

# FLORIDA STATUTES CHAPTER 117

## Notaries Public

Effective July 1, 2000

- 117.01 Appointment, application, suspension, revocation, application fee, bond, and oath.
- 117.03 Administration of oaths.
- 117.04 Acknowledgments.
- 117.045 Marriages.
- 117.05 Use of notary commission; unlawful use; notary fee; seal; duties; employer liability; name change; advertising; photo copies; penalties.
- 117.06 Validity of acts prior to April 1, 1903.
- 117.10 Law enforcement and correctional officers.
- 117.103 Certification of notary's authority by Secretary of State.
- 117.105 False or fraudulent acknowledgments; penalty.
- 117.107 Prohibited acts.
- 117.108 Validity of acts, seals, and certificates prior to January 1, 1995.

### **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 alien may apply and be appointed and shall file with his or her application a recorded Declaration of Domicile. The residence required for appointment must be maintained throughout the term of appointment. Notaries public shall be appointed for 4 years and shall use and exercise the office of notary public within the boundaries of this state. **An applicant must be able to read, write, and understand the English language.**

(2) The application for appointment shall be signed and sworn to by the applicant and shall be accompanied by a fee of \$25, together with the \$10 commission fee required by s. 113.01, and a surcharge of \$4, which \$4 is appropriated to the Executive Office of the Governor to be used to educate and assist notaries public. The Executive Office of the Governor may contract with private vendors to provide the services set forth in this section. However, no commission fee shall be required for the issuance of a commission as a notary public to a veteran who served during a period of wartime service, as defined in s. 1.01(14), and who has been rated by the United States Government or the United States Department of Veterans Affairs or its predecessor to have a disability rating of 50 percent or more; such a disability is subject to verification by the Secretary of State, who has authority to adopt reasonable procedures to implement this act. The oath of office and notary bond required by this section shall also accompany the application and shall be in a form prescribed by the Department of State which shall require, but not be limited to, the following information: full name, residence address and telephone number, business address and telephone number, date of birth, race, sex, social security number, citizenship status, driver's license number or the number of other official state-issued identification, affidavit of good character from someone unrelated to the applicant who has known the applicant for 1 year or more, a list of all professional licenses and commissions issued by the state during the previous 10 years and a statement as to whether or not the applicant has had such license or commission revoked or suspended, and a statement as to whether or not the applicant has been convicted of a felony, and, if there has been a conviction, a statement of the nature of the felony and restoration of civil rights. The applicant may not use a fictitious or assumed name other than a nickname on an application for commission. The application shall be maintained by the Department of State for the full term of a notary commission. A notary public shall notify, in writing, the Department of State of any change in his or her business address, home telephone number, business telephone number, home address, or criminal record within 60 days after such change. The Governor may require any other information he or she deems necessary for determining whether an applicant is eligible for a notary public commission. Each applicant must swear or affirm on the application that the information on the application is true and correct.

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

(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 or respond to an investigation by the Governor's office or the Department of State regarding a complaint.
- (d) Official misconduct as defined in s. 839.25.
- (e) False or misleading advertising relating to notary public services.
- (f) Unauthorized practice of law.
- (g) Failure to report a change in business or home address or telephone number, or failure to submit documentation to request an amended commission after a lawful name change, within the specified period of time.
- (h) Commission of fraud, misrepresentation, or any intentional violation of this chapter.
- (i) Charging fees in excess of fees authorized by this chapter.
- (j) Failure to maintain the bond required by this section.

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

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

(6) No person may be automatically reappointed as a notary public. The application process must be completed regardless of whether an applicant is requesting his or her first notary commission, a renewal of a commission, or any subsequent commission.

(7)(a) A notary public shall, prior to executing the duties of the office and throughout the term of office, give bond, payable to any individual harmed as a result of a breach of duty by the notary public acting in his or her official capacity, in the amount of \$7,500, conditioned for the due discharge of the office and shall take an oath that he or she will honestly, diligently, and faithfully discharge the duties of the notary public. The bond shall be approved and filed with the Department of State and executed by a surety company for hire duly authorized to transact business in this state.

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

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

(8) Upon payment to any individual harmed as a result of a breach of duty by the notary public, the entity who has issued the bond for the notary public shall notify the Governor of the payment and the circumstances which led to the claim.

**117.03 Administration of oaths.**—A notary public may administer an oath and make a certificate thereof when it is necessary for the execution of any writing or document to be published under the seal of a notary public. The notary public may not take an acknowledgment of execution in lieu of an oath if an oath is

required.

**117.04 Acknowledgments.**—A notary public is authorized to take the acknowledgments of deeds and other instruments of writing for record, as fully as other officers of this state.

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

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

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

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

(b) A notary public may not charge a fee for witnessing an absentee ballot in an election, and must witness such a ballot upon the request of an elector, provided the notarial act is in accordance with the provisions of this chapter.

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

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

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

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

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

(4) When notarizing a signature, a notary public shall complete a jurat or notarial certificate in substantially the same form as those found in subsection (13). The jurat or certificate of acknowledgment shall contain the following elements:

(a) The venue stating the location of the notarization in the format, “State of Florida, County of \_\_\_\_\_.”

(b) The type of notarial act performed, an oath or an acknowledgment, evidenced by the words “sworn” or “acknowledged.”

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

(d) The exact date of the notarial act.