



155662

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/06/2010	.	
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	.	

The Committee on Governmental Oversight and Accountability
(Siplin) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 20.10, Florida Statutes, is reenacted.

Section 2. Section 117.01, Florida Statutes, is amended to
read:

117.01 Appointment, application, suspension, ~~revocation,~~
application fee, bond, and oath.—

(1) The Governor may appoint as many notaries public as he
or she deems necessary, each of whom must ~~shall~~ be at least 18
years of age and a legal resident of the state. A permanent



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13 resident alien may apply and be appointed and shall file with
14 his or her application a recorded declaration of domicile. The
15 residence required for appointment must be maintained throughout
16 the term of appointment.

17 (2) An applicant for appointment as a notary public,
18 including an original, renewal, or subsequent applicant, must
19 submit proof that, within 1 year before application, he or she
20 completed at least 3 hours of interactive or classroom
21 instruction, including electronic notarization, covering the
22 duties of the notary public. Courses satisfying this requirement
23 may be offered by any public or private-sector person or entity
24 registered with the Department of State and must include a core
25 curriculum approved by the department.

26 (3) A notary ~~Notaries~~ public shall be appointed for a term
27 of 4 years and shall use and exercise the office of notary
28 public within the boundaries of this state. An applicant must be
29 able to read, write, and understand the English language.

30 (4) ~~(2)~~ The application for appointment must ~~shall~~ be signed
31 and sworn to or affirmed by the applicant, submitted to the
32 Department of State, and ~~shall be~~ accompanied by a fee of \$25,
33 together with the \$10 commission fee required by s. 113.01, and
34 a surcharge of \$4. Of the surcharge, \$2.80 shall be deposited
35 into the Grants and Donations Trust Fund of ~~which \$4 is~~
36 ~~appropriated to~~ the Executive Office of the Governor to be used
37 to fund the issuance of notary commissions and the processing of
38 suspensions, and the remaining \$1.20 shall be deposited into the
39 Operating Trust Fund of the Department of State to be used to
40 fund the processing of notary applications, education ~~educate~~
41 and assistance for ~~assist~~ notaries public, and the investigation



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42 of complaints against notaries public.

43 (a) The Department of State ~~Executive Office of the~~
44 ~~Governor~~ may contract with private vendors to provide the
45 services set forth in this section. However, a ~~no~~ commission fee
46 is not ~~shall be~~ required for the issuance of a commission as a
47 notary public to a veteran, as defined in s. 1.01, who served
48 during a period of wartime service, ~~as defined in s. 1.01(14)~~,
49 and who has been rated by the United States Government or the
50 United States Department of Veterans Affairs or its predecessor
51 to have a disability rating of 50 percent or more; such a
52 disability is subject to verification by the Department
53 ~~Secretary~~ of State, which ~~who~~ has authority to adopt reasonable
54 procedures to implement this chapter ~~act~~.

55 (b) An application must be accompanied by the oath of
56 office and the notary bond required by this section. An ~~shall~~
57 ~~also accompany the application~~ must ~~and shall~~ be submitted in
58 the format a form prescribed by the Department of State and, at
59 a minimum, must include ~~which shall require, but not be limited~~
60 ~~to, the following information:~~

- 61 1. The applicant's legal ~~full~~ name.
- 62 2. The applicant's residence address and telephone number.
- 63 3. The applicant's business address and telephone number.
- 64 4. The applicant's date of birth, race, gender, and
65 citizenship status. ~~sex.~~
- 66 5. The applicant's social security number. ~~citizenship~~
67 ~~status.~~
- 68 6. The applicant's driver's license number or the number of
69 another ~~other~~ official state-issued identification. ~~affidavit~~
70 ~~of good character from someone unrelated to the applicant who~~



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71 ~~has known the applicant for 1 year or more,~~

72 7. A list of all professional licenses and commissions
73 issued by the state to the applicant during the previous 10
74 years and a statement as to whether ~~or not~~ the applicant has had
75 such license or commission revoked or suspended. ~~and~~

76 8. A statement as to whether the applicant has previously
77 been commissioned as a notary public in this state.

