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Q: Can I notarize signatures for immediate family?

A: A notary public may not notarize a signature on a document if the person whose signature is to be notarized is the spouse, son, daughter, mother, or father of the notary public.

- A notary public may notarize a signature for immediate family members on a marriage certificate.

Q: Can I refuse to provide notary services?

A: Yes, a notary may refuse to perform a notarization. The situations in which a notary must refuse are set forth in the Florida Statutes sections 117.05 and 117.107.

Q: What should I do if a person produces identification with a name different from the name being signed?

A: This problem may occur in different situations. In some situations, individuals may have simply neglected to update their identification cards after a name change. You should direct them to the local Division of Motor Vehicles office to make the necessary changes.

In some instances, individuals may need to sign a document with their former name after making the necessary updates to their identification cards. A classic situation arises when a woman changes her name after marriage and has to sign a document, such as a warranty deed, in her former name. You may notarize her signature if she signs both names, but you may want to indicate that fact in your notarial certificate.

For an acknowledgment, you could state, *"The foregoing instrument was acknowledged before me this _____ day of _____, 19__, by Mary Smith, who represented to me that she was formerly known as Mary Jones, and who provided a Florida driver license, No. 123 45 678 890 in the name of Mary Smith as identification."* You may also want to include information such as the date of birth, expiration date, or physical description.

You may always provide additional information in your certificate, especially if it helps to clarify the circumstances. You may also want to include information about supporting documentation concerning the name change or additional identification cards, if available, in your journal.

Q: When I personally know the signer, am I required to indicate that fact in my notarial certificate?

A: Yes. When notarizing a signature, a notary public must always certify the type of identification relied upon, either personal knowledge or other form of identification produced. This can be done as part of the main wording in the notarial certificate or at the bottom of the certificate.

We have seen notarized documents where the notary simply noted "PK" or "DL", meaning "personally known" or "driver's license." These abbreviations are not clear, and we recommend that you make more specific notations about identification. Although not required, it is a good practice to indicate the identification card number and the state or country that issued the card. This will help to protect you in case a signer later claims that he or she did not sign the document and did not appear before you for the notarization.

Q: May I attest to a photocopy of a resident alien card issued by the U.S. Department of Justice, Immigration and Naturalization Service?

A: Yes. This is a frequent request in Florida because of the large number of resident aliens living here. We have consulted the office of Immigration and Naturalization Service in Miami and learned that a person cannot obtain a certified copy of a resident alien card from any INS office. Therefore, if you have the original card, you may attest to the trueness of a photocopy if you make the copy or supervise the making of the copy. You should use a notarial certificate in substantially the same form as that provided in the notary law for attested photocopies.

The INS office emphasized that an attested photocopy of a resident alien card should not be used to prove residency status. Although the notary is not responsible for how the attested photocopy will be used, it may be a good idea to refer the party to an INS office if such certification is needed. If you believe that an attested copy may be used for an improper purpose, you should decline to attest to the copy.

Q: Can I sign a document as one of the witnesses if I am also acting as the notary public for that transaction?

A: Generally, a notary public may sign as one of the witnesses and as the notary public on a document. In fact, it is a common practice among Florida notaries, particularly on real estate transactions. Typically, you will see the title clerk sign as one of the two required witnesses and then notarize the document signer's signature. In addition, a Florida court has held that "there is nothing to prevent a notary from also being a witness." See *Walker v. City of Jacksonville*, 360 So.2d 52 (Fla. 1st DCA 1978). However, before signing as a witness, the notary should ensure that the document does not require the notarization of the witnesses' signatures. For example, a self-proof affidavit on a will or codicil requires the notarization of the signatures of the testator and both witnesses. If the notary signed as a witness in this instance, he or she would be notarizing his or her own signature, which is a criminal violation of the notary law.

The notary should also certify in the notarial certificate the name of the person whose signature is being notarized. Absent such specific notation, the law presumes that all signatures were notarized. Thus, the notary could unintentionally notarize his or her own signature if the notarial certificate is not specific.

