

By the Committee on Judiciary; and Senator Brandes

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1 A bill to be entitled
2 An act relating to electronic legal documents;
3 providing directives to the Division of Law Revision;
4 amending s. 117.01, F.S.; revising provisions relating
5 to use of the office of notary public; amending s.
6 117.021, F.S.; requiring electronic signatures to
7 include access protection; prohibiting a person from
8 requiring a notary public to perform a notarial act
9 with certain technology; requiring the Department of
10 State, in collaboration with the Agency for State
11 Technology, to adopt rules for certain purposes;
12 amending s. 117.05, F.S.; revising limitations on
13 notary fees to conform to changes made by the act;
14 providing for inclusion of certain information in a
15 jurat or notarial certificate; providing for
16 compliance with online notarization requirements;
17 providing for notarial certification of a printed
18 electronic record; revising statutory forms for jurats
19 and notarial certificates; amending s. 117.107, F.S.;
20 providing applicability; revising prohibited acts;
21 creating s. 117.201, F.S.; providing definitions;
22 creating s. 117.209, F.S.; authorizing online
23 notarizations; providing an exception; creating s.
24 117.215, F.S.; specifying the application of other
25 laws in relation to online notarizations; creating s.
26 117.225, F.S.; specifying registration and
27 qualification requirements for online notaries public;
28 creating s. 117.235, F.S.; authorizing the performance
29 of certain notarial acts; creating s. 117.245, F.S.;

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30 requiring an online notary public to keep electronic
31 journals of online notarizations and certain audio-
32 video communication recordings; specifying the
33 information that must be included for each online
34 notarization; requiring that an online notary public
35 retain a copy of the recording of an audio-video
36 communication; specifying requirements for the
37 recording; requiring an online notary public to take
38 certain steps regarding the maintenance and security
39 of the electronic journal; specifying that the
40 Department of State maintains jurisdiction for a
41 specified period of time for purposes of investigating
42 notarial misconduct; authorizing the use of specified
43 information for evidentiary purposes; creating s.
44 117.255, F.S.; specifying requirements for the use of
45 electronic journals, signatures, and seals; requiring
46 an online notary public to provide notification of the
47 theft, vandalism, or loss of an electronic journal,
48 signature, or seal; authorizing an online notary
49 public to make copies of electronic journal entries
50 and to provide access to related recordings under
51 certain circumstances; authorizing an online notary
52 public to charge a fee for making and delivering such
53 copies; providing an exception; creating s. 117.265,
54 F.S.; prescribing online notarization procedures;
55 specifying the manner by which an online notary public
56 must verify the identity of a principal or a witness;
57 requiring an online notary public to take certain
58 measures as to the security of technology used;

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59 specifying that an electronic notarial certificate
60 must identify the performance of an online
61 notarization; specifying that noncompliance does not
62 impair the validity of a notarial act or the notarized
63 electronic record; authorizing the use of specified
64 information for evidentiary purposes; providing for
65 construction; creating s. 117.275, F.S.; providing
66 fees for online notarizations; creating s. 117.285,
67 F.S.; specifying the manner by which an online notary
68 public may supervise the witnessing of electronic
69 records of online notarizations; specifying
70 circumstances under which an instrument is voidable;
71 specifying duties of remote online notarization
72 service providers and online notaries public;
73 specifying applicable law and jurisdiction regarding
74 witnessing; creating s. 117.295, F.S.; authorizing the
75 department to adopt rules and standards for online
76 notarizations; providing minimum standards for online
77 notarizations until such rules are adopted; creating
78 s. 117.305, F.S.; superseding certain provisions of
79 federal law regulating electronic signatures; amending
80 s. 28.222, F.S.; requiring the clerk of the circuit
81 court to record certain instruments; amending s.
82 92.50, F.S.; revising requirements for oaths,
83 affidavits, and acknowledgments; amending s. 95.231,
84 F.S.; providing a limitation period for certain
85 recorded instruments; amending s. 689.01, F.S.;
86 providing for witnessing of documents in connection
87 with real estate conveyances; providing for validation

