



THE NOTARY VIEW



ELECTRONIC NOTARIZATION NEW TECHNOLOGY FOR THE 21ST CENTURY

Society is moving progressively closer to a paperless world where business and personal transactions will be routinely conducted between computers. The use of computers and telecommunications to conduct transactions is known as "electronic commerce." Florida has taken one step closer to the 21st Century with the passage of legislation in 1997 allowing "electronic notarizations" to promote

electronic commerce. The new law is expected to increase international commerce in Florida and reduce the amount of time required to send and receive documents crucial to commercial transactions.

Electronic notarizations will be accomplished using technology known as public key cryptography, a method of securing electronic messages, i.e.,

SEE ELECTRONIC on page 6

Inside:

- Internet News 2
- E-Mail E-Ducation 2
- Revisions to Notary Laws 3
- New Reference Manual 3
- Notary Q & A 4
- Copy Certification of Public Records 5
- Florida International Notary 6
- Spanish Marriage Ceremony 7
- DMV Forms Revised 8

SLO & GO FOR NOTARY SERVICES

With 360,000 notaries in Florida, you don't have to look very far to obtain notary services. Yes, notaries are found everywhere, even in unusual and unexpected places. This drive-through convenience store, Slo & Go, in Belleview, advertises its notary services along with ice, propane, beer, cigarettes, Lottery tickets, money orders, and Western Union and fax services. Local residents can even pay their utility bills here.



performed, her little business spiraled to fame when television and radio news teams from all over the country descended on this small town in Florida to get the scoop. Said Pat, "I was totally shocked — I was just looking for a way to provide additional services for my customers. You know, everyone does not have time during 'normal' business hours to do all their errands."

Recently, owner Pat Morris added

another unique service — drive-through weddings. Much to Pat's surprise, after the first nuptials were

Slo & Go is open daily from 6 a.m. to 11 p.m. and always has a notary public on duty.

TALLAHASSEE AREA CODE CHANGES

The new area code 850 for the Tallahassee area and the Panhandle of Florida will become mandatory on March 23, 1998. Callers to locations in these areas will no longer be able to use the 904 area code. The change affects the telephone numbers for the Governor's Notary Section and the Department of State, Notary Commissions and Certifications Section. Please make a note of the following telephone numbers.

Governor's Notary Section
(850) 922-6400

Department of State
Notary Commissions and
Certifications Section
(850) 488-7521 or 488-7522
(850) 413-9732 or 921-5268
(certifications and apostilles only)

THE NOTARY VIEW

The Notary View is published by the State of Florida, Office of the Governor, Room 209 The Capitol, Tallahassee, Florida 32399, and is prepared by Linda Adams of the Notary Section, with production and layout assistance from EOG/IS/Presentations.



This newsletter has been prepared to educate Florida notaries public about the laws governing their duties and is not intended as legal advice. For additional information or for difficult situations, it may be advisable for you or your customer to seek the advice of a licensed attorney.

INTERNET NEWS

Be sure to check out the Governor's Notary Section on the Internet for answers to your notary questions and mark the site for quick reference. Our website address is:

<http://www.eog.state.fl.us/eog/govdocs/notary/notary.htm>

Currently, we have access to the complete Florida notary laws, the last



issue of *The Notary View*, information about how to become a notary, a list of the bonding agencies, and our newest addition, the *Governor's Reference Manual for Notaries*. You can also e-mail the Governor's Notary Education Coordinator with your question or comments.

E-MAIL E-DUCATION FOR NOTARIES

How would you like to receive education about your duties as a notary public through your own e-mail system? Sound good? Then, simply e-mail the Notary Education Coordinator right now with your e-mail address.

