become due, and is desirous of providing for the
8 payment of its debts, so far as it is possible by an
9 assignment of all of its assets for that purpose.

10 NOW, THEREFORE, the assignor, in consideration of the
11 assignee's acceptance of this assignment, and for other good
12 and valuable consideration, hereby grants, assigns, conveys,
13 transfers, and sets over, unto the assignee, her or his
14 successors and assigns, all of its assets, except such assets
15 as are exempt by law from levy and sale under an execution,
16 including, but not limited to, all real property, fixtures,
17 goods, stock, inventory, equipment, furniture, furnishings,
18 accounts receivable, bank deposits, cash, promissory notes,
19 cash value and proceeds of insurance policies, claims and
20 demands belonging to the assignor, wherever such assets may be
21 located, hereinafter the "estate," as which assets are, to the
22 best knowledge and belief of the assignor, set forth on
23 Schedule B annexed hereto.

24 The assignee shall take possession and administer the
25 estate in accordance with the provisions of chapter 727,
26 Florida Statutes, and shall liquidate the assets of the estate
27 with reasonable dispatch and convert the estate into money,
28 collect all claims and demands hereby assigned as may be
29 collectible, and pay and discharge all reasonable expenses,
30 costs, and disbursements in connection with the execution and
31

1 administration of this assignment from the proceeds of such
2 liquidations and collections.

3 The assignee shall then pay and discharge in full, to
4 the extent that funds are available in the estate after
5 payment of administrative expenses, costs, and disbursements,
6 all of the debts and liabilities now due from the assignor,
7 including interest on such debts and liabilities. If funds of
8 the estate shall not be sufficient to pay such debts and
9 liabilities in full, then the assignee shall pay from funds of
10 the estate such debts and liabilities, on a pro rata basis and
11 in proportion to their priority as set forth in s. 727.114,
12 Florida Statutes.

13 In the event that all debts and liabilities are paid in
14 full, any funds of the estate remaining shall be returned to
15 the assignor.

16 To accomplish the purposes of this assignment, the
17 assignor hereby appoints the assignee its true and lawful
18 attorney, irrevocable, with full power and authority to do all
19 acts and things which may be necessary to execute the
20 assignment hereby created; to demand and recover from all
21 persons all assets of the estate; to sue for the recovery of
22 such assets; to execute, acknowledge, and deliver all
23 necessary deeds, instruments, and conveyances; and to appoint
24 one or more attorneys under her or him to assist the assignee
25 in carrying out her or his duties hereunder.

26 The assignor hereby authorizes the assignee to sign the
27 name of the assignor to any check, draft, promissory note, or
28 other instrument in writing which is payable to the order of
29 the assignor, or to sign the name of the assignor to any
30 instrument in writing, whenever it shall be necessary to do
31 so, to carry out the purpose of this assignment.

1 ... (type of identification) ... as identification, on,
2 ... (year) ~~19~~

3 ... (Signature of Notary Public) ...
4 ... (Print, type, or stamp commissioned name of Notary
5 Public) ...

6 ~~My Commission Expires:~~

7
8 Section 18. Subsection (1) of section 747.051, Florida
9 Statutes, is amended to read:

10 747.051 Summary procedure.--

11 (1) If the wife of any person defined as an absentee
12 in s. 747.01(1), or his next of kin if said absentee has no
13 wife, shall wish to sell or transfer any property of the
14 absentee which has a gross value of less than \$5,000, or shall
15 require the consent of the absentee in any matter regarding
16 the absentee's children or in any other matter in which the
17 gross value of the subject matter is less than \$5,000, she may
18 apply to the circuit court for an order authorizing said sale,
19 transfer, or consent without opening a full conservatorship
20 proceeding as provided by this chapter. She may make the
21 application without the assistance of an attorney. Said
22 application shall be made by petition on the following form,
23 which form shall be made readily available to the applicant by
24 the clerk of the circuit court:

25
26 In the Circuit Court

27
28 In re: ... (Absentee) ..., case number

29
30 PETITION FOR SUMMARY RELIEF

31

1 Petitioner, ...(Name)..., whose residence is ...(Street &
2 number)..., ...(City or town)..., and ...(County)..., Florida,
3 and who is the ...(Describe relationship to absentee)... of
4 the absentee, ...(Name)..., states that the absentee has been
5 ...(Imprisoned or missing in action)... since ...(Date)...
6 when ...(Describe details)... Petitioner desires to
7 sell/transfer ...(Describe property)... of the value of
8 ...(Value)... because ...(Give reasons)... The terms of
9 sale/transfer are ...(Give reasons)... Petitioner requires
10 the consent of the absentee for the purpose of

11(Petitioner)...

12 State of Florida
13 County of....

14
15 Sworn to (or affirmed) and subscribed before me this
16 day of, ...(year)..., by ...(name of person
17 making statement).....

18
19 ...(Signature of Notary Public - State of Florida)...
20 ...(Print, Type, or Stamp Commissioned Name of Notary
21 Public)...

22 Personally Known OR Produced Identification
23

24 Type of Identification Produced.....

25
26
27 ~~The above named,, being by me duly sworn, says the~~
28 ~~foregoing petition is true and correct to the best of his/her~~
29 ~~knowledge and belief.~~

30 ~~.....(Notary Public or County Court Judge)...~~
31 ~~My commission expires~~

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Section 19. This act shall take effect January 1, 1999.

SENATE SUMMARY

Revises various statutes relating to the appointment and regulation of notaries public. Major changes include an increase in the amount of the bond required of a notary public; providing requirements for a resignation of a notary public; separating the provisions for acknowledgments by a notary public, and for the solemnizing of rites of marriage; specifying the elements of a notarial certificate; revising provisions relating to identification of a person whose signature is to be notarized; revising provisions relating to copying certain documents; and requiring a notary public to make reasonable accommodations to provide notarial services to disabled person. (See bill for details.)