78 9. A statement as to whether ~~or not~~ the applicant has been
79 convicted or found guilty of a felony, ~~and~~, if convicted or
80 found guilty ~~there has been a conviction~~, a statement of the
81 nature of the felony and restoration of civil rights. ~~The~~
82 ~~applicant may not use a fictitious or assumed name other than a~~
83 ~~nickname on an application for commission.~~

84 (c) The application shall be maintained by the Department
85 of State for the full term of a notary commission. A notary
86 public shall notify, in writing, the Department of State of any
87 change in his or her business address ~~or, home~~ telephone number,
88 residence address or business telephone number, ~~home address,~~ or
89 criminal history record within 60 days after such change.

90 (d) The Department of State or Governor may require any
91 other information ~~he or she deems~~ necessary for determining
92 whether an applicant is eligible for a notary public commission.
93 Each applicant must swear or affirm on the application that the
94 information on the application is true and correct.

95 (e) An applicant who submits an application that he or she
96 knows to contain any false, fictitious, or fraudulent statement
97 violates s. 817.155.

98 (f) The Department of State shall conspicuously place on
99 all notary public application forms the following statement:



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100 "Please note that any applicant who submits an application that
101 he or she knows to contain any false, fictitious, or fraudulent
102 statement commits a felony of the third degree pursuant to s.
103 817.155, Florida Statutes."

104 (5)~~(3)~~ As part of the oath, the applicant must swear or
105 affirm that he or she has read this chapter and knows the
106 duties, responsibilities, limitations, and powers of a notary
107 public.

108 (6) Any person may file a complaint with the Department of
109 State alleging a violation of this chapter by a notary public.
110 Upon receipt of a complaint, the department shall investigate
111 the complaint and submit a summary of its investigative findings
112 to the Executive Office of the Governor.

113 (7)~~(4)~~ The Governor may suspend a notary public for any of
114 the grounds provided in s. 7, Art. IV of the State Constitution.
115 Grounds constituting malfeasance, misfeasance, or neglect of
116 duty include, but are not limited to, ~~the following:~~

117 (a) A material false statement on the application.

118 (b) A complaint found to have merit by the Governor.

119 (c) Failure to cooperate with or respond to an
120 investigation by the Executive Office of the Governor ~~Governor's~~
121 ~~office~~ or the Department of State regarding a complaint.

122 (d) Official misconduct as defined in s. 838.022.

123 (e) False or misleading advertising relating to notary
124 public services.

125 (f) Unauthorized practice of law.

126 (g) Failure to report a change in business or residence
127 ~~home~~ address or telephone number, or failure to submit
128 documentation to request an amended commission after a lawful



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129 name change, within the specified period of time.

130 (h) Commission of fraud, misrepresentation, or any
131 intentional violation of this chapter.

132 (i) Charging fees in excess of fees authorized by this
133 chapter.

134 (j) Failure to maintain the bond required by this section.

135 ~~(8)-(5)-(a)~~ If a notary public receives notice from the
136 Department of State that he or she ~~his or her office~~ has been
137 suspended from office ~~declared vacant~~, the notary public shall
138 forthwith mail or deliver ~~to the Secretary of State~~ his or her
139 notary commission to the Department of State.

140 ~~(9)-(b)~~ A notary public who wishes to resign his or her
141 commission, or a notary public who does not maintain legal
142 residence in this state during the entire term of appointment,
143 or a notary public whose resignation is required by the
144 Governor, shall send a signed letter of resignation to the
145 Governor and shall return his or her certificate of notary
146 public commission. The resigning notary public shall destroy his
147 or her official notary public seal of office, unless the
148 Governor requests its return.

