

September 2000

EXECUTIVE OFFICE OF THE GOVERNOR NOTARY SECTION Notary E-Mail E-ducation September 2000

Greetings Florida Notaries!

Over the past month I have received numerous requests for information on signing notarial certificates. This month I have put together some information from previous newsletters on signatures.

SIGNING NOTARIAL CERTIFICATES

We are often asked, "Because the law requires my name to be printed, typed, or stamped below my signature and my notary seal contains my name, must I also sign the notarial certificate when performing a notarization?" The answer is YES. Florida law requires that you must sign your notarial certificates with your "official signature." The official signature is the name you are commissioned in and that you signed on your application for appointment. Make sure that your signature, your printed/typed/stamped name, and your name on your notary seal agree with the name on your notary commission certificate. No other name or variation is allowed.

FACSIMILE SIGNATURE STAMPS

Notaries are not allowed to use a facsimile signature stamp in lieu of a manual signature unless they have a physical disability that prevents them from signing notarial certificates in the usual manner and unless they have first notified the Secretary of State of the use of the facsimile signature. The use of a facsimile signature stamp would include a rubber stamped signature, a computer-generated signature, an auto-pen, or a preprinted signature on a form. Some Notaries complain about having to notarize numerous documents on a daily basis and believe that the use of a facsimile signature would make their job easier and faster. Unfortunately, facsimile signatures can open the door to document fraud and invite unauthorized persons to notarize documents in place of the Notary. Notaries with physical disabilities are the only Notaries authorized to notarize using a facsimile signature.

NOTARIZING A SIGNATURE MADE BY A FACSIMILE SIGNATURE STAMP

Can a person requesting a notarization sign the document using a rubber stamp bearing his signature? YES. The law is very broad when it comes to the definition of a signature. Almost any mark or method is allowed as long as the signer declares that to be his/her authorized signature. For example, a legal signature may be made by a mark, a rubber stamp, or another person who is directed by the signer to sign his/her name.

When notarizing in these circumstances, you should take every precaution to protect the integrity of the document, the signer, and yourself. The signer must physically appear before you to take the oath or make the acknowledgment, produce adequate identification, and "sign" the document in your presence. As the Notary, you must ensure the signer's willingness and mental capacity to execute the document, perform the notarial act, and complete the notarial certificate. We also recommend that two unbiased witnesses be present for the signing of the document and that you alter the notarial certificate language to reflect the special circumstances of the signing. Additionally, if you keep a journal or recordbook of notarial acts, you should make notes about this unusual notarization.

Florida law now provides specific instructions for notarizing for a person who signs by mark or for a person with a disability who directs the Notary or another person to sign for him/her. The Governor's Notary Section has printed instructions for notarizing in these situations. We can fax or mail these instructions to you if you will e-mail your request and include your name and fax number or address.

SIGNATURE GUARANTEES

As a Notary Public, you may be asked at some point to provide a signature guarantee or to perform a "medallion notarization" for a transaction involving the transfer of stocks or securities. Notaries do not guarantee signatures. Instead, you perform the notarial act, an oath or an acknowledgment, required for the execution of a particular document. The party may actually be asking for a particular function that is restricted to the banking and securities industry. The STAMP Medallion Signature Guarantee Program, authorized by the Securities and Exchange Commission, is a highly specialized program by which a guarantor institution facilitates the prompt, accurate, and safe transfer of securities upon the request and instructions of the security holder. STAMP stands for Securities Transfer Agents Medallion Program. A Medallion signature guarantee literally pledges the full faith and financial backing of the bank or stock brokerage making the guarantee. In the event that the signature is forged and an innocent party relies on that signature, the bank or stock brokerage can be held liable.

Thank you for your time!
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