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88 of certain recorded documents; amending s. 694.08,
89 F.S.; providing for validation of certain recorded
90 documents; amending s. 695.03, F.S.; providing and
91 revising requirements for making acknowledgments,
92 proofs, and other documents; amending s. 695.04, F.S.;
93 conforming provisions to changes made by the act;
94 amending s. 695.25, F.S.; revising the statutory short
95 form of acknowledgments to include acknowledgment by
96 online notarization; amending s. 695.28, F.S.;
97 providing for validity of recorded documents;
98 conforming provisions to changes made by the act;
99 amending s. 709.2119, F.S.; authorizing the acceptance
100 of a power of attorney based upon an electronic
101 journal or electronic record made by a notary public;
102 amending s. 709.2120, F.S.; prohibiting acceptance of
103 a power of attorney if witnessed or notarized
104 remotely; amending s. 709.2202, F.S.; prohibiting
105 certain authority granted through a power of attorney
106 if witnessed or notarized remotely; amending s.
107 731.201, F.S.; redefining the term "will" to conform
108 to changes made by the act; amending s. 732.506, F.S.;
109 exempting electronic wills from provisions governing
110 the revocation of wills and codicils; prescribing the
111 manner by which an electronic will or codicil may be
112 revoked; creating s. 732.521, F.S.; providing
113 definitions; creating s. 732.522, F.S.; prescribing
114 the manner by which an electronic will must be
115 executed; creating s. 732.523, F.S.; specifying
116 requirements for the self-proof of an electronic will;

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117 creating s. 732.524, F.S.; specifying requirements
118 necessary to serve as a qualified custodian of an
119 electronic will; creating s. 732.525, F.S.; requiring
120 a qualified custodian to post and maintain a blanket
121 surety bond of a specified amount and maintain
122 liability insurance; authorizing the Attorney General
123 to petition a court to appoint a receiver to manage
124 electronic records of a qualified custodian; creating
125 s. 732.526, F.S.; specifying conditions by which an
126 electronic will is deemed to be an original will;
127 amending s. 733.201, F.S.; requiring that self-proved
128 electronic wills meet certain requirements for
129 admission to probate; creating s. 740.10, F.S.;
130 specifying that any act taken pursuant to ch. 740,
131 F.S., does not affect the requirement that a will be
132 deposited within a certain timeframe; providing
133 effective dates.

134
135 Be It Enacted by the Legislature of the State of Florida:

136
137 Section 1. The Division of Law Revision is directed to:

138 (1) Create part I of chapter 117, Florida Statutes,
139 consisting of ss. 117.01-117.108, Florida Statutes, to be
140 entitled "General Provisions."

141 (2) Create part II of chapter 117, Florida Statutes,
142 consisting of ss. 117.201-117.305, Florida Statutes, to be
143 entitled "Online Notarizations."

144 Section 2. Subsection (1) of section 117.01, Florida
145 Statutes, is amended to read:

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146 117.01 Appointment, application, suspension, revocation,
147 application fee, bond, and oath.—

148 (1) The Governor may appoint as many notaries public as he
149 or she deems necessary, each of whom must ~~shall~~ be at least 18
150 years of age and a legal resident of this ~~the~~ state. A permanent
151 resident alien may apply and be appointed and shall file with
152 his or her application a recorded Declaration of Domicile. The
153 residence required for appointment must be maintained throughout
154 the term of appointment. A notary public ~~Notaries public~~ shall
155 be appointed for 4 years and may only ~~shall~~ use and exercise the
156 office of notary public if he or she is within the boundaries of
157 this state. An applicant must be able to read, write, and
158 understand the English language.

159 Section 3. Present subsections (4) and (5) of section
160 117.021, Florida Statutes, are renumbered as subsections (5) and
161 (6), respectively, new subsections (4) and (7) are added to that
162 section, and subsection (2) of that section is amended, to read:

163 117.021 Electronic notarization.—

164 (2) In performing an electronic notarial act, a notary
165 public shall use an electronic signature that is:

166 (a) Unique to the notary public;

167 (b) Capable of independent verification;

168 (c) Retained under the notary public's sole control and
169 includes access protection through the use of passwords or codes
170 under control of the notary public; and

171 (d) Attached to or logically associated with the electronic
172 document in a manner that any subsequent alteration to the
173 electronic document displays evidence of the alteration.