149 ~~(10)-(6)~~ A ~~No~~ person may not ~~be~~ automatically be reappointed
150 as a notary public. The application process must be completed
151 ~~regardless of~~ whether an applicant is requesting his or her
152 initial first notary commission, ~~a~~ renewal of a commission, or
153 any subsequent commission.

154 ~~(11)-(7)-(a)~~ A notary public shall, before ~~prior to~~ executing
155 the duties of the office and throughout the term of office, give
156 bond, payable to any individual harmed as a result of a breach
157 of duty by the notary public acting in his or her official



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158 capacity, in the amount of \$7,500, conditioned on ~~for~~ the due
159 discharge of the office and shall take an oath that he or she
160 will honestly, diligently, and faithfully discharge the duties
161 of the notary public.

162 (a) The bond must ~~shall~~ be approved and filed with the
163 Department of State and executed by a surety company for hire
164 duly authorized to transact business in this state.

165 ~~(b) Any notary public whose term of appointment extends~~
166 ~~beyond January 1, 1999, is required to increase the amount of~~
167 ~~his or her bond to \$7,500 only upon reappointment on or after~~
168 ~~January 1, 1999.~~

169 ~~(b)(c) Beginning July 1, 1996,~~ Surety companies for hire
170 which process notary public applications, oaths, affidavits of
171 character, or ~~and~~ bonds for submission to the Department of
172 State must properly submit these documents in a software and
173 hard copy format approved by the department ~~of State.~~

174 ~~(c)(8) An~~ Upon payment to any individual harmed as a result
175 of a breach of duty by the notary public, the entity issuing
176 bonds for one or more notaries public must submit an annual
177 report to the Department of State by January 1 of each year
178 which includes a statement of whether any bonds were paid and,
179 if the bonds were paid, a summary of who has issued the bond for
180 the notary public shall notify the Governor of the payment and
181 the circumstances that ~~which~~ led to the claim. If an entity
182 issuing such bonds does not submit its annual report to the
183 department by January 1, the department shall refuse to accept
184 bonding certificates from the entity until the entity submits
185 its annual report.

186 Section 3. Subsection (4) of section 117.021, Florida



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187 Statutes, is amended to read:

188 117.021 Electronic notarization.—

189 (4) Failure of a notary public to comply with any of the
190 requirements of this section may constitute grounds for
191 suspension of the notary public's commission by the ~~Executive~~
192 ~~Office of the~~ Governor.

193 Section 4. Subsections (1), (3), and (9) of section 117.05,
194 Florida Statutes, are amended to read:

195 117.05 Use of notary commission; unlawful use; notary fee;
196 seal; duties; employer liability; name change; advertising;
197 photocopies; penalties.—

198 (1) A No person may not shall obtain or use a notary public
199 commission in other than his or her legal name or, ~~and it is~~
200 ~~unlawful for a notary public to~~ notarize his or her own
201 signature. Any person applying for a notary public commission
202 must submit proof of identity to the Department of State if ~~so~~
203 requested. Any person who violates ~~the provisions of this~~
204 subsection commits ~~is guilty of~~ a felony of the third degree,
205 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

206 (3) ~~(a)~~ A notary public seal shall be affixed to all
207 notarized paper documents and shall be of the rubber stamp type
208 and ~~shall~~ include the words "Notary Public-State of Florida."
209 The seal must ~~shall~~ also include the name of the notary public,
210 the date of expiration of the commission of the notary public,
211 and the commission number. The rubber stamp seal must be affixed
212 to the notarized paper document in photographically reproducible
213 black ink. Every notary public shall print, type, or stamp below
214 his or her signature on a paper document his or her name exactly
215 as commissioned. An impression-type seal may be used in addition



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216 to the rubber stamp seal, but the rubber stamp seal is ~~shall be~~
217 the official seal for use on a paper document, and the
218 impression-type seal may not be substituted therefor.

