CHAPTER 117
NOTARIES PUBLIC

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

(1) The Governor may appoint for a term of 4 years 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.

(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 a surcharge of $4, which $4 is appropriated to the Executive Office of the Governor to be used to educate and assist notaries public. 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 on the application that the information on the application is true and correct to the best of his or her knowledge.

(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 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) 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.

(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 $5,000, 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, 1992, is required to increase the amount of his or her bond to $5,000 only upon reappointment on or after January 1, 1992.

(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.

History.—s. 1, Sept. 13, 1822; RS 218; s. 1, ch. 4544, 1897; GS 302; RGS 413; CGL 479; s. 1, ch. 21765, 1943; s. 1, ch. 63-138; s. 1, ch. 65-256; ss. 1, 2, ch. 67-54; ss. 10, 12, 35, ch. 69-106; s. 70, ch. 71-136; s. 1, ch. 75-161; s. 6, ch. 77-121; ss. 5, 6, ch. 81-260; s. 33, ch. 83-217; s. 3, ch. 88-557; s. 1, ch. 91-291; s. 1, ch. 92-209; s. 746, ch. 95-147; s. 18, ch. 95-280; s. 27, ch. 95-312; s. 2, ch. 96-407.

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 attested, protested, or 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.

History.—s. 1, Sept. 13, 1822; RS 219; GS 304; RGS 415; CGL 481; s. 20, ch. 73-334; s. 1, ch. 80-173; s. 2, ch. 91-291; s. 2, ch. 92-209; s. 2, ch. 93-62.

117.04 Marriages; acknowledgments.—A notary public is authorized to solemnize the rites of matrimony and to take the acknowledgments of deeds and other instruments of writing for record, as fully as other officers of this state. 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.

History.—s. 2, ch. 1127, 1860; RS 220; GS 305; RGS 416; CGL 482; s. 20, ch. 73-334; s. 8, ch. 81-260; s. 3, ch. 91-291; s. 3, ch. 93-62.

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) The fee of a notary public may not exceed $10 for any one notarial act, except as provided in s. 117.04.

(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.

(4) When notarizing a signature, a notary public shall sign and date a notarial certificate or jurat and shall specify which signature is being notarized and that the signer personally appeared before the notary public at the time of notarization. It is presumed, absent such specific notation by the notary public, that notarization is to all signatures.

(5) A notary public may not notarize a signature on a document unless he or she personally

knows, or has satisfactory evidence, that the person whose signature is to be notarized is the individual who is described in and who is executing the instrument. A notary public shall certify in the certificate of acknowledgment or jurat the type of identification, either based on personal knowledge or other form of identification, upon which the notary public is relying.

(a) For purposes of this subsection, "personally knows" means having an acquaintance, derived from association with the individual, which establishes the individual's identity with at least a reasonable certainty.

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

1. The sworn written statement of a credible witness personally known to the notary public that the person whose signature is to be notarized is personally known to the witness;

2. The sworn written statement of two credible witnesses whose identities are proven to the notary public upon the presentation of satisfactory evidence that each of the following are true:

a. The person whose signature is to be notarized is the person named in the document;

b. The person whose signature is to be notarized is personally known to the witnesses;

c. That it is the reasonable belief of the witnesses that the circumstances of the person whose signature is to be notarized are such that it would be very difficult or impossible for that person to obtain another form of identification;

d. The person whose signature is to be notarized does not possess any of the identification documents specified in subparagraph 3.; and

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

3. Reasonable reliance on the presentation to the notary public of one of the following forms of identification, if the document is current or has been issued within the past 5 years:

a. An identification card or driver's license issued by the Department of Highway Safety and Motor Vehicles;

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

c. Reasonable reliance on the presentation of any one of the following forms of identification, if the document is current or has been issued within the past 5 years and bears a serial or other identifying number, and, if the document is a passport, the document is stamped by the United States Immigration and Naturalization Service:

(I) A passport issued by a foreign government;

(II) A driver's license issued by a territory of the United States or a state other than Florida or by a Canadian or Mexican public agency authorized to issue drivers' licenses;

(III) An identification card issued by a territory of the United States or a state other than Florida;

(IV) An identification card issued by any branch of the armed forces of the United States;

(V) An inmate identification card issued on or after January 1, 1991, by the Department of Corrections for an inmate who is in the custody of the department; or

(VI) An identification card issued by the United States Department of Justice, Immigration, and Naturalization Service.