174 (4) A person may not require a notary public to perform a

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175 notarial act with respect to an electronic record with a form of
176 technology that the notary public has not selected to use.

177 (7) The Department of State, in collaboration with the
178 Agency for State Technology, shall adopt rules establishing
179 standards for tamper-evident technologies that will indicate any
180 alteration or change to an electronic record after completion of
181 an electronic notarial act. All electronic notarizations
182 performed on or after January 1, 2020, must comply with the
183 adopted standards.

184 Section 4. Subsection (1), paragraph (a) of subsection (2),
185 subsections (4) and (5), paragraph (a) of subsection (12), and
186 subsections (13) and (14) of section 117.05, Florida Statutes,
187 are amended, and paragraph (c) is added to subsection (12) of
188 that section, to read:

189 117.05 Use of notary commission; unlawful use; notary fee;
190 seal; duties; employer liability; name change; advertising;
191 photocopies; penalties.—

192 (1) A ~~No~~ person may not ~~shall~~ obtain or use a notary public
193 commission in other than his or her legal name, and it is
194 unlawful for a notary public to notarize his or her own
195 signature. Any person applying for a notary public commission
196 must submit proof of identity to the Department of State ~~if so~~
197 ~~requested~~. Any person who violates ~~the provisions of this~~
198 subsection commits ~~is guilty of~~ a felony of the third degree,
199 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

200 (2) (a) The fee of a notary public may not exceed \$10 for
201 any one notarial act, except as provided in s. 117.045 or s.
202 117.275.

203 (4) When notarizing a signature, a notary public shall

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204 complete a jurat or notarial certificate in substantially the
 205 same form as those found in subsection (13). The jurat or
 206 certificate of acknowledgment shall contain the following
 207 elements:

208 (a) The venue stating the location of the notary public at
 209 the time of the notarization in the format, "State of Florida,
 210 County of"

211 (b) The type of notarial act performed, an oath or an
 212 acknowledgment, evidenced by the words "sworn" or
 213 "acknowledged."

214 (c) Whether ~~That~~ the signer personally appeared before the
 215 notary public at the time of the notarization by physical
 216 presence or by means of audio-video communication technology as
 217 authorized under part II of this chapter.

218 (d) The exact date of the notarial act.

219 (e) The name of the person whose signature is being
 220 notarized. It is presumed, absent such specific notation by the
 221 notary public, that notarization is to all signatures.

222 (f) The specific type of identification the notary public
 223 is relying upon in identifying the signer, either based on
 224 personal knowledge or satisfactory evidence specified in
 225 subsection (5).

226 (g) The notary public's ~~notary's~~ official signature.

227 (h) The notary public's ~~notary's~~ name, which must be typed,
 228 printed, or stamped below the signature.

229 (i) The notary public's ~~notary's~~ official seal affixed
 230 below or to either side of the notary public's ~~notary's~~
 231 signature.

232 (5) A notary public may not notarize a signature on a

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233 document unless he or she personally knows, or has satisfactory
234 evidence, that the person whose signature is to be notarized is
235 the individual who is described in and who is executing the
236 instrument. A notary public shall certify in the certificate of
237 acknowledgment or jurat the type of identification, either based
238 on personal knowledge or other form of identification, upon
239 which the notary public is relying. In the case of an online
240 notarization, the online notary public shall comply with the
241 requirements set forth in part II of this chapter.

242 (a) For purposes of this subsection, the term "personally
243 knows" means having an acquaintance, derived from association
244 with the individual, which establishes the individual's identity
245 with at least a reasonable certainty.

246 (b) For the purposes of this subsection, the term
247 "satisfactory evidence" means the absence of any information,
248 evidence, or other circumstances which would lead a reasonable
249 person to believe that the person whose signature is to be
250 notarized is not the person he or she claims to be and any one
251 of the following:

252 1. The sworn written statement of one credible witness
253 personally known to the notary public or the sworn written
254 statement of two credible witnesses whose identities are proven
255 to the notary public upon the presentation of satisfactory
256 evidence that each of the following is true:

257 a. That the person whose signature is to be notarized is
258 the person named in the document;

259 b. That the person whose signature is to be notarized is
260 personally known to the witnesses;

