

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 401 Notaries Public  
**SPONSOR(S):** Local, Federal & Veterans Affairs Subcommittee; Abruzzo and others  
**TIED BILLS:** IDEN./SIM. **BILLS:** CS/SB 440

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee	14 Y, 0 N, As CS	Renner	Miller
2) Government Accountability Committee	21 Y, 0 N	Renner	Williamson

### SUMMARY ANALYSIS

The Governor may appoint as many notaries public as he or she deems necessary so long as they meet certain requirements, including being a legal resident of Florida. Notaries public are appointed for four years and may only use and exercise the office of notary public within Florida. A notary public may not notarize a signature on a document unless he or she personally knows, or has satisfactory evidence, that the person whose signature is to be notarized is the individual described in and who is executing the instrument. Acceptable forms of identification that a notary public may rely on in notarizing a signature on a document include:

- A Florida identification card or driver license;
- A passport issued by the Department of State of the United States or by a foreign government if the document is stamped by the U.S. Bureau of Citizenship and Immigration Services;
- A driver license or an identification card issued by a state other than Florida, a U.S. territory, or Canada or Mexico;
- An identification card issued by any branch of the U.S. armed forces;
- An inmate identification card issued by the Florida Department of Corrections on or after January 1, 1991, or by the U.S. Department of Justice, Bureau of Prisons, for an inmate who is in its custody;
- A sworn, written statement from a sworn law enforcement officer that the forms of identification for an inmate in an institution of confinement were confiscated upon confinement and that the person named in the document is the person whose signature is to be notarized; or
- An identification card issued by the U.S. Bureau of Citizenship and Immigration Services.

The bill expands the list of forms of identification that a notary public may rely on in notarizing a signature on a document to include a veteran health identification card issued by the U.S. Department of Veterans Affairs.

The bill does not appear to have a fiscal impact on the state or local governments.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Current Situation

###### Notary Public

Chapter 117, F.S., governs notaries public. The Governor may appoint as many notaries public as he or she deems necessary so long as they meet certain requirements, including being a legal resident of Florida. Notaries public are appointed for four years and may only use and exercise the office of notary public within Florida.<sup>1</sup>

The application for appointment must be signed and sworn to by the applicant and must be accompanied by a fee of \$25, a \$10 commission fee, and a surcharge of \$4. The \$4 surcharge is appropriated to the Executive Office of the Governor to be used to educate and assist notaries public.<sup>2</sup>

The application for appointment must include: the full name, residence address and telephone number, business address and telephone number, date of birth, race, sex, social security number, citizenship status, driver license number or the number of other official state-issued identification, affidavit of good character from someone unrelated to the applicant who has known the applicant for one year or more, a list of all professional licenses and commissions issued by the state to the applicant during the previous 10 years and a statement as to whether or not such license or commission was revoked or suspended, and a statement as to whether or not the applicant has been convicted of a felony, and, if there has been a conviction, a statement of the nature of the felony and restoration of civil rights.<sup>3</sup> A notary public must provide written notification to the Department of State of any change in his or her business address, home or business telephone number, home address, or criminal record within 60 days of the change.<sup>4</sup> If a notary public lawfully changes his or her name during the period of his or her commission, a completed name change form must be submitted to the department and a \$25 fee is assessed.<sup>5</sup>

The application process must be completed regardless of whether an applicant is requesting his or her first notary commission, a renewal of a commission, or any subsequent commission.<sup>6</sup>

The department serves as the custodian of records for notary public applications, and maintains the record for the full term of a notary commission.<sup>7</sup>

The Governor may suspend a notary public for any of the grounds provided in s. 7, Art. IV of the State Constitution.<sup>8</sup>

A notary public may not notarize a signature on a document unless he or she personally knows, or has satisfactory evidence, that the person whose signature is to be notarized is the individual described in and who is executing the instrument.<sup>9</sup> "Personally knows" means having an acquaintance, derived from association with the individual, which establishes the individual's identity with at least a reasonable

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<sup>1</sup> Section 117.01(1), F.S.

<sup>2</sup> Section 117.01(2), F.S.

