



655492

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
03/24/2010	.	
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The Committee on Commerce (Garcia) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraph (c) of subsection (2) of section
20.10, Florida Statutes, is reenacted.

Section 2. Effective January 1, 2011, 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 shall be at least 18 years
of age and a legal resident of the state. A permanent resident



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

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

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

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



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

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

- 62 1. The applicant's legal ~~full~~ name.7
- 63 2. The applicant's residence address and telephone number.7
- 64 3. The applicant's business address and telephone number.7
- 65 4. The applicant's date of birth, ethnicity, race, gender,
66 and citizenship status. ~~sex,~~
- 67 5. The applicant's social security number.7 ~~citizenship~~
68 ~~status,~~
- 69 6. The applicant's driver ~~driver's~~ license number or the
70 number of another ~~other~~ official state-issued identification.7
71 ~~affidavit of good character from someone unrelated to the~~



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72 ~~applicant who has known the applicant for 1 year or more,~~

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

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

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

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

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

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

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



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

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

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

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

- (a) A material false statement on the application.
- (b) A complaint found to have merit by the Governor.
- (c) Failure to cooperate with or respond to an investigation by the Executive Office of the Governor ~~Governor's office~~ or the Department of State regarding a complaint.
- (d) Official misconduct as defined in s. 838.022.
- (e) False or misleading advertising relating to notary public services.
- (f) Unauthorized practice of law.
- (g) Failure to report a change in business or residence ~~home~~ address or telephone number, or failure to submit



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130 documentation to request an amended commission after a lawful
131 name change, within the specified period of time.

132 (h) Commission of fraud, misrepresentation, or any
133 intentional violation of this chapter.

134 (i) Charging fees in excess of fees authorized by this
135 chapter.

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

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

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

151 ~~(9)-(6)~~ A ~~No~~ person may not ~~be~~ automatically be reappointed
152 as a notary public. The application process must be completed
153 ~~regardless of~~ whether an applicant is requesting his or her
154 initial ~~first~~ notary commission, a renewal of a commission, or
155 any subsequent commission.

156 ~~(10)-(7)~~(a) A notary public shall, before ~~prior to~~ executing
157 the duties of the office and throughout the term of office, give
158 bond, payable to any individual harmed as a result of a breach



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159 of duty by the notary public acting in his or her official
160 capacity, in the amount of \$7,500, conditioned on ~~for~~ the due
161 discharge of the office and shall take an oath that he or she
162 will honestly, diligently, and faithfully discharge the duties
163 of the notary public. The bond shall be approved and filed with
164 the Department of State and executed by a surety company for
165 hire duly authorized to transact business in this state.

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

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

175 ~~(11)(8) Upon payment to~~ Any individual harmed as a result
176 ~~of a breach of duty by the notary public, the entity issuing~~
177 bonds for one or more notaries public must submit to the
178 Department of State an annual report that includes a statement
179 of whether any bonds were paid and, if the bonds were paid, a
180 summary of who has issued the bond for the notary public shall
181 notify the Governor of the payment and the circumstances that
182 which led to the claim. If an entity issuing such bonds does not
183 submit its annual report to the department by January 1, the
184 department shall refuse to accept bonding certificates from the
185 entity until the entity submits its annual report.

186 Section 3. Effective January 1, 2011, subsection (4) of
187 section 117.021, Florida Statutes, is amended to read:



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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. Effective January 1, 2011, subsections (1), (3),
194 and (9) of section 117.05, Florida Statutes, are amended to
195 read:

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

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

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



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

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

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

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

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

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



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

253 Section 5. Effective January 1, 2011, section 117.103,
254 Florida Statutes, is amended to read:

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

267 Section 6. Effective January 1, 2011, subsections (2) and
268 (9) of section 117.107, Florida Statutes, are amended to read:

269 117.107 Prohibited acts.—

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



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

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

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

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

300 668.50 Uniform Electronic Transaction Act.—

301 (11) NOTARIZATION AND ACKNOWLEDGMENT.—

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



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

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

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

325 Section 10. Except as otherwise expressly provided in this
326 act, this act shall take effect July 1, 2010.

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328
329 ===== T I T L E A M E N D M E N T =====

330 And the title is amended as follows:

331 Delete everything before the enacting clause
332 and insert:



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333 A bill to be entitled
334 An act relating to a review of the Department of State
335 under the Florida Government Accountability Act; reenacting s.
336 20.10(2)(c), F.S., relating to the Division of Corporations
337 within the department; amending s. 117.01, F.S.; assigning
338 various duties of the Executive Office of the Governor relating
339 to notaries public to the department; revising the application
340 requirements for notaries public; requiring notary public
341 applicants to complete certain interactive or classroom
342 instruction; authorizing certain persons or entities to offer
343 courses for the required instruction; revising provisions for
344 the deposit and use of funds from the notary public surcharge;
345 providing penalties for applicants who submit applications
346 containing certain statements; requiring the department to
347 provide notice on notary application forms of criminal penalties
348 for providing false information; providing for the filing and
349 investigation of complaints against notaries public; requiring
350 the department to submit investigative findings to the Executive
351 Office of the Governor; deleting obsolete provisions relating to
352 notary bonds; requiring entities issuing notary bonds to submit
353 annual reports to the department; requiring the department to
354 refuse bonding certificates from such entity that does not
355 submit its annual report by a specified date; conforming
356 provisions; amending ss. 117.021, 117.05, and 117.103, F.S.;
357 deleting an obsolete provision relating to notary public seals;
358 conforming provisions; amending s. 117.107, F.S.; prohibiting a
359 notary public from using a signature stamp except under certain
360 circumstances; providing penalties; specifying that notaries
361 public are subject to suspension under certain circumstances;



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362 transferring the administration of certain provisions relating
363 to notaries public from the Executive Office of the Governor to
364 the department; amending s. 668.50, F.S.; deleting requirements
365 for certain interactive or classroom instruction for notaries
366 public, to conform; providing an appropriation and authorizing
367 additional positions; providing an effective date.
368