261 c. That it is the reasonable belief of the witnesses that

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262 the circumstances of the person whose signature is to be
263 notarized are such that it would be very difficult or impossible
264 for that person to obtain another acceptable form of
265 identification;

266 d. That it is the reasonable belief of the witnesses that
267 the person whose signature is to be notarized does not possess
268 any of the identification documents specified in subparagraph
269 2.; and

270 e. That the witnesses do not have a financial interest in
271 nor are parties to the underlying transaction; or

272 2. Reasonable reliance on the presentation to the notary
273 public of any one of the following forms of identification, if
274 the document is current or has been issued within the past 5
275 years and bears a serial or other identifying number:

276 a. A Florida identification card or driver license issued
277 by the public agency authorized to issue driver licenses;

278 b. A passport issued by the Department of State of the
279 United States;

280 c. A passport issued by a foreign government if the
281 document is stamped by the United States Bureau of Citizenship
282 and Immigration Services;

283 d. A driver license or an identification card issued by a
284 public agency authorized to issue driver licenses in a state
285 other than Florida or in, a territory of the United States, or
286 Canada or Mexico;

287 e. An identification card issued by any branch of the armed
288 forces of the United States;

289 f. A veteran health identification card issued by the
290 United States Department of Veterans Affairs;

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291 g. An inmate identification card issued on or after January
292 1, 1991, by the Florida Department of Corrections for an inmate
293 who is in the custody of the department;

294 h. An inmate identification card issued by the United
295 States Department of Justice, Bureau of Prisons, for an inmate
296 who is in the custody of the department;

297 i. A sworn, written statement from a sworn law enforcement
298 officer that the forms of identification for an inmate in an
299 institution of confinement were confiscated upon confinement and
300 that the person named in the document is the person whose
301 signature is to be notarized; or

302 j. An identification card issued by the United States
303 Bureau of Citizenship and Immigration Services.

304 (12) (a) A notary public may supervise the making of a copy
305 of a tangible or an electronic record or the printing of an
306 electronic record ~~photocopy of an original document~~ and attest
307 to the trueness of the copy or of the printout, provided the
308 document is neither a vital record in this state, another state,
309 a territory of the United States, or another country, nor a
310 public record, if a copy can be made by the custodian of the
311 public record.

312 (c) A notary public must use a certificate in substantially
313 the following form in notarizing a copy of a tangible or an
314 electronic record or a printout of an electronic record:

315
316 STATE OF FLORIDA
317 COUNTY OF

318
319 On this day of, ... (year)..., I attest that the

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320 preceding or attached document is a true, exact, complete, and
 321 unaltered ... (copy of a tangible or an electronic record
 322 presented to me by the document's custodian) ... or a
 323 ... (printout made by me from such record) If a printout, I
 324 further attest that, at the time of printing, no security
 325 features, if any, present on the electronic record, indicated
 326 that the record had been altered since execution.

327
 328 ... (Signature of Notary Public - State of Florida) ...
 329 ... (Print, Type, or Stamp Commissioned Name of Notary Public) ...

330
 331 (13) The following notarial certificates are sufficient for
 332 the purposes indicated, if completed with the information
 333 required by this chapter. The specification of forms under this
 334 subsection does not preclude the use of other forms.

335 (a) For an oath or affirmation:

336
 337 STATE OF FLORIDA
 338 COUNTY OF

339
 340 Sworn to (or affirmed) and subscribed before me by means of
 341 [] physical presence or [] online notarization, this day of
 342, ... (year) ..., by ... (name of person making
 343 statement)

344
 345 ... (Signature of Notary Public - State of Florida) ...
 346 ... (Print, Type, or Stamp Commissioned Name of Notary Public) ...

347 Personally Known OR Produced Identification
 348

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349 Type of Identification Produced

350

351 (b) For an acknowledgment in an individual capacity:

352

353 STATE OF FLORIDA

354 COUNTY OF

355

356 The foregoing instrument was acknowledged before me by means of
357 [] physical presence or [] online notarization, this day of
358, ... (year) ..., by ... (name of person acknowledging)

359

360 ... (Signature of Notary Public - State of Florida) ...