Beginning in May 1998, the Notary Section will add a new feature to the Governor's education program for

Another internet site that may interest you is the Department of State Notary Public Access System. From that site, you can look up any Florida notary and obtain basic information about that notary, such as the mailing address and telephone number, the commission number, the expiration date of commission, and the name of the bonding agency. The website address is:

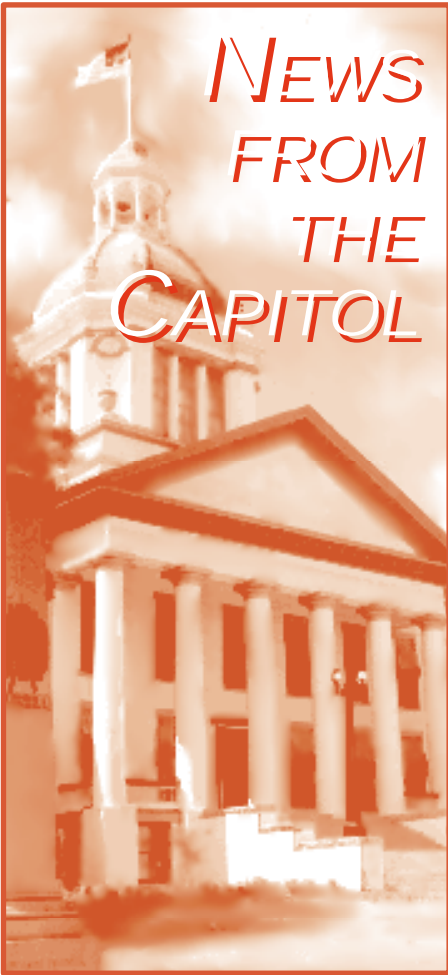
<http://election.dos.state.fl.us/notaries>

Check out these other helpful Internet sites for notaries:

- ✓ Florida Statutes and Constitution
<http://www.leg.state.fl.us/statutes/index.html>
- ✓ American Society of Notaries
<http://www.notaries.com>
- ✓ National Notary Association
<http://www.nationalnotary.com>
- ✓ U.S. Immigration and Naturalization Service
<http://www.ins.usdoj.gov>
- ✓ U.S. State Department Office of Authentications
<http://www.state.gov/www/authenticate>

notaries. An issue or question will be addressed in an informative article and then e-mailed to notaries on the first workday of each month. So, tell your notary friends to send in their address and watch your e-mail on Friday, May 1, 1998, for the first article.

**Notary Education Coordinator
Governor's Notary Section
adamsl@eog.state.fl.us**



NEWS FROM THE CAPITOL

NEW NAME AND NEW CHIEF FOR STATE NOTARY BUREAU

The Department of State, Bureau of Notaries Public, recently experienced some reorganizational changes and in the process got a new name and a new chief.



ED KAST

After a drastic decrease in staff in July 1996, the office no longer qualified under the state's department organization scheme to be called a bureau. Because the role of the Department of State with regard to notaries public is to issue notary commissions and certifications and to maintain records, it seemed appropriate to christen the office, Notary Commissions and Certifi-

cations Section. The office will remain under the Division of Elections as part of the Director's Office. The new name, though, is not the only change.

In November 1997, Bureau Chief Cathy White resigned to take a position in another state agency. Cathy had been with the Department of State for 17 years and headed up the Bureau for the last 10 years. Although we will miss Cathy, we wish her continued success in her career with the State of Florida.

Fortunately, the office has an able replacement already. Ed Kast assumed the responsibilities as the Chief of the Notary Commissions and Certifications Section in December — but Ed wears two hats. He also continues to function as the Department's Budget Coordinator. Although Ed has his hands full, he is more than capable and has a competent support staff that will ensure his success as the new Chief.

"I've got some big shoes to fill following Cathy White's successful tenure and reputation for efficiency, but my staff and I will work together to ensure the continuity and quality of our work," said Kast of this new challenge.

If you need to contact Ed, call his office at (850) 488-7522, or e-mail him directly at ekast@mail.dos.state.fl.us.

REVISIONS TO NOTARY LAWS PROPOSED

The 1998 Legislative Session gears up in March for 60 fast-paced days of intense work on vital issues for the state. The Governor will be focusing primarily on initiatives related to children and families during this session. Two important bills that the Governor's Notary Section will be watching closely are Senate Bill 1130 and CS/House Bill 1125. Both of these bills, if passed, will revise the notary laws found in Chapter 117, Florida Statutes.

