

September 1999

Greetings Florida Notaries!

This month we will discuss several prohibitions that, if ignored, can lead to serious results for you and the public.

1. Don't notarize documents with missing information.
2. Don't notarize your own signature.
3. Don't practice law without a license.

DON'T NOTARIZE DOCUMENTS WITH MISSING INFORMATION

Florida law prohibits you from notarizing a signature on a document that is blank or incomplete. "Blank" indicates that there is no text, and the document will essentially be created after the notarization. "Incomplete" means that vital information is missing from the document text, such as the date, the name of one of the parties, the legal description of the property, the purchase price, the name of the attorney-in-fact, etc. Without this type of essential information, the document may be ambiguous and legally unenforceable. Additionally, any information added to the document after the notarization will not be sworn to or acknowledged by the signer.

Notaries are public officers who are appointed as neutral, third parties empowered to perform the notarial act required to execute a document. Notaries function to prevent and deter fraud. Notarizing when the document is blank or incomplete opens the door to fraud and puts the public, whom you serve, at risk. If you violate this prohibition, you will also create unwanted liability for yourself, and for your employer, if you are acting in your capacity as an employee. Your bonding agency may be asked to pay a claimant for any damages incurred as a result of your improper notarization. Additionally, you may lose your notary commission for failure to perform your duties properly.

Before you notarize, scan every page of the document to make sure that it is complete. If the document contains blanks, call this to the attention of your customer. Your customer should complete the document with the necessary information, or by writing in the words "none" or "not applicable."

DON'T NOTARIZE YOUR OWN SIGNATURE

As incredible as it sounds, some Notaries do not know that they cannot notarize their own signature. The notary law in Section 117.05(1), Florida Statutes, states that notarizing your own signature is a felony of the third degree, punishable by a penalty of up to \$5,000 and/or a prison term of up to 5 years. Think about it this way: How can you administer an oath to yourself or take your own acknowledgment, or how can you act as an unbiased public officer for your own document? Furthermore, you may not notarize a signature on a document if you have a financial interest in the transaction, or if you are a party to the transaction. If you need your signature notarized, find yourself a Notary.

DON'T PRACTICE LAW WITHOUT A LICENSE

Florida Notaries do not have the authority to function as attorneys or to give legal advice unless they are licensed as attorneys by The Florida Bar. Unfortunately, every day some Notaries step over the line in performing their notarial duties, and actually participate in the unauthorized practice of law. There are several important factors you should remember as a non-attorney Notary Public:

1. You must not represent yourself as an attorney unless you actually are an attorney licensed by The Florida Bar. In some Latin American countries, Notaries Public must be attorneys. This is not true in Florida. Make sure that you are clear in notifying your customers, particularly those who are from Latin American countries, that you are not

- an attorney and that you may not give legal advice.
2. Don't assist your customer by preparing a legal document. Non-lawyers may not draft and create the language of legal documents. The Florida Supreme Court has approved the use of several legal forms related to matters such as family law, landlord-tenant law, etc. An individual may customize a form to his own needs and ask for your assistance in typing and notarizing the form. However, your customer should give you the information for the document in writing. You cannot advise your customer as to how the form should be completed, and you may not correct mistakes. In your capacity as a Notary Public, you may only type the information written down by the customer, and then notarize the signature. The Supreme Court has recognized the valuable assistance of paralegals to the general public and has accordingly set certain parameters for paralegal practice. The Florida Bar can provide assistance if you have questions about the regulation of paralegals.
 3. Don't advise your customer about how to execute a document. This includes giving advice about the type of notarial act required (an oath or an acknowledgment), or whether witnesses are required, and if so, how many. When these issues arise, the customer may need to consult an attorney to properly execute the document.
 4. Don't explain the contents or the legal effects of the document to your customer. You may read the document to your customer, but you may not give your opinion or advice about the transaction. There is one exception to this prohibition. If you are qualified in a particular field related to the transaction, you may give information to your customer about the transaction at hand. For example, if you are a title clerk with a mortgage company and you are handling the closing on a piece of property, you may give information about the title documents to your customer.
 5. If you advertise your services as a Notary in a language other than English, you must state that you are not an attorney and cannot give legal advice. Additionally, the words, "Notary Public," may not be translated into any language other than English.

Often non-lawyer Notaries will run into problems when asked to provide assistance with wills, bankruptcy petitions, and immigration documents. Be careful that you note your limitations and do not misrepresent your authority as a Notary Public. Engaging in the unauthorized practice of law can result in criminal charges, an injunction issued by the Florida Supreme Court, and/or disciplinary action by the Governor, including suspension from office.

NOTARY SEMINARS - YOUR OPPORTUNITY FOR EDUCATION

The Governor's Office has scheduled additional notary seminars for the Fall. We have engaged the services of the two national notary organizations to assist us in providing instruction to Florida Notaries. All of the seminars cover basic notarial duties and procedures, and update Notaries on any recent law changes. The fee is \$49 per student, which includes registration and materials. Here is the schedule of classes for the next few months.

Classes offered by the NATIONAL NOTARY ASSOCIATION

- Miami - Wednesday, October 27, morning and afternoon
- Fort Lauderdale - Thursday, October 28, morning and afternoon
- Orlando - Saturday, October 30, morning
- Orlando - Tuesday, November 2, morning and afternoon
- St. Petersburg - Wednesday, November 3, morning and afternoon
- Tampa - Thursday, November 4, morning and afternoon

To obtain more information and to register for one of these classes, please call the National Notary Association at (800) 876-6827.

CLASSES OFFERED BY THE AMERICAN SOCIETY OF NOTARIES

- Tallahassee - Friday, September 10, morning
- West Palm Beach - Thursday, September 30, morning
- Fort Lauderdale - Thursday, September 30, afternoon
- Miami - Friday, October 1, morning
- St. Petersburg - Tuesday, October 26, morning
- Tampa - Tuesday, October 26, afternoon
- Fort Myers - Wednesday, October 27, morning
- Ocala - Tuesday, November 2, afternoon
- Gainesville - Wednesday, November 3, morning
- Jacksonville - Monday, November 15, afternoon
- Daytona Beach - Tuesday, November 16, afternoon
- Maitland - Wednesday, November 17, morning
- Kissimmee - Wednesday, November 17, afternoon

For these classes, insurance agents and legal assistants may receive continuing education credit. To register or to request additional information, please contact the American Society of Notaries at (800) 522-3392, or e-mail ASN at mail@notaries.org.

Until next month,

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