361 ... (Print, Type, or Stamp Commissioned Name of Notary Public) ...

362 Personally Known OR Produced Identification

363

364 Type of Identification Produced

365

366 (c) For an acknowledgment in a representative capacity:

367

368 STATE OF FLORIDA

369 COUNTY OF

370

371 The foregoing instrument was acknowledged before me by means of
372 [] physical presence or [] online notarization, this day of
373, ... (year) ..., by ... (name of person) ... as ... (type of
374 authority, . . . e.g. officer, trustee, attorney in fact) ... for
375 ... (name of party on behalf of whom instrument was executed)

376

377 ... (Signature of Notary Public - State of Florida) ...

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378 ... (Print, Type, or Stamp Commissioned Name of Notary Public)...
379 Personally Known OR Produced Identification
380

381 Type of Identification Produced
382

383 (14) A notary public must make reasonable accommodations to
384 provide notarial services to persons with disabilities.

385 (a) A notary public may notarize the signature of a person
386 who is blind after the notary public has read the entire
387 instrument to that person.

388 (b) A notary public may notarize the signature of a person
389 who signs with a mark if:

390 1. The document signing is witnessed by two disinterested
391 persons;

392 2. The notary public prints the person's first name at the
393 beginning of the designated signature line and the person's last
394 name at the end of the designated signature line; and

395 3. The notary public prints the words "his (or her) mark"
396 below the person's signature mark.

397 (c) The following notarial certificates are sufficient for
398 the purpose of notarizing for a person who signs with a mark:

399 1. For an oath or affirmation:

400
401 ... (First Name)... ... (Last Name)...
402 ... His (or Her) Mark...
403

404 STATE OF FLORIDA
405 COUNTY OF

406

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407 Sworn to and subscribed before me by means of [] physical
 408 presence or [] online notarization, this day of,
 409 ...(year)..., by ...(name of person making statement)..., who
 410 signed with a mark in the presence of these witnesses:

411
 412 ...(Signature of Notary Public - State of Florida)...
 413 ...(Print, Type, or Stamp Commissioned Name of Notary Public)...
 414 Personally Known OR Produced Identification

415

416
 417 Type of Identification Produced.....

418
 419 2. For an acknowledgment in an individual capacity:

420
 421 ...(First Name)... ...(Last Name)...
 422 ...His (or Her) Mark...
 423

424 STATE OF FLORIDA
 425 COUNTY OF

426
 427 The foregoing instrument was acknowledged before me by means of
 428 [] physical presence or [] online notarization, this day of
 429, ...(year)..., by ...(name of person acknowledging)...,
 430 who signed with a mark in the presence of these witnesses:

431
 432 ...(Signature of Notary Public - State of Florida)...
 433 ...(Print, Type, or Stamp Commissioned Name of Notary Public)...
 434 Personally Known OR Produced Identification

435

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436 Type of Identification Produced

437

438 (d) A notary public may sign the name of a person whose
439 signature is to be notarized when that person is physically
440 unable to sign or make a signature mark on a document if:

441 1. The person with a disability directs the notary public
442 to sign in his or her presence by verbal, written, or other
443 means;

444 2. The document signing is witnessed by two disinterested
445 persons; and

446 3. The notary public writes below the signature the
447 following statement: "Signature affixed by notary, pursuant to
448 s. 117.05(14), Florida Statutes," and states the circumstances
449 and the means by which the notary public was directed to sign ~~of~~
450 ~~the signing in~~ the notarial certificate.

451

452 The notary public must maintain the proof of direction and
453 authorization to sign on behalf of the person with a disability
454 for 10 years from the date of the notarial act.