219 ~~(b) Any notary public whose term of appointment extends~~
220 ~~beyond January 1, 1992, is required to use a rubber stamp type~~
221 ~~notary public seal on paper documents only upon reappointment on~~
222 ~~or after January 1, 1992.~~

223 ~~(a)~~ ~~(e)~~ The notary public official seal and the certificate
224 of notary public commission are the exclusive property of the
225 notary public and must be kept under the direct and exclusive
226 control of the notary public. The seal and certificate of
227 commission may ~~must~~ not be surrendered to an employer upon
228 termination of employment, regardless of whether the employer
229 paid for the seal or for the commission.

230 ~~(b)~~ ~~(d)~~ A notary public whose official seal is lost, stolen,
231 or believed to be in the possession of another person shall
232 immediately notify the Department of State ~~or the Governor~~ in
233 writing.

234 ~~(c)~~ ~~(e)~~ Any person who unlawfully possesses a notary public
235 official seal or any papers or copies relating to notarial acts
236 commits ~~is guilty of~~ a misdemeanor of the second degree,
237 punishable as provided in s. 775.082 or s. 775.083.

238 (9) Any notary public who lawfully changes his or her name
239 must ~~shall~~, within 60 days after such change, request an amended
240 commission from the Department ~~Secretary~~ of State and ~~shall~~ send
241 \$25, his or her current commission, and a notice of change form,
242 obtained from the department ~~Secretary of State~~, which shall
243 include the new name and contain a specimen of his or her
244 official signature. The department ~~Secretary of State~~ shall



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245 issue an amended commission to the notary public in the new
246 name. A rider to the notary public's bond must accompany the
247 notice of change form. After submitting the required notice of
248 change form and rider to the department ~~Secretary of State~~, the
249 notary public may continue to perform notarial acts in his or
250 her former name for 60 days or until receipt of the amended
251 commission, whichever occurs first ~~date is earlier~~.

252 Section 5. Section 117.103, Florida Statutes, is amended to
253 read:

254 117.103 Certification of notary's authority ~~by Secretary of~~
255 ~~State~~.—A notary public is not required to record his or her
256 notary public commission in an office of a clerk of the circuit
257 court. If certification of the notary public's commission is
258 required, it must be obtained from the Department ~~Secretary~~ of
259 State. Upon ~~the~~ receipt of a written request and a fee of \$10
260 payable to the Department ~~Secretary~~ of State, the department
261 ~~Secretary of State~~ shall issue a certificate of notarial
262 authority, in a form prescribed by the department ~~Secretary of~~
263 ~~State~~, which includes ~~shall include~~ a statement explaining the
264 legal qualifications and authority of a notary public in this
265 state.

266 Section 6. Subsections (2) and (9) of section 117.107,
267 Florida Statutes, are amended to read:

268 117.107 Prohibited acts.—

269 (2) A notary public may not sign notarial certificates
270 using a ~~facsimile~~ signature stamp unless the notary public has a
271 physical disability that limits or prohibits his or her ability
272 to make a written signature and unless the notary public has
273 first submitted written notice to the Department of State with



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274 an exemplar of the ~~facsimile~~ signature stamp.

275 (9) A notary public may not notarize a signature on a
276 document if the person whose signature ~~is~~ being notarized is not
277 in the presence of the notary public at the time the signature
278 is notarized. A ~~Any~~ notary public who violates this subsection
279 commits ~~is guilty of~~ a civil infraction, punishable by penalty
280 not exceeding \$5,000, and such violation constitutes malfeasance
281 and misfeasance in the conduct of official duties. It is not a
282 ~~no~~ defense to the civil infraction ~~specified in this subsection~~
283 that the notary public acted without intent to defraud. A notary
284 public who violates this subsection with the intent to defraud
285 violates ~~is guilty of violating~~ s. 117.105 and is subject to
286 suspension pursuant to s. 117.01(7).