CS/HB 1125 was carried over from the 1997 Session; the bill passed the

House but was not acted upon by the Senate. Senate Bill 1130 contains the same provisions with a few additional changes. The majority of the proposed revisions to the notary laws are merely clarifications of some problem areas. However, either bill could also result in an increase in the required notary bond from the current \$5,000 to either \$7,500 or \$10,000. The revisions will also provide additional forms of identification and procedures for notarizing for persons with disabilities.

The next issue of *The Notary View* will detail any changes to the notary laws or your responsibilities. The Notary Section website will also provide information as soon as it is available.

NOTARY SECTION PRODUCES NEW REFERENCE MANUAL

As a result of tremendous demand for a notary handbook produced by state authorities, we have completed the *Governor's Reference Manual for Notaries*. The *Manual* is a comprehensive compilation of information about the duties of Florida notaries, how-to procedures for difficult notarizations, articles from previous issues of *The Notary View*, frequently asked notary questions with answers, a glossary of notary terms, the complete Florida notary laws, and much more. And, best of all, it's available to you right now with just a few keystrokes on your computer.

The *Governor's Reference Manual for Notaries* is on the Internet at the website for the Governor's Notary Section. The *Manual* is indexed and easy to use. You can even print the information if you want a paper copy.

The Notary Section is also working on producing a printed manual for widespread distribution in 1998. Watch our next newsletter for details on how you can get your copy. For now, visit our website and browse the *Manual*.

NOTARY



Q I live in an area with many retired persons and am called upon frequently to notarize for senior citizens with no identification. What can I do in these situations?

A Everyone who requests a notarization must produce an acceptable form of identification, including senior citizens. Be sure to review section 117.05, Florida Statutes, for a complete list of acceptable types of identification. The most frequently produced IDs from elders are a driver's license, a U.S. passport, a resident alien card, or a military identification card. Even if your customer does not drive, he or she may obtain a state-issued, non-driver's identification card from the local driver's license office.

In rare situations where your customer cannot obtain such identification due to physical limitations, you may rely upon the sworn written statement of one credible witness that you personally know, or two credible witnesses who can prove their identity to you. Either way, each credible witness must sign an affidavit swearing or affirming certain facts about the identity of the person requesting notarization. For detailed instructions about using this form of identification, please check out the information on the Governor's Notary Section website, or e-mail or call our office. We can fax an instruction sheet to you.

Q Why is the phrase "who (did) (did not) take an oath" used in

some notarial certificates but not found in the sample notarial certificates in the law?

A This is a frequent question our office is asked. The requirement to state in the notarial certificate whether or not an oath was taken was deleted from the law in 1992 and from the statutory notarial certificates in 1993. The reason was simple. A jurat, the notarial certificate used for a sworn statement, indicates that an oath was taken with the words, "sworn to and subscribed before me." An acknowledgment does not require that the document signer take an oath; instead, the signer acknowledges signing the document and indicates that he or she signed willingly. The certificate wording, "the foregoing instrument was **acknowledged** before me," is sufficient without any mention that an oath was not taken.

Always read the notarial certificate on the document. Look for the key words "sworn" or "acknowledged." These words tell you which notarial act you must perform. If the obsolete phrase, "who did or did not take an oath," appears in the certificate, you may either strike through the phrase and initial the change, or you may select the appropriate wording. Be careful, though, to make the correct choice so that you do not contradict yourself. To indicate that an oath was taken when the words "sworn to" already appear in the certificate is redundant, but to say "did not take an oath" would be contradictory and may cause the notarization and the document to be rejected.

Q I frequently receive mailings from various companies advertising their notary commissioning services or asking me to become a member of their organization or trying to get me to buy their supplies or advertising a notary seminar. I don't appreciate the Governor's Office selling my name and address to these companies. Please discontinue this practice.

A The Governor's Notary Section does not sell information about the state's notaries to any company or organization. Actually, all information submitted on the application for appointment is maintained by the Department of State and is public record (except for the Social Security number). The information is free to anybody who wants to download it from the Internet. There is no law against companies properly soliciting your business through the mail. If you are not interested, simply throw away the mail. However, you would want to watch the mail several months prior to your expiration date for information from bonding agencies about the renewal process. You will not be notified by the state when your commission expires.

