

## **The Jet Set: Getting Documents Notarized in Foreign Countries**

Hello once again, and Happy New Year to everyone! I hope all of our readers had a very Happy Holidays and are looking forward to a busy and prosperous 2026. In this month's edition of The Beacon, I'd like to discuss a question that has come up frequently in the past few months, as many of your clients are on vacation out of the country: how do we get insurable signatures on documents when the signatory is in a foreign country?

The first and easiest way to tackle this is for the signatory to go to a US Embassy or consulate to have the document notarized there. This notarization would be accepted the same as any other US notary and could be immediately sent back to the US for recording. The issue here is that getting an appointment at a US embassy or consulate can take weeks or months in popular locations, and some locations do not have an official US presence. Or perhaps the US embassy is hours away from the part of the country where the signatory is located. What do we do then?

At first glance, this would seem pretty simple: other countries have notaries (or an equivalent) as well, so you just need to find one and have them apply their stamp just like you would in the US. Unfortunately for all of us, that's not quite it. The United States (and therefore the Register of Deeds or courts in your local county) does not automatically recognize the validity of a signature notarized by a notary who is not licensed in the United States. So, if your seller is on their yacht and takes time out of their busy holiday schedule to stop in France and have their deed signed by a licensed French notary, the Registry may reject that for recording or, if the deed was later challenged, the court may refuse to take that Notary's certification as proof that the purported individual actually signed the document. That's a problem for title insurance companies and creates quite the pickle for insuring a deed from your jet-setting seller.

Prior to the 1960s, foreign documents had to go through the process of formal legalization before being recognized as valid in the United States. This could involve certifications from several different foreign and local governmental authorities and was both time-consuming and expensive. Enter the "Convention of 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents" (aka the "Apostille Convention"). This is an international treaty drafted by the Hague Conference with the intent of simplifying that legalization process between signatory countries. That treaty provides a mechanism for the US and its local governments to recognize foreign documents with a certification called an Apostille.

The Apostille certification is issued by the foreign government for the country in which the documents were signed, typically by the equivalent of the US State Department, such as a Foreign Ministry. Using our example of the French yachting enthusiast above, the seller could go to a local French notary to have the Deed signed and notarized and would then submit the document to the French authorities. The French authority would review and provide an Apostille

certification document or stamp for the Deed, which can then be sent to the US and submitted for recording just like any other deed.

So, as a practical matter, it's always best practice to get ahead of this and inform your seller and their agent as soon as possible that there are going to be extra steps involved if they are out of the country when signing deeds or other documents that need to be recorded. If possible, a Power of Attorney (or Resolution appointing someone else to sign in the case of an LLC) should be in place prior to leaving the country. Note that a POA will need to be recordable, so getting one signed after the seller has left the country puts you in the same position of needing an Apostille for that document as well.

As always, I welcome your questions, comments and suggestions for future articles.  
Happy New Year!

/s BSS