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> Section 117.05(9), F.S.

<sup>6</sup> Section 117.01(6), F.S.

<sup>7</sup> Section 117.01(2), F.S.

<sup>8</sup> Section 117.01(4), F.S.

<sup>9</sup> Section 117.05(5), F.S.

certainty.<sup>10</sup> “Satisfactory evidence” means the absence of any information, evidence, or other circumstances that would lead a reasonable person to believe that the person whose signature is to be notarized is not the person he or she claims, and may be any one of the following:<sup>11</sup>

- The sworn written statement of one credible witness personally known to the notary public or of two credible witnesses whose identities are proven to the notary public upon the presentation of satisfactory evidence that:
  - The person whose signature is to be notarized is the person named in the document;
  - The person whose signature is to be notarized is personally known to the witnesses;
  - It is the reasonable belief of the witnesses that the circumstances of the person whose signature is to be notarized are such that it would be very difficult or impossible for that person to obtain another acceptable form of identification;
  - It is the reasonable belief of the witnesses that the person whose signature is to be notarized does not possess certain identification documents ; and
  - The witnesses do not have a financial interest in nor are parties to the underlying transaction; or
- Reasonable reliance on the presentation to the notary public of any one of the following forms of identification, if the document is current or has been issued within the past 5 years and bears a serial or other identifying number:
  - A Florida identification card or driver license;
  - A passport issued by the Department of State of the United States or by a foreign government if the document is stamped by the U.S. Bureau of Citizenship and Immigration Services;
  - A driver license or an identification card issued in another state, a U.S. territory, or Canada or Mexico;
  - An identification card issued by any branch of the U.S. armed forces;
  - An inmate identification card issued by the Florida Department of Corrections on or after January 1, 1991, or by the U.S. Department of Justice, Bureau of Prisons, for an inmate who is in its custody;
  - A sworn, written statement from a sworn law enforcement officer that the forms of identification for an inmate in an institution of confinement were confiscated upon confinement and that the person named in the document is the person whose signature is to be notarized; or
  - An identification card issued by the U.S. Bureau of Citizenship and Immigration Services.

#### Veteran Health Identification Card

In order to receive a Veteran Health Identification Card (VHIC), a veteran must be enrolled in the U.S. Department of Veterans Affairs (VA) health care system. Generally, if a person served in active military service and was separated under any condition other than dishonorable discharge, he or she may qualify for VA health care benefits.<sup>12</sup>

A VHIC is used for identification and check-in at VA appointments. The card contains a photo, a member identification number, a plan identification number, the branch of service, and any special awards. For increased security, a veteran must show one form of primary identification and one form of secondary identification when requesting a VHIC.<sup>13</sup>

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<sup>10</sup> Section 117.05(5)(a), F.S.

<sup>11</sup> Section 117.05(5)(b), F.S.

<sup>12</sup> United States Department of Veterans Affairs website on *Health Benefits*, available at <https://www.va.gov/HEALTHBENEFITS/apply/veterans.asp> (last visited February 10, 2017).

<sup>13</sup> See United States Department of Veterans Affairs website, *Veteran Health Identification Cards*, available at <https://www.va.gov/healthbenefits/vhic/index.asp> (last visited February 10, 2017).

## Effect of Proposed Changes

The bill expands the list of forms of identification that a notary public may rely on when notarizing a signature on a document to include a veteran health identification card issued by the U.S. Department of Veterans Affairs.

### B. SECTION DIRECTORY:

- Section 1 Amends s. 117.05, F.S., by expanding the list of forms of identification that a notary public may rely on when notarizing a signature on a document.
- Section2 Provides an effective date of July 1, 2017.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

### D. FISCAL COMMENTS:

None.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

### B. RULE-MAKING AUTHORITY:

The bill provides no authority nor requires administrative rulemaking by executive branch agencies.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On February 22, 2017, the Local, Federal & Veterans Affairs Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment places the veteran health identification card in a separate paragraph from the Department of Defense issued identification cards and changes the word "information" to "identification" in the title.

This analysis is drafted to the committee substitute as passed by the Local, Federal & Veterans Affairs Subcommittee.