Q Is it all right to use an imprint of my notary seal or the Great Seal of the State of Florida on my business cards or stationery or on advertisements for my services as a notary public?

A No. The law requires that the notary seal "shall be affixed to

COPY CERTIFICATION OF PUBLIC RECORDS

Natalie Notary works in the legal department of a government agency. Recently, the office received a public records request for copies of a particular file that is in the custody of her department. Natalie's supervisor asks her to photocopy the documents in the file and then "certify" the copies because she is a notary public. Should Natalie Notary certify these copies?

No! Florida law prohibits notaries from attesting to photocopies of documents that are public records. Natalie's supervisor should be aware that a designated person in her department has the lawful authority to provide copies or certified copies of the records held by that agency. The Public Records Law found in Chapter 119, Florida Statutes, applies to all state, county, and municipal agencies.

Typically, an agency will name an official custodian of the records to make such certifications.

At times, notaries must separate their function as a notary public from their role as an employee. In this case, if Natalie Notary were the designated custodian of the records for her agency, she could certify

these photocopies — not in her capacity as a notary public — but in her capacity as an employee with this responsibility.

Most government agencies use a simple statement to certify copies of public records. Additionally, if the

agency has a seal or logo, the custodian may affix or imprint the seal next to his or her signature. Certification of copies of public record documents in this manner does not require a notary

Sample of Custodian's Certificate

On this ____ day of _____, (*year*), I certify that this document is a true copy of the document held in the public records of _____ (*name of agency*).

Signature of Custodian

DESIGNATED CUSTODIAN OF THE OFFICIAL RECORDS

public or any type of notarization.

If you work in a government agency and are faced with this problem, you should contact Administration or Legal Affairs in your department to find out who has been designated as the custodian of your agency's records.

NOTARY Q & A *continued*

all notarized documents" and does not authorize any other use of the notary seal. The Great Seal of the State of Florida may only be used with the permission of the Secretary of State. The Secretary will not authorize notaries to use the Great Seal on their notary seals nor in advertisements for notary services. If your notary seal has the Great Seal on it, please discontinue its use and obtain a new seal from your bonding agency or an office supply store.

Q I operate one of Florida's bonding agencies for notaries

and am asked occasionally about a veteran's exemption for notary application fees. What is required for a veteran to claim an exemption to the state fees?

A The total state fees for appointment as a notary public are \$39. That includes the \$25 application fee, a \$10 commission fee, and a \$4 education surcharge. The \$10 commission fee is required by section 113.01, Florida Statutes, for all commissions issued by the Governor, which includes notaries public. The veteran's exemption applies only to the

\$10 commission fee and is exclusively for applicants who qualify as a veteran as defined in section 1.01(14), Florida Statutes. According to that definition, a veteran must have served in the armed forces during a specified period of wartime. Additionally, section 117.01(2), Florida Statutes, states that the veteran must have a disability rating of 50 percent or more as determined by a U.S. government agency. To claim the \$10 veteran exemption, the applicant should provide documentation of the disability with his or her application.

NEW OFFICE CREATED

FLORIDA INTERNATIONAL NOTARY

In an effort to promote international commerce in Florida, the Legislature in 1997 created the Florida International Notary (FIN). The new position was created in response to the need to prevent rejection of Florida-executed documents by legal and recording authorities in other countries. This is a problem particularly in countries where legal systems are based on civil law tradition.

Notaries in most foreign jurisdictions are legal professionals with much broader powers than the common law notaries found in the U.S. They are authorized to draw up, attest to, or certify legal instruments, such as

conveyances of real property, wills, powers of attorney, or transactions involving negotiable instruments.

Section 118.10, Florida Statutes, describes the FIN and sets forth the qualifications and authority of this position. To be appointed by the Secretary of State, the FIN must be a practicing Florida attorney who has practiced law for at least five years.

