

September 1998

Greetings Florida Notaries!

WATCH YOUR MAIL FOR THE NEXT NEWSLETTER

An expanded edition of The Notary View will be mailed to all notaries later this month. All the revisions to the notary laws to take effect in January 1999 are discussed in this new issue. You will want to keep it for future reference. If you do not receive your copy, simply request a copy by e-mail.

NOTARIZING AND WITNESSING A DOCUMENT

Notaries often notarize a person's signature on a document and then sign as one of the witnesses, especially on real estate transactions. A Florida court case 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 (1978).

When acting as the notary and a witness on a document, you should be aware of two important factors. First, some documents may require the notarization of the witnesses' signatures. In this case, you cannot sign as a witness because you would have to notarize your own signature, which is prohibited. Most documents do not call for the witnesses' signatures to be notarized. The witnesses are not considered parties to the transaction; they are merely individuals who are generally neutral to the transaction and watch the person sign the document. An example of a document requiring the notarization of the witnesses' signatures is a self-proof affidavit on a will.

The second factor involves your completion of the notarial certificate. You must specify exactly whose signature you are notarizing by writing that person's name in the certificate. Otherwise, the law would presume that notarization is to all signatures. If you signed as a witness, you would actually notarize your own signature, which is a criminal offense, a felony of the third degree.

Make sure that you understand when you can witness and notarize a document and exercise caution with all your notarizations.

MAKING ATTESTED PHOTOCOPIES

As a notary public, you may be asked to make a "certified copy" of a document. Florida law authorizes notaries to make photocopies of certain documents and refers to these reproductions as "attested copies." However, the law limits this function by imposing four conditions upon you as the notary:

1. You must have the original document from which to make the copy. You cannot copy from another photocopy or from a certified copy.
2. The document cannot be a vital record or a public record, certified copies of which may be obtained from the official custodian of that record.
3. You must make or supervise the making of the photocopy. It is not acceptable to compare a photocopy made by someone else with the original document.
4. You must complete the notarial certificate prescribed by law with certain facts about the making of the attested copy.

The new notary laws which will take effect in January 1999 clarify many aspects of the existing law, including the language about attested copies. For example, the law prohibits you from making an attested copy of vital records. Vital records are those documents which record demographic information about the residents of a particular state or country, such as birth and death certificates and marriage and divorce records. The prohibition extends to vital records of

Florida, another state, a territory of the U.S., or any other country.

In addition to the clarification, the notarial certificate has been revised. Here's the new language:

"On this ___ day of _____, (year), 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 vital record nor a public record, certified copies of which are available from an official source other than a notary public."

Don't forget to sign the certificate, print or type your name, and affix your seal. If possible, it is best to type or write the notarial certificate on the photocopy, or if there is no room, you may simply attach the certificate to the document. Be sure that your description of the document in the notarial certificate is distinctive enough that it could not be attached to a different document. When presented with a multi-page document, you should copy each and every page and indicate the total number of pages in the description.

Probably the greatest concern of notaries is the type of documents that may be attested by notaries. Here's a list of the most common documents notaries are asked to certify.

You may NOT make attested copies of the following documents:

- All vital records whether recorded in Florida, another state, a U.S. territory, or another country
- Any document held by a state agency and most documents held by an agency of the federal government
- Any document that has been recorded by the Clerk of the Court
- Any document filed in a court proceeding
- A certificate of citizenship or naturalization
- Student records and transcripts maintained in public education offices
- Income tax forms that have been filed with the state or federal government
- Professional licenses issued by the State of Florida
- Business licenses issued by a city or county government
- Any document for which photocopying is prohibited

You may make attested copies of the following documents if you follow the four conditions listed above.

- Florida driver's license or Florida vehicle title
- U.S. passport
- Social Security card
- High school or college diploma
- Medical records
- Bills of sale, contracts, leases
- Personal letters
- Resident alien card or other ID card issued by the Immigration and Naturalization Service

NEW LAWS EFFECTIVE 1/1/99

If you would like to receive a booklet containing all the new notary laws, please e-mail us with your request. Be sure to include your name, mailing address with zip code, and daytime phone number. If you have previously requested the booklet, there is no need to send another request.

PREVIOUS E-MAIL E-DUCATION ARTICLES

If you missed previous issues of our e-mail articles, you can catch up by checking out the Governor's Notary Section website:

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

Until next month . . .

If you would like to receive this electronic newsletter please e-mail me, [Linda Adams](#)
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