(6) A notary public may not notarize a signature on a document if:

(a) The person whose signature is being notarized is not in the presence of the notary public at the time the signature is notarized. Any notary public who violates this paragraph is guilty of a civil infraction, punishable by penalty not exceeding $5,000, and that conduct constitutes malfeasance and misfeasance in the conduct of official duties. It is no defense to the civil infraction specified in this paragraph that the notary public acted without intent to defraud. A notary public who violates this paragraph with the intent to defraud is guilty of violating s. 117.105.

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

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

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

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

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

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

(9) 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.

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

(11) Any notary public who lawfully changes his or her name shall forthwith request an amended commission from the Secretary of State and shall send $25, his or her current commission, and a notice of change form, obtained from the Secretary of State, which shall include the new name and contain a specimen of his or her official signature. The Secretary of State shall issue an amended commission to the notary public in the new name. A rider to the notary public's bond must accompany the notice of change form. After requesting an amended commission, the notary public may continue to perform notarial acts in his or her former name until receipt of the amended commission.

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

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

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

(15)(a) A notary public may supervise the making of a photocopy of an original document and attest to the trueness of the copy. A notary public may not supervise the making of a photocopy and may not attest to the trueness of a photocopy of a public record if a copy can be made by another public official.

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

STATE OF FLORIDA
COUNTY OF __________

On this _____ day of ___________, 19_____, I attest that the preceding or attached document is a true, exact, complete, and unaltered photocopy made by me of (description of document) presented to me by the document's custodian, _____________________, and, to the best of my knowledge, that the photocopied document is neither a public record nor a publicly recordable document, certified copies of which are available from an official source other than a notary public.

(Official Notary Signature and Notary Seal)
(Name of Notary Typed, Printed or Stamped)

(16) The following form certificates are sufficient for the purposes indicated, if completed with the information required by this chapter. The specification of forms under this subsection does not preclude the use of other forms.

(a) For an oath or affirmation:

STATE OF FLORIDA
COUNTY OF __________

(Signature of Applicant)

Sworn to (or affirmed) and subscribed before me this _____ day of ___________, 19_____, by (name of person making statement) .

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

Personally Known ___________ OR Produced Identification ___________
Type of Identification Produced ____

(b) For an acknowledgment in an individual capacity:
STATE OF FLORIDA
COUNTY OF __________

The foregoing instrument was acknowledged before me this _____ day of __________, 19 __________, by (name of person acknowledging)

(Signature of Notary Public - State of Florida)

(Print, Type, or Stamp Commissioned Name of Notary Public)

Personally Known __________ OR Produced Identification __________

Type of Identification Produced ____________________

(c) For an acknowledgment in a representative capacity:
STATE OF FLORIDA
COUNTY OF __________

The foregoing instrument was acknowledged before me this _____ day of __________, 19 __________, by (name of person) as (type of authority, . . . e.g. officer, trustee, attorney in fact) for (name of party on behalf of whom instrument was executed)

(Signature of Notary Public - State of Florida)

(Print, Type, or Stamp Commissioned Name of Notary Public)

Personally Known __________ OR Produced Identification __________

Type of Identification Produced ____________________

History.—ch. 3874, 1889; RS 221; GS 306; RGS 417; CGL 483; s. 8, ch. 81-260; s. 4, ch. 91-291; s. 3, ch. 92-209; s. 4, ch. 93-62; s. 747, ch. 95-147; s. 1, ch. 97-241.

117.06 Validity of acts prior to April 1, 1903.—Any and all notarial acts that were done by any notary public in the state prior to April 1, 1903, which would have been valid had not the term of office of the notary public expired, are declared to be valid.

History.—s. 1, ch. 5217, 1903; GS 307; RGS 418; CGL 484.

117.10 Law enforcement officers and correctional officers.—Law enforcement officers, correctional officers, and correctional probation officers, as defined in s. 943.10, traffic accident investigation officers, as described in s. 316.640, and traffic infraction enforcement officers as described in [1]s. 318.141, are notaries public when engaged in the performance of official duties. Sections 117.01, 117.04, 117.05, and 117.103 do not apply to the provisions of this section. An officer may not notarize his or her own signature.

History.—s. 4, ch. 84-97; s. 43, ch. 89-526; s. 2, ch. 91-174; s. 9, ch. 91-291; s. 748, ch. 95-147; s. 4, ch. 95-283.

[1]**Note.**—Repealed by s. 44, ch. 96-350.

117.103 Certification of notary's authority by Secretary of State.—Upon the receipt of a written request, the notarized document, and a fee of $10 payable to the Secretary of State, the Secretary of State shall provide a certificate of notarial authority. Documents destined for countries participating in an International Treaty called the Hague Convention require an Apostille, and that requirement shall be determined by the Secretary of State.

History.—s. 5, ch. 91-291.