The main duty of a FIN is to prepare an authentication instrument for a transaction describing the particulars and capacities of the transacting parties and confirming the text and signatures of the parties. In essence, the attorney writes an opinion letter affirming that

the transaction complies with both the pertinent U.S. law and the laws of the foreign jurisdiction where the transaction occurs. To fully accomplish the intended purpose of the Florida International Notary, the attorney should also be a commissioned notary public for Florida with the additional authority to perform electronic notarizations. The Secretary of State is in the process of setting up additional standards for the position.

For information about an appointment as a FIN, please contact:

**Department of State
General Counsel
LL10 The Capitol
Tallahassee, FL 32399-0250
(850) 414-5536**

ELECTRONIC *from page 1*



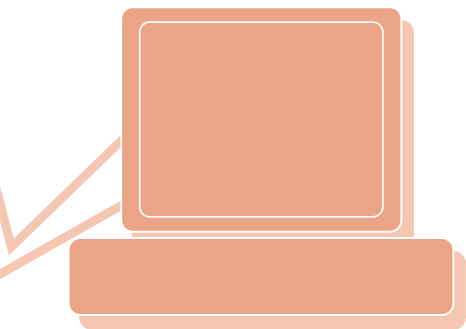
electronic document texts, and signatures with secure mathematical codes. The notary uses a "private key" to encode the message and affix his or her digital signature, and the recipient of the document unlocks or decodes the document with a "public key."

To add an additional level of security to documents digitally signed (encoded), a person may register with a "certification authority," a trusted third party, usually a private company, who signs a person's "public key" with the certification authority's "private key."

Upon request, the certification authority issues the certificate that associates a particular person with a public and private key pair. This certificate is published in an on-line repository, where the recipient of any message can verify the identity of the sender.

To perform electronic notarizations, a person already commissioned as a Florida notary public must first register with a certification authority, then request an amended commission from the Secretary of State. A fee of \$25 is required for the amended commission. The use of the rubber stamp notary seal is obviously not required, but the notary must include the elements of the notary seal on any electronic notarization (the words, "Notary Public-State of Florida," and the notary's commission name,

commission number and expiration date). Additionally, all the elements for a standard notarization are required: the physical presence of the document signer; acceptable identification from the signer; the performance of the notarial act (oath or acknowledgment);



and the completion of a notarial certificate.

To obtain information about the application process for electronic notarizations, please contact the Department of State, Notary Commissions and Certifications Section, in writing.

MARRIAGE CEREMONY IN SPANISH

In the last issue of The Notary View, we printed a sample marriage ceremony in English and Spanish. Unfortunately, after the newsletter was published and distributed, we learned that our translation had some errors. We apologize for the inaccuracies and offer this new translation to notaries who want to solemnize marriage in Spanish. Please note that this is a literal translation and is meant solely as a guide. The ceremony may be personalized according to the desires of the bride and groom.

EJEMPLO DE CEREMONIA EN ESPAÑOL

El notario formula: "Queridos amigos aquí presentes, nos hemos reunido hoy (o esta noche) para unir a este hombre y a esta mujer en (sagrado) matrimonio."

Intercambio de votos matrimoniales

El notario le pregunta al hombre: "¿(Nombre del novio) recibe usted a esta mujer para ser su esposa, para vivir juntos en (sagrado) matrimonio, para amarla, honrarla, consolarla y cuidarla, en salud y en enfermedad, guardándole fidelidad, durante el tiempo que duren sus vidas?"

El hombre responde: "Sí quiero."

El notario le pregunta a la mujer: "¿(Nombre de la novia) recibe usted a este hombre para ser su esposo, para vivir juntos en (sagrado) matrimonio, para amarlo, honorarlo, consolarlo y cuidarlo, en salud y en enfermedad, guardándole fidelidad, durante el tiempo que duren sus vidas?"

La mujer responde: "Sí quiero."

El notario formula: "Repita después di mí:"

Al hombre: "Yo (nombre del contrayente), te recibo a ti (nombre de la contrayente) para ser mi esposa, para tenerte y protegerte de hoy en adelante, para bien y para mal, en la riqueza y en la pobreza, en salud y en enfermedad, para marte y cuidarte hasta que la muerte nos separe."