455 (e) The following notarial certificates are sufficient for
456 the purpose of notarizing for a person with a disability who
457 directs the notary public to sign his or her name:

458 1. For an oath or affirmation:

459

460 STATE OF FLORIDA

461 COUNTY OF

462

463 Sworn to (or affirmed) before me by means of [] physical
464 presence or [] online notarization, this day of,

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465 ... (year) ..., by ... (name of person making statement) ..., and
 466 subscribed by ... (name of notary) ... at the direction of ~~and in~~
 467 ~~the presence of~~ ... (name of person making statement) ... by
 468 ... (written, verbal, or other means) ..., and in the presence of
 469 these witnesses:

470
 471 ... (Signature of Notary Public - State of Florida) ...
 472 ... (Print, Type, or Stamp Commissioned Name of Notary Public) ...
 473 Personally Known OR Produced Identification
 474

475
 476 Type of Identification Produced.....
 477

478 2. For an acknowledgment in an individual capacity:
 479

480 STATE OF FLORIDA
 481 COUNTY OF

482
 483 The foregoing instrument was acknowledged before me by means of
 484 [] physical presence or [] online notarization, this day of
 485, ... (year) ..., by ... (name of person acknowledging) ...
 486 and subscribed by ... (name of notary) ... at the direction of ~~and~~
 487 ~~in the presence of~~ ... (name of person acknowledging) ..., and in
 488 the presence of these witnesses:

489
 490 ... (Signature of Notary Public - State of Florida) ...
 491 ... (Print, Type, or Stamp Commissioned Name of Notary Public) ...
 492 Personally Known OR Produced Identification
 493

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494 Type of Identification Produced

495
496 Section 5. Subsections (2) and (9) of section 117.107,
497 Florida Statutes, are amended to read:

498 117.107 Prohibited acts.—

499 (2) A notary public may not sign notarial certificates
500 using a facsimile signature stamp unless the notary public has a
501 physical disability that limits or prohibits his or her ability
502 to make a written signature and unless the notary public has
503 first submitted written notice to the Department of State with
504 an exemplar of the facsimile signature stamp. This subsection
505 does not apply to or prohibit the use of an electronic signature
506 and seal by a notary public who is registered as an online
507 notary public to perform an electronic or online notarization in
508 accordance with this chapter.

509 (9) A notary public may not notarize a signature on a
510 document if the person whose signature is being notarized does
511 not appear before the notary public either by means of physical
512 presence or by means of audio-video communication technology as
513 authorized under part II of this chapter ~~is not in the presence~~
514 ~~of the notary public~~ at the time the signature is notarized. Any
515 notary public who violates this subsection is guilty of a civil
516 infraction, punishable by penalty not exceeding \$5,000, and such
517 violation constitutes malfeasance and misfeasance in the conduct
518 of official duties. It is no defense to the civil infraction
519 specified in this subsection that the notary public acted
520 without intent to defraud. A notary public who violates this
521 subsection with the intent to defraud is guilty of violating s.
522 117.105.

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523 Section 6. Section 117.201, Florida Statutes, is created to
524 read:

525 117.201 Definitions.—As used in this part, the term:

526 (1) "Appear before," "before," or "in the presence of"
527 mean:

528 (a) In the physical presence of another person; or

529 (b) Outside of the physical presence of another person, but
530 able to see, hear, and communicate with the person by means of
531 audio-video communication technology.

532 (2) "Audio-video communication technology" means technology
533 in compliance with applicable law which enables real-time, two-
534 way communication using electronic means in which participants
535 are able to see, hear, and communicate with one another.

536 (3) "Credential analysis" means a process or service, in
537 compliance with applicable law, in which a third party aids a
538 public notary in affirming the validity of a government-issued
539 identification credential and data thereon through review of
540 public or proprietary data sources.

541 (4) "Electronic," "electronic record," or "electronic
542 signature" has the same meaning as provided in s. 668.50.

543 (5) "Errors and omissions insurance" means a type of
544 insurance that provides coverage for potential errors or
545 omissions in or relating to the notarial act and is maintained,
546 as applicable, by the online notary public or his or her
547 employer, or a Remote Online Notarization service provider.

548 (6) "Government-issued identification credential" means any
549 approved credential for verifying identity under s.
550 117.05(5)(b)2.

551 (7) "Identity proofing" means a process or service in

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552 compliance with applicable law in which a third party affirms
553 the identity of an individual through use of public or
554 proprietary data sources, which may include by means of
555 knowledge-based authentication or biometric verification.

556 (8) "Knowledge-based authentication" means a form of
557 identity proofing based on a set of questions which pertain to
558 an individual and are formulated from public or proprietary data
559 sources.

560 (9) "Online notarization" means the performance of a
561 notarial act using electronic means in which the principal
562 appears before the notary public by means of audio-video
563 communication technology.