287 Section 7. All powers, duties, functions, rules, records,
288 personnel, and property; unexpended balances of appropriations,
289 allocations, or other funds; administrative authority; pending
290 issues; and existing contracts of the Executive Office of the
291 Governor relating to notaries public or the administration of
292 chapter 117, Florida Statutes, except for the issuance of notary
293 commissions and the suspension of notaries public, are
294 transferred by a type two transfer, as defined in s. 20.06(2),
295 Florida Statutes, from the Executive Office of the Governor to
296 the Department of State.

297 Section 8. Subsection (11) of section 668.50, Florida
298 Statutes, is amended to read:

299 668.50 Uniform Electronic Transaction Act.—

300 (11) NOTARIZATION AND ACKNOWLEDGMENT.—

301 ~~(a)~~ If a law requires a signature or record to be
302 notarized, acknowledged, verified, or made under oath, the



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303 requirement is satisfied if the electronic signature of the
304 person authorized by applicable law to perform those acts,
305 together with all other information required to be included by
306 other applicable law, is attached to or logically associated
307 with the signature or record. Neither a rubber stamp nor an
308 impression type seal is required for an electronic notarization.

309 ~~(b) A first-time applicant for a notary commission must~~
310 ~~submit proof that the applicant has, within 1 year prior to the~~
311 ~~application, completed at least 3 hours of interactive or~~
312 ~~classroom instruction, including electronic notarization, and~~
313 ~~covering the duties of the notary public. Courses satisfying~~
314 ~~this section may be offered by any public or private sector~~
315 ~~person or entity registered with the Executive Office of the~~
316 ~~Governor and must include a core curriculum approved by that~~
317 ~~office.~~

318 Section 9. The sum of \$120,000 in recurring funds from the
319 Operating Trust Fund is appropriated to the Department of State
320 and one full-time equivalent position, with associated salary
321 rate of 38,652 is authorized, for the 2010-2011 fiscal year for
322 the purpose of carrying out the provisions of this act related
323 to notaries public.

324 Section 10. This act shall take effect July 1, 2010.

325
326 ===== T I T L E A M E N D M E N T =====

327 And the title is amended as follows:

328 Delete everything before the enacting clause
329 and insert:

330 A bill to be entitled

331 An act relating to a review of the Department of State



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332 under the Florida Government Accountability Act;
333 reenacting s. 20.10, F.S., relating to the
334 establishment of the department; amending s. 117.01,
335 F.S.; assigning various duties of the Executive Office
336 of the Governor relating to notaries public to the
337 department; revising the application requirements for
338 notaries public; requiring notary public applicants to
339 complete certain interactive or classroom instruction;
340 authorizing certain persons or entities to offer
341 courses for the required instruction; revising
342 provisions for the deposit and use of funds from the
343 notary public surcharge; providing penalties for
344 applicants who submit applications containing certain
345 statements; requiring the department to provide notice
346 on notary application forms of criminal penalties for
347 providing false information; providing for the filing
348 and investigation of complaints against notaries
349 public; requiring the department to submit
350 investigative findings to the Executive Office of the
351 Governor; deleting obsolete provisions relating to
352 notary bonds; requiring entities issuing notary bonds
353 to submit annual reports to the department; requiring
354 the department to refuse bonding certificates from
355 such entity that does not submit its annual report by
356 a specified date; conforming provisions; amending ss.
357 117.021, 117.05, and 117.103, F.S.; deleting an
358 obsolete provision relating to notary public seals;
359 conforming provisions; amending s. 117.107, F.S.;
360 prohibiting a notary public from using a signature



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361 stamp except under certain circumstances; providing
362 penalties; specifying that notaries public are subject
363 to suspension under certain circumstances;
364 transferring the administration of certain provisions
365 relating to notaries public from the Executive Office
366 of the Governor to the department; amending s. 668.50,
367 F.S.; deleting requirements for certain interactive or
368 classroom instruction for notaries public, to conform;
369 providing an appropriation and authorizing additional
370 positions; providing an effective date.