

Florida Civil-Law Notaries

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A 1998 amendment to Sec. 118.10, F.S., modified and clarified the powers of a Florida international notary and renamed the appointment "civil-law notary." Florida Administrative Code Rule 1C-18.001(1)(a) still allows the use of the title "Florida International Notary" wherever the term is customary or required. The concept of the civil-law notary is based upon models used in countries with civil law traditions. In those countries, civil-law notaries are appointed from a pool of highly educated, trained and experienced professionals, usually lawyers. These civil-law notaries typically take a neutral role in a transaction, verifying that the instruments have been legally executed.

Florida law has long recognized the authority of foreign civil-law notaries to take acknowledgments, legalizations or authentications in their countries of appointment, and has entitled such instruments, concerning real property, to recordation in Florida. Supporters of revised Sec. 118.10, F.S., anticipate that acknowledgments and authentic acts issued by civil-law notaries of this state will be accepted and entitled to recordation in foreign countries. The objective is to facilitate the participation of Florida attorneys in international business transactions.

A civil-law notary has all of the power of a notary public, in addition to the authority to issue authentic acts. Sec. 118.10(7), F.S. An authentic act is an instrument confirming the signatures of parties to an instrument and verifying that the instrument meets the applicable legal requirements, ethical concerns and business needs of the parties. Sec. 118.10(1)(a), F.S., and Florida Administrative Code Rule 1C-18.001(6)(b). Such determinations may be essential for recordation of instruments in some foreign countries when said instruments were executed outside of those foreign countries. It remains uncertain which non-U.S. jurisdictions will recognize authentic acts issued by civil-law notaries of Florida. Civil-law notaries are ex-

pressly prohibited from issuing authentic acts in jurisdictions with which the United States Department of State has deemed not to have diplomatic relations or to be a terrorist country, or with which trade is prohibited under the Trading with the Enemy Act of 1917, as amended 50 U.S.C., Secs. 1 et seq.; Sec. 118.10(3), F.S.

Sec. 695.03, F.S., was also amended in 1998 to recognize acknowledgments and authentic acts issued by Florida civil-law notaries. This change is significant in examining Florida real property titles because the section now entitles acknowledgments taken by Florida civil-law notaries within the United States and acknowledgments and authentic acts issued by Florida civil-law notaries, in non-U.S. jurisdictions, to recordation in Florida. Prior to recordation, the civil-law notary must affix his or her official seal. See TNs 1.04.01 and 1.04.02.

Members of The Florida Bar in good standing who have practiced law in Florida for at least five years are eligible to apply to the Florida Secretary of State for appointment as a civil-law notary. Sec. 118.10, F.S. Prior to appointment, applicants must complete an educational program approved by the Department of State and pass a prescribed civil law notary examination with a score of at least 70 percent. The first examination was administered and the first civil-law notaries were appointed in December 1998. Inquiries regarding civil-law notaries may be directed via fax to the Office of the Department of State, General Counsel at (850) 922-5763.

