

How the new public notice law affects Florida newspapers



The impact of HB 937

A significant bill (HB937) affecting public notice bill passed the house and senate during the final days of the 2012 legislative session and has been signed into law by the governor. These laws only apply to newspapers publishing public notices. The term public notice is used generically and applies to all types of legally required notice.

Effective July 1, 2012

1. All public notices published in a newspaper must also be placed online at www.floridapublicnotices.com the same day the notice is published in the printed newspaper.
2. If a local government publishes certain maps (e.g. zoning maps), the maps must also be part of the online ad uploaded to www.floridapublicnotices.com
3. Notices that are paid for by government and not paid for (or recouped) by private parties shall be charged at no more than 85% of the original cost for a second and subsequent insertion of the same notice.
4. Affidavits may be printed on regular paper, and may also be provided in electronic form, provided that the notarization of the affidavit complies with the requirements of Florida statute 50.061, which provides electronic signature criteria and other details provided in the law:
 - (1) Any document requiring notarization may be notarized electronically. The provisions of ss. 117.01, 117.03, 117.04, 117.05(1)-(11), (13), and (14), 117.105, and 117.107 apply to all notarizations under this section.
 - (2) In performing an electronic notarial act, a notary public shall use an electronic signature that is:
 - (a) Unique to the notary public;
 - (b) Capable of independent verification;
 - (c) Retained under the notary public's sole control; and
 - (d) Attached to or logically associated with the electronic document in a manner that any subsequent alteration to the electronic document displays evidence of the alteration.
 - (3) When a signature is required to be accompanied by a notary public seal, the requirement is satisfied when the electronic signature of the notary public contains all of the following seal information:
 - (a) The full name of the notary public exactly as provided on the notary public's application for commission;
 - (b) The words "Notary Public State of Florida";
 - (c) The date of expiration of the commission of the notary public; and
 - (d) The notary public's commission number.
 - (4) Failure of a notary public to comply with any of the requirements of this section may constitute grounds for suspension of the notary public's commission by the Executive Office of the Governor.
 - (5) The Department of State may adopt rules to ensure the security, reliability, and uniformity of signatures and seals authorized in this section.

Effective July 1, 2013

1. All public notices published in a newspaper must be posted to the newspaper's website the same day the notice is published in the newspaper. The newspaper must provide a

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link to the notices on the front page of their website, and the notices must be available to the public without charge.

2. The public notices portion of the newspaper's website must have a search function.
3. The size of the notices on the newspaper's website should be easy for the user to view, and should be optimized in keeping with the requirements of print. The notices shall be the dominant content on any page they are displayed.
4. Newspapers must provide email notification of new legal notices (when they are published) to anyone requesting the information. Such email notification must be done without charge and notification for such an email registry must be placed on the front page of the public notice portion of the newspaper's website.

Other impacts of the new statute

1. An error with a public notice on the newspaper's website does not affect the legality of the notice. The notice is considered having met the legal requirements if it was printed in the print version of the newspaper and meets the legal requirements pertaining to the printed notice.
2. If a local government publishes certain maps (e.g. zoning maps), the maps must also be part of the online ad.

FAQ's

1. Question – What happens if my newspaper doesn't comply with the new law?
Answer – It is a misdemeanor to not comply with the amounts chargeable section and noncompliant notices may be challenged by third parties seeking to defeat the underlying action.
2. Question – I don't know how to upload my notices to www.floridapublicnotices.com.
How do I get started?
Answer – contact Kendra Schubert via email at kschubert@flpress.com, or call 850-521-1168 and FPA staff will assist you.
3. Question – How do I know if my newspaper qualifies to publish public notices?
Answer – For the vast majority of notices, newspapers must have a current Periodicals Permit as issued by the United States Postal Service. (This was previously known as the Second Class Mailing Permit.)
4. Question – How can my newspaper get a Periodicals Permit?
Answer – You must comply with the specific requirements of the postal service. The basic requirements are: to have been in business for one year; publish at a minimum on a weekly basis; have at least 25% news content and a list of paid subscribers (or requestors).

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5. Question – Can I continue to charge the same rate I have been charging for public notice ads?

Answer – Yes, the same charges apply. The statutes stipulate that newspapers must either a) charge their minimum commercial rate (or lower) or b) follow a formula that is based on a specified per inch rate, but as the rates were set in the 1940s, this formula is not used. The only exception is that notices that are paid for by government and not paid for (or recouped) by private parties shall be charged at no more than 85% of the original cost for a second and subsequent insertion of the same notice.

This information is provided as a summary of the new law. Please consult an attorney if you are unsure about any provisions of the law. Florida Press Association members may call the legal hotline for more information. For information about becoming a member, please visit www.flpress.com, or call 850.222.5790.