Therefore, providing that the document does not require the notarization of the witnesses' signatures, the notary may be one of the two subscribing witnesses as well as the notary public.

Q: I am often asked to certify a photocopy of a tax return for customers who are enrolling their children in college or applying for a mortgage on a new home. May I do so?

A: No. Section 117.05(12), Florida Statutes, which authorizes notaries to attest to photocopies, requires the following:

- the notary may not certify a copy of a public record, if a copy can be obtained from the official source;
- the notary must have the original document from which to make the copy;
- the notary must either make the copy or supervise the making of the copy; and
- the notary must complete a certificate in substantially the form specified in the law.

In this case, the original tax forms have been filed with the Internal Revenue Service, and no original is available from which you can photocopy the document. However, certified copies are available from IRS. For additional information, your customer should visit an office of the Internal Revenue Service or call (800) 829-1040.

Q: May I require the fingerprints of a person for whom I notarize?

A: No. Florida law does not require, nor authorize, notaries to take fingerprints from persons whose signatures they notarize. Many notary journals or records books allow for a thumbprint, but this feature is optional. If there is no objection from the signer, you may record a thumbprint in your journal. However, you should not refuse to provide notary services based solely on the person's refusal to provide a fingerprint in your record book.

Q: Must a notary public sign the notarial certificate when notarizing a signature?

A: Yes. When notarizing a signature, you are required by law to date, sign, and affix your seal to a notarial certificate. See §§ 117.05(3)(a) and (4), Fla. Stat. This is in addition to the requirements that your notary seal contain your exact commissioned name and that you must print, type, or stamp your name below your signature. These provisions of the law ensure the ability to identify the notary, if necessary, and confirm that the notary is the person who completed the notarial certificate and affixed the notary seal.

Q: May I notarize a signature on a document that has been prepared in another state, or on a document that will be sent to another state or country?

A: Yes, but you should indicate the correct venue (State of Florida, County of ____) where the notarization occurred and complete a proper notarial certificate with all the requirements of the Florida notary law.

Q: When notarizing a signature, what elements must be included in my notarial certificate?

A: Sample notarial certificates are found in section 117.05(13), Florida Statutes. The essential elements are:

- the venue where the notarization takes place (State of Florida, County of ____);
- the type of notarial act performed whether you administered an oath to the document signer or took his or her acknowledgment (look for the key words "sworn to" or "acknowledged");
- that the document signer personally appeared before the notary at the time of the notarization (usually indicated by the words "before me");
- the date of the notarization;
- the name of the person(s) whose signature is being notarized;
- the type of identification relied upon in identifying the signer, either based on personal knowledge or an acceptable form of identification;
- the notary's signature (exactly as commissioned);
- the notary's name printed, typed, or stamped below the signature; and
- the notary's official seal (The seal must contain the words "Notary Public-State of Florida" and the notary's name, expiration date, and commission number, and must be affixed in black ink.)

If the prepared notarial certificate does not have each of these elements, you should add the appropriate language to the certificate to make it fully comply with the statutory requirements.

Q: How do I file a complaint against a Notary?

A: Please visit the “File a Complaint against a Notary” portion of our website located here:

<https://www.flgov.com/notary-complaints/>

Click on either the Word Document or PDF Document to download the form to your computer. You can fill it out on the computer or by hand. Please make sure to include a copy of the notarized document in question and any other documents to help support your claim. Please send the notary complaint to our office by mail using the address or fax number on the top left of the Complaint form.

Q: How long does a Notary Misconduct Investigation take?

A: The time frames vary case by case and depend on the cooperation of both parties involved. On average, it takes anywhere between 2 to 6 months to close out an investigation if responses are completed in a timely manner.

Q: How do I resign my Notary commission?

