

1 A bill to be entitled
 2 An act relating to notaries public; amending s.
 3 117.105, F.S.; modifying criminal penalties; making
 4 technical changes; amending s. 117.107, F.S.; deleting
 5 civil penalties associated with a provision
 6 prohibiting a notary public from notarizing a
 7 signature on a document of a person who is not, at the
 8 time of the notarial act, physically present or
 9 present by means of audio-video communication
 10 technology; providing criminal penalties applicable to
 11 this section; providing an effective date.

12
 13 Be It Enacted by the Legislature of the State of Florida:

14
 15 Section 1. Section 117.105, Florida Statutes, is amended
 16 to read:

17 117.105 False or fraudulent acknowledgments; penalties for
 18 prohibited acts ~~penalty~~.—

19 (1) A notary public may not: ~~who~~

20 (a) Falsely or fraudulently take ~~takes~~ an acknowledgment
 21 of an instrument as a notary public. ~~or~~

22 (b) ~~Who~~ Falsely or fraudulently make ~~makes~~ a certificate
 23 as a notary public. ~~or~~

24 (c) ~~Who~~ Falsely or fraudulently take or receive ~~takes or~~
 25 ~~receives~~ an acknowledgment of the signature on a written or

26 electronic document instrument is guilty of a felony of the
 27 third degree, punishable as provided in s. 775.082, s. 775.083,
 28 or s. 775.084.

29 (2) A notary public who knowingly and willfully violates
 30 subsection (1) commits a felony of the third degree, punishable
 31 as provided in s. 775.082, s. 775.083, or s. 775.084. A notary
 32 public who knowingly and willfully violates subsection (1)
 33 commits a felony of the second degree, punishable as provided in
 34 s. 775.082, s. 775.083, or s. 775.084, if the document notarized
 35 pertains to a real estate transaction or any other transfer of
 36 real property.

37 Section 2. Section 117.107, Florida Statutes, is amended
 38 to read:

39 117.107 Prohibited acts; penalty.—

40 (1) A notary public may not use a name or initial in
 41 signing certificates other than that by which the notary public
 42 is commissioned.

43 (2) A notary public may not sign notarial certificates
 44 using a facsimile signature stamp unless the notary public has a
 45 physical disability that limits or prohibits his or her ability
 46 to make a written signature and unless the notary public has
 47 first submitted written notice to the Department of State with
 48 an exemplar of the facsimile signature stamp. This subsection
 49 does not apply to or prohibit the use of an electronic signature
 50 and seal by a notary public who is registered as an online

51 notary public to perform an electronic or online notarization in
 52 accordance with this chapter.

53 (3) A notary public may not affix his or her signature to
 54 a blank form of affidavit or certificate of acknowledgment and
 55 deliver that form to another person with the intent that it be
 56 used as an affidavit or acknowledgment.

57 (4) A notary public may not take the acknowledgment of or
 58 administer an oath to a person whom the notary public actually
 59 knows to have been adjudicated mentally incapacitated by a court
 60 of competent jurisdiction, where the acknowledgment or oath
 61 necessitates the exercise of a right that has been removed
 62 pursuant to s. 744.3215(2) or (3), and where the person has not
 63 been restored to capacity as a matter of record.

64 (5) A notary public may not notarize a signature on a
 65 document if it appears that the person is mentally incapable of
 66 understanding the nature and effect of the document at the time
 67 of notarization.

68 (6) A notary public may not take the acknowledgment of a
 69 person who does not speak or understand the English language,
 70 unless the nature and effect of the instrument to be notarized
 71 is translated into a language which the person does understand.

72 (7) A notary public may not change anything in a written
 73 instrument after it has been signed by anyone.

74 (8) A notary public may not amend a notarial certificate
 75 after the notarization is complete.

76 (9) A notary public may not notarize a signature on a
 77 document if the person whose signature is being notarized does
 78 not appear before the notary public either by means of physical
 79 presence or by means of audio-video communication technology as
 80 authorized under part II of this chapter at the time the
 81 signature is notarized. ~~Any notary public who violates this~~
 82 ~~subsection is guilty of a civil infraction, punishable by~~
 83 ~~penalty not exceeding \$5,000, and such violation constitutes~~
 84 ~~malfeasance and misfeasance in the conduct of official duties.~~
 85 ~~It is no defense to the civil infraction specified in this~~
 86 ~~subsection that the notary public acted without intent to~~
 87 ~~defraud. A notary public who violates this subsection with the~~
 88 ~~intent to defraud is guilty of violating s. 117.105.~~

89 (10) A notary public may not notarize a signature on a
 90 document if the document is incomplete or blank. However, an
 91 endorsement or assignment in blank of a negotiable or
 92 nonnegotiable note and the assignment in blank of any instrument
 93 given as security for such note is not deemed incomplete.

94 (11) A notary public may not notarize a signature on a
 95 document if the person whose signature is to be notarized is the
 96 spouse, son, daughter, mother, or father of the notary public.

97 (12) A notary public may not notarize a signature on a
 98 document if the notary public has a financial interest in or is
 99 a party to the underlying transaction; however, a notary public
 100 who is an employee may notarize a signature for his or her

101 employer, and this employment does not constitute a financial
 102 interest in the transaction nor make the notary a party to the
 103 transaction under this subsection as long as he or she does not
 104 receive a benefit other than his or her salary and the fee for
 105 services as a notary public authorized by law. For purposes of
 106 this subsection, a notary public who is an attorney does not
 107 have a financial interest in and is not a party to the
 108 underlying transaction evidenced by a notarized document if he
 109 or she notarizes a signature on that document for a client for
 110 whom he or she serves as an attorney of record and he or she has
 111 no interest in the document other than the fee paid to him or
 112 her for legal services and the fee authorized by law for
 113 services as a notary public.

114 (13) A notary public who knowingly and willfully violates
 115 this section commits a misdemeanor of the first degree,
 116 punishable as provided in s. 775.082 or s. 775.083. A notary
 117 public who knowingly and willfully violates this section with
 118 the intent to defraud commits a felony of the third degree,
 119 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
 120 A notary public who knowingly and willfully violates this
 121 section with the intent to defraud commits a felony of the
 122 second degree, punishable as provided in s. 775.082, s. 775.083,
 123 or s. 775.084, if the violation pertains to a real estate
 124 transaction or any other transfer of real property.

125 Section 3. This act shall take effect July 1, 2024.