

Consumer Pamphlet: Notaries, Immigration and the Law

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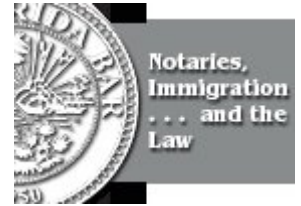
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Why is there confusion about notaries?

Many people of Hispanic descent are confused as to what services a notary public — or similar titles such as “notaria,” “escribano” or “notario público” — can provide regarding immigration matters. In fact, these people are not attorneys unless properly licensed to practice law in this state, and they should not be relied on for legal advice, because they cannot give legal advice.

Immigration matters involve various important rights defined in the federal Immigration and Nationality Act, and competent legal advice from a licensed attorney is needed to understand these matters.

Matters as important as immigration — where you will live and under what form of government you will raise your family — should not be placed in the hands of an untrained, unlicensed person.

Why not use a “notario”?

Some people in Florida have been harmed after mistakenly seeking legal assistance from notaries or other nonlawyers who offer such services in immigration matters. In fact, incorrect advice can even begin or accelerate a deportation process.

Sometimes there is no legal way to immigrate into this country. Still, some notaries and/or other nonlawyers, seemingly without fear of punishment, demand large fees for immigration counseling yet perform no meaningful work for those fees or give incorrect legal advice.

In fact, the fees for most notary services in Florida are set by statute, and notaries are prohibited from practicing law in this state. No one is permitted to charge or accept fees for legal services that they cannot or may not perform. Even if no fee is charged, a nonlawyer cannot provide legal advice or legal services.

Lawyer or notary: What's the difference?

A lawyer must obtain a college degree from a four-year university, score well on a national law school admissions test, study law for at least three years, graduate from law school, undergo a thorough investigation of moral character, and pass the state Bar examination, which includes testing on ethics and state and federal law.

A lawyer who fails to give proper advice can be subject to the full processes of the law.

A Florida notary public, as opposed to a lawyer, is only required to complete a one-time, three-hour notary education course in order to obtain initial licensure as a notary.

A notary must be at least 18 years of age and a permanent Florida resident. The potential notary must submit a signed application with the appropriate fee, have one witness vouch for his or her good moral character, post a bond and take an oath.

The Florida notary and the practice of law

The Florida notary public certifies that deeds, affidavits, depositions and other writings are authentic or genuine. A Florida notary may also give oaths, make certificates of oaths and perform marriages.

Notary publics cannot give legal advice; nor can they prepare immigration forms while holding themselves out as knowledgeable in immigration law and practice. They cannot draw up wills, contracts, leases, deeds or other documents that might affect your legal rights.

This would be the practice of law, and notaries in Florida cannot practice law. Anyone violating the state law that sets forth the requirements for a notary commission is guilty of a felony crime.

Notary publics cannot use their title (notaria, escribano, notario público) even to imply that they are authorized to practice law. Florida law now prevents a literal translation of “notary public” into a language other than English in advertisements. If the advertisement is not in English, it must contain a disclaimer that states, “I am not an attorney licensed to practice law in the state of Florida, and I may not give legal advice or accept fees for legal advice.”

What about a notary in Latin American countries?

In Latin American countries, the notary public must be a lawyer. The terms “notaria,” “escribano” and “notario público” in Spanish-speaking countries generally refer to an attorney, law offices or the practice of law.

It is for this reason that Spanish-speaking people in the United States sometimes expect to be able to rely on notaries to settle problems that lawyers typically handle. Many people are unfamiliar with the kinds of services that can be performed by a notary public in Florida and mistakenly assume that notaries can help them resolve all their legal problems, especially in the immigration area.

RESOURCES

If you would like to know whether someone is an attorney licensed to practice law in the state of Florida, use The Bar’s **“Find a Lawyer”** feature, or call membership records at The Florida Bar toll-free at 800-342-8060, ext. 5832. You also can write to The Florida Bar, 651 E. Jefferson St., Tallahassee, FL 32399-2300.

For more information about notaries in Florida, visit the **Department of State website** or call 850-245-6975. Information about Florida notaries can also be obtained from the **Governor’s Notary Section website** , or by calling 850-717-9310.

If you or someone you know has been misled or harmed by a person who is not a licensed Florida attorney, contact The Florida Bar, Unlicensed Practice of Law Division, at 850-561-5840.

The Federal Trade Commission has many resources on the **subject of notaries for immigrants** as well as for those who assist immigrants.

The Federal Trade Commission also offers an **Immigration Toolkit** with helpful resources for advocates and consumers in immigrant communities.

UNLICENSED PRACTICE OF LAW BRANCH OFFICES

The Florida Bar's Unlicensed Practice of Law department has offices in Tallahassee, Fort Lauderdale, Orlando, Miami and Tampa. The addresses are:

Tallahassee

The Florida Bar
UPL Department
651 E. Jefferson St.
Tallahassee, FL 32399-2300
850-561-5840

Fort Lauderdale

The Florida Bar
UPL Department
Lake Shore Plaza II
1300 Concord Terrace, Ste. 130
Sunrise, FL 33323
954-835-0233

Orlando

The Florida Bar
UPL Department
The Gateway Center
1000 Legion Place, Suite 1625
Orlando, FL 32801-1050
407-425-0473

Miami

The Florida Bar
UPL Department
Suite M100, Rivergate Plaza
444 Brickell Ave.
Miami, FL 33131
305-377-4445

Tampa

The Florida Bar
UPL Department

2002 N. Lois Ave., Ste. 300
Tampa, Florida 33607
813-875-9821

The material in this pamphlet represents general legal advice. Since the law is continually changing, some provisions in this pamphlet may be out of date. It is always best to consult an attorney about your legal rights and responsibilities regarding your particular case.

This pamphlet is produced as a public service for consumers by The Florida Bar.

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