

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 2242

SPONSOR: Senator Grant

SUBJECT: Civil-law Notaries

DATE: March 23, 1999

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Matthews	Johnson	JU	Favorable/CS
2.				
3.				
4.				
5.				

I. Summary:

This bill requires the Secretary of State to provide, upon written request and payment, a certified copy of a notary public's certificate of commission. It authorizes civil-law notaries to authenticate certain documents and acts and provides a presumption of correctness thereof. It clarifies and expands the Secretary of State's authority to adopt rules relating to form and content of certain acts, educational requirements for civil-law notaries, disciplinary grounds, and requirements for bond or insurance. It also authorizes the Secretary of State to provide certification of a civil-law notary's authority, and Apostilles¹ for certain documents to be authenticated as required under the Hague Convention.

This bill amends the following section of the Florida Statutes (Supp. 1998): 117.103 and 118.10. It also creates the following section. 118.12.

II. Present Situation:

In 1997, the Florida Legislature enacted chapter 118, F.S., to permit the Secretary of State to commission Florida international notaries. These notaries are authorized to issue authentication instruments for use in non-United States jurisdictions. In 1998, the Florida Legislature substantially revised chapter 118, F.S., to include, among a number of changes, a redesignation of "international notaries" as "civil-law notaries," and the expansion of certain requirements for qualification, testing and education² of civil-law notaries. *See* ch. 98-246, L.O.F. However, no amendments were made to include certain requirements such as surety bonds³ and oaths of office that notary publics must satisfy under chapter 117, F.S. Additionally, although not required to

¹An Apostille is a marginal note or observation on a document.

²A civil-law notary must be, at a minimum, a Florida Bar member who has practiced for 5 years. *See* s. 118.10(1)(b), F.S.

³The surety bond guarantees performance of a monetary obligation of another who may fail to perform as promised. Notary publics are currently required to secure a \$7,500 bond. *See* §117.01(7), F.S. (Supp. 1998)

record a commission in the office of the clerk of the circuit court, the notary public may secure a certification of notarial authority from the Secretary of State. *See* §117.103, F.S.

The Department of State is authorized to regulate notary publics and civil-law notaries and to adopt rules relating to the administration of chapters 117 and 118, F.S.

III. Effect of Proposed Changes:

Section 1 amends s. 117.103, F.S. (Supp. 1998), to require the Secretary of State to provide, upon written request and a \$10 payment, a certified copy of a notary public's certificate of commission to establish a notary public's authority under chapter 117, F.S. It also eliminates provisions relating to a requirement for an Apostille for documents destined for countries participating in the Hague Convention.

Section 2 amends s. 118.10, F.S. (Supp. 1998), to authorize civil-law notaries to authenticate any document, transaction, event, condition or occurrence, to provide a presumption of correctness regarding the authenticity of the act. It also clarifies and expands the Secretary of State's authority to adopt rules relating to form and content of certain authentic acts, civil-law notary educational requirements, disciplinary grounds, and bonds or insurance requirements.

Section 3 creates s. 118.12, F.S., to authorize the Secretary of State to provide, upon written request and a \$10 payment, a certification of a civil-law notary's authority, and to provide an Apostille, as required under the Hague Convention, for certain documents to be authenticated.

The bill provides for the act to take effect July 1, 1999.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

The bill clarifies for civil-law notaries their authority under the law. It is indeterminate what impact the bill may have on the cost of appointment and practice of civil-law notaries unless or until the Secretary of State adopt rules relating to its expanded authority. There is a National Association of Civil-law Notaries of which there is a Florida affiliate, consisting of 63 members.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.