El notario formula: "Repita después di mí:"

A la mujer: "Yo (nombre de la contrayente), te recibo a ti (nombre del contrayente) para ser mi esposo, para tenerte y protegerte de hoy en adelante, para bien y para mal, en la riqueza y en la pobreza, en salud y en enfermedad, para amarte y cuidarte hasta que la muerte nos separe."

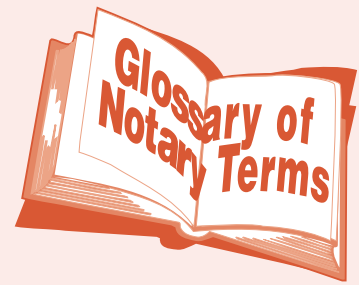
Intercambio de alianzas matrimoniales (anillos)

El notario le pide al hombre que ponga la alianza en el dedo de la mujer y que repita lo siguiente: "Yo te coloco esta alianza como señal y promesa de nuestro amor constante y fidelidad duradera." (El notario repite lo mismo para la mujer).

Declaración

El notario le pide a la pareja que se tomen de las manos y declara: "En virtud de la autoridad que me conceden las leyes del Estado de la Florida, los declaro marido y mujer. La novia y el novio pueden besarse."

Special thanks to Dr. Juan Carlos Galeano at Florida State University and Mr. Ivor Hegedus, a Florida notary public in Miami Shores, for their expert assistance in this translation.



Authentication (Certification) — A process by which the Florida Secretary of State certifies or verifies the status of a notary public. An Apostille or a Certificate of Notarial Authority is attached to the notarized document.

Commission — The certificate issued by the Governor (prepared by the Department of State) verifying appointment as a notary public and authorizing the notary public to perform the official acts of that office. The commission bears the exact commissioned name of the notary, the commission number, and the beginning and ending dates of the term of appointment.

Credible Witness — A person who is believable and entitled to have his or her sworn written statement (affidavit) accepted as reliable because of his or her relationship with an individual, his or her personal knowledge of the identity of that individual, and his or her disinterest in the transaction at hand.

Notarial Certificate — A written statement made by the notary public certifying specific facts of the notarial act performed.

Public Record — Any document, paper, letter, map, book, tape, photograph, film, sound recording, data processing software, or other material regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency (state, district, county, or municipal). All state, district, county, and municipal records are open for personal inspection by any person unless there is an exemption for that particular record.

MOTOR VEHICLE FORMS REVISED

NOTARIZATION NO LONGER REQUIRED

The Division of Motor Vehicles (DMV) in the Florida Department of Highway Safety and Motor Vehicles is responsible for prescribing the forms necessary to title a motor vehicle, a mobile home, or a vessel in Florida. Last year DMV made a bold decision to remove notarizations from all forms. According to Julie Comer, Operations and Management Consultant with DMV, the decision was based upon convenience for customers and the need to reduce notarization errors.

Some businesses, financial institutions, and law enforcement officers have expressed concern that without a notarization, vehicle or vessel theft and

title fraud will increase. While these are valid concerns, officials at DMV point out that the documents still require an oath or affirmation. The notarization section has been replaced with a statement that is legally equivalent to an oath or affirmation and subjects a person to perjury for a false statement. The new statement, known as an unnotarized oath or a verified statement, reads:

"Under penalties of perjury, I declare that I have read the foregoing document and that the facts stated in it are true."

Ms. Comer stated that DMV will continue to accept the older forms with proper notarizations for a short time but urges all car dealers, tag agencies,

and interested parties to immediately switch to the new forms.

To obtain copies of these new forms, please contact the tag office in your county tax collector's office and then discard all copies of the old forms.

UPDATE YOUR ADDRESS...

If your home or business address or either telephone number has changed, you are required by law to immediately submit the changes in writing to:

**Department of State
Notary Commissions and
Certifications Section
1801 The Capitol
Tallahassee, FL 32399-0250**

If you are unsure about your duties as a notary public, contact our office for educational materials.

<http://www.eog.state.fl.us/eog/govdocs/notary/notary.htm>



**Office of the Governor
209 The Capitol
Tallahassee, Florida 32399-0001
(850) 922-6400**

THE NOTARY VIEW