117.105 False or fraudulent acknowledgments; penalty.—A notary public who falsely or fraudulently takes an acknowledgment of an instrument as a notary public or who falsely or fraudulently makes a certificate as a notary public or who falsely takes or receives an acknowledgment of the signature on a written instrument is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History.—s. 6, ch. 91-291.

117.107 Prohibited acts.—

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

(2) A notary public may not acknowledge an instrument in which the notary public's name appears as a party to the transaction.

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

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

(5) A notary public may not take the acknowledgment of a person who is blind until the notary public has read the instrument to such person.

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

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

History.—s. 7, ch. 91-291; s. 4, ch. 92-209; s. 749, ch. 95-147; s. 19, ch. 95-280.

117.108 Validity of acts, seals, and certificates prior to January 1, 1995.—A notarial act performed, a notarial certificate signed, or a notarial seal used by any notary public before January 1, 1995, which would have been valid under the laws in effect in this state on January 1, 1991, is valid.

History.—s. 5, ch. 93-62.

117.20 Electronic notarization.—

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

(2) An electronic notarization shall include the name of the notary public, exactly as commissioned, the date of expiration of the commission of the notary public, the commission number, and the notary's digital signature. Neither a rubber stamp seal nor an impression-type seal is required for an electronic notarization.

(3) Any notary public who seeks to perform electronic notarizations and obtains a certificate from any certification authority, as defined in s. 282.72(2), shall request an amended commission from the Secretary of State as set forth in s. 117.05(11). The Secretary of State shall issue an amended commission to the notary public indicating that the notary is a subscriber to the

certification authority identified in the notary's request for an amended commission. After requesting an amended commission, the notary public may continue to perform notarial acts, but may not use his or her digital signature in the performance of notarial acts until receipt of the amended commission. Any fees collected from such amended commissions shall be used to fund the Secretary of State's administration of electronic notary commissions.

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

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

History.—s. 2, ch. 97-241.

CHAPTER 118
INTERNATIONAL NOTARIES

118.10 Florida international notary.—

(1) As used in this section, the term:

(a) "Authentication instrument" means an instrument executed by a Florida international notary referencing this section, which includes the particulars and capacities to act of transacting parties, a confirmation of the full text of the instrument, the signatures of the parties or legal equivalent thereof, and the signature and seal of a Florida international notary as prescribed by the Florida Secretary of State for use in a jurisdiction outside the borders of the United States.

(b) "Florida international notary" means a person who is admitted to the practice of law in this state, who has practiced law for at least 5 years, and who is appointed by the Secretary of State as a Florida international notary.

(c) "Protocol" means a registry maintained by a Florida international notary in which the acts of the Florida international notary are archived.

(2) The Secretary of State shall have the power to appoint Florida international notaries and administer this section.

(3) A Florida international notary is authorized to issue authentication instruments for use in non-United States jurisdictions. A Florida international notary is not authorized to issue authentication instruments for use in a non-United States jurisdiction if the United States Department of State has determined that the jurisdiction does not have diplomatic relations with the United States or is a terrorist country, or if trade with the jurisdiction is prohibited under the Trading With the Enemy Act of 1917, as amended, 50 U.S.C. ss. 1, et seq.

(4) The authentication instruments of a Florida international notary shall not be considered authentication instruments within the borders of the United States and shall have no consequences or effects as authentication instruments in the United States.

(5) The authentication instruments of a Florida international notary shall be recorded in the Florida international notary's protocol in a manner prescribed by the Secretary of State.

(6) The Secretary of State may adopt rules prescribing:

(a) The form and content of signatures and seals or their legal equivalents for authentication instruments;

(b) Procedures for the permanent archiving of authentication instruments;

(c) The charging of reasonable fees to be retained by the Secretary of State for the purpose of administering this section;

(d) Educational requirements and procedures for testing applicants' knowledge of the effects and consequences associated with authentication instruments in jurisdictions outside the United States;

(e) Procedures for the disciplining of Florida international notaries, including the suspension and revocation of appointments for misrepresentation or fraud regarding the Florida international notary's authority, the effect of the Florida international notary's authentication instruments, or the identities or acts of the parties to a transaction; and

(f) Other matters necessary for administering this section.

(7) The Secretary of State shall not regulate, discipline or attempt to discipline, or establish

any educational requirements for any Florida international notary for, or with regard to, any action or conduct that would constitute the practice of law in this state. The Secretary of State shall not establish as a prerequisite to the appointment of a Florida international notary any test containing any question that inquires of the applicant's knowledge regarding the practice of law in the United States.

(8) This section shall not be construed as abrogating the provisions of any other act relating to notaries public, attorneys, or the practice of law in this state.

History.—s. 7, ch. 97-241; s. 1, ch. 97-278.