A: Please send a letter to our office and include the following information:

1. Name as commissioned and Certificate number
2. Attach the original Notary Commission Certificate OR state in the letter it is no longer in your possession
3. State in the letter that you have destroyed your notary stamp OR that you have included it with the letter for our office to destroy
4. Provide a forwarding address to send a resignation acceptance letter
5. Date resignation effective

* If you have a log book, it is at your discretion if you would like to keep it for personal records (recommended), destroy it, or include it with the letter for our office.

** Our office address is: Notary Section
 Office of the General Counsel
 The Capitol, Suite 209
 Tallahassee, FL 32399

Q: Is there a shortcut for renewing my notary commission?

A: No. The application process for reappointment is exactly the same as for a first-time appointment. Incomplete applications will not be processed until the applicant submits all the required information. When applying for a renewal commission, treat it as a new application and do not refer our office or the Notary Commissions and Certifications Section to your previous application for information.

Q: Do I keep my Notary Stamp even if I am no longer employed or was fired from my previous job?

A: Yes, you should keep your stamp even if your commission, bond, and seal were paid for by your employer. Your employer has no right to keep these items and it may be a criminal offense to do so. According to section 117.05(3)(b), Florida Statutes, “The notary public official seal and the certificate of

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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.” You should take several precautions to protect yourself. First, contact that Department of State (850-245-8975) and tell them the last date that your seal was in your possession. Second, you may want to send a written request by certified mail to your employer requesting the return of your notary commission and seal. If your employer does not comply, you should file a report with the law enforcement agency having jurisdiction. Third, you may obtain a duplicate notary commission certificate from the Department of State, Notary Commissions and Certifications Section, and another seal from your bonding agency or an office supply store. Your notary bond cannot be revoked, and you may continue serving as a notary public until the expiration of your term.

Q: How do I look up a notary? OR I can't remember my notary certificate number, is there a way I can look that up?

A: Please use the following website to look up Notary information on current or past Notaries:

<http://notaries.dos.state.fl.us/not001.html>

Or you may contact the Department of State Notary Section at 850-245-6975.

Q: I am moving in-state and need to update my address OR I am moving out of state.

A: If you are moving to a new address within the state of Florida, please contact the Department of State Notary Section at 850-245-6975.

If you are moving out of the state of Florida, you need to resign your notary commission as a Florida notary commission is not transferable to another state. Please look at the answer to how to resign a notary commission above.

Q: I legally changed my name, how do I update and can I still use my old stamp?

A: Please contact the Department of State Notary Section at 850-245-6975.

Any notary public who lawfully changes their name during the term of the commission must request an amended commission from one of the bonding agencies that has been approved by submitting:

1. A completed notice of name change form (DS-DE 77A)
2. Current Commission
3. Rider to current notary public bond
4. \$25 Check or money order made payable to FL Department of State

A notice of name change form must be sent via electronic transfer.

Note: Once an amended commission has been requested, the notary public may continue to perform notarial acts in their former name until the amended commission is received.

Q: I'm a Notary in another State and I'm about to move to Florida, does my Notary commission transfer states?

A: No, it does not. You will need to take the State of Florida Notary Education Course and apply to become a Florida Notary. https://www.flgov.com/notary_how_to/

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Q: I need to a copy of my Notary Certificate OR I need to report my stamp lost or stolen.

A: Please contact the Department of State Notary Section at 850-245-6975.

Q: I want to become a notary, but I have a misdemeanor and/or a felony on my record. Does that make me ineligible?

A: No, it does not. Notaries Public are appointed at the discretion of the Governor. The application only asks if you had been convicted of or had an adjudication of guilt withheld of a felony, so please answer that question to the best of your ability.

If you have been convicted of a felony, you will need to provide proof that you have had your civil rights restored, which includes the right to hold public office (notary is a public office). For more information on Restoration of Civil Rights, please contact the Office of Executive Clemency:

The Office of Executive Clemency
Florida Commission on Offender Review
4070 Esplanade Way
Tallahassee, FL 32399-2450

Toll Free: 1-800-435-8286
Phone: 850-488-2952
Fax: 850-488-0695
E-mail: ClemencyWeb@fcor.state.fl.us