564 (10) "Online notary public" means a notary public
565 commissioned under part I of this chapter, a civil-law notary
566 appointed under chapter 118, or a commissioner of deeds
567 appointed under part IV of chapter 721, who has registered with
568 the Department of State to perform online notarizations under
569 this part.

570 (11) "Physical presence" means being in the same physical
571 location as another person and close enough to see, hear,
572 communicate with, and exchange credentials with that person.

573 (12) "Principal" means an individual whose electronic
574 signature is acknowledged, witnessed, or attested to in an
575 online notarization or who takes an oath or affirmation
576 administered by the online notary public.

577 (13) "Record" means information that is inscribed on a
578 tangible medium or that is stored in an electronic or other
579 medium and is retrievable in perceivable form, including public
580 records as defined in s. 119.011.

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581 (14) "Remote Online Notarization service provider" or "RON
582 service provider" means a person that provides audio-video
583 communication technology and related processes, services,
584 software, data storage, or other services to online notaries
585 public for the purpose of directly facilitating their
586 performance of online notarizations in compliance with this
587 chapter and any rules adopted by the Department of State
588 pursuant to s. 117.295.

589 (15) "Remote presentation" means transmission of an image
590 of a government-issued identification credential that is of
591 sufficient quality to enable the online notary public to
592 identify the individual seeking the notary's services and to
593 perform credential analysis through audio-video communication
594 technology.

595 Section 7. Section 117.209, Florida Statutes, is created to
596 read:

597 117.209 Authority to perform online notarizations.—

598 (1) An online notary public may perform any of the
599 functions authorized under part I of this chapter as an online
600 notarization by complying with the requirements of this part and
601 any rules adopted by the Department of State pursuant to s.
602 117.295, excluding solemnizing the rites of matrimony.

603 (2) If a notarial act requires a principal to appear before
604 or in the presence of the online notary public, the principal
605 may appear before the online notary public by means of audio-
606 video communication technology that meets the requirements of
607 this part and any rules adopted by the Department of State
608 pursuant to s. 117.295.

609 (3) An online notary public physically located in this

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610 state may perform an online notarization as authorized under
611 this part, regardless of whether the principal or any witnesses
612 are physically located in this state at the time of the online
613 notarization. A commissioner of deeds registered as an online
614 notary public may perform an online notarization while
615 physically located within or outside the state in accordance
616 with the territorial limits of its jurisdiction and other
617 limitations and requirements otherwise applicable to notarial
618 acts by commissioners of deeds.

619 (4) The validity of an online notarization performed by an
620 online notary public registered in this state shall be
621 determined by applicable laws of this state regardless of the
622 physical location of the principal or any witnesses at the time
623 of the notarial act.

624 Section 8. Section 117.215, Florida Statutes, is created to
625 read:

626 117.215 Relation to other laws.-

627 (1) If a provision of law requires a notary public or other
628 authorized official of this state to notarize a signature or a
629 statement, to take an acknowledgment of an instrument, or to
630 administer an oath or affirmation so that a document may be
631 sworn, affirmed, made under oath, or subject to penalty of
632 perjury, an online notarization performed in accordance with the
633 provisions of this part and any rules adopted hereunder
634 satisfies such requirement.

635 (2) If a provision of law requires a signature or an act to
636 be witnessed, compliance with the online electronic witnessing
637 standards prescribed in s. 117.285 and any rules adopted
638 thereunder satisfies that requirement.

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639 Section 9. Section 117.225, Florida Statutes, is created to
640 read:

641 117.225 Registration; qualifications.—A notary public, a
642 civil-law notary appointed under chapter 118, or a commissioner
643 of deeds appointed under part IV of chapter 721 may complete
644 registration as an online notary public with the Department of
645 State by:

646 (1) Holding a current commission as a notary public under
647 part I of this chapter, an appointment as a civil-law notary
648 under chapter 118, or an appointment as a commissioner of deeds
649 under part IV of chapter 721, and submitting a copy of such
650 commission or proof of such appointment with his or her
651 registration.

652 (2) Certifying that the notary public, civil-law notary, or
653 commissioner of deeds registering as an online notary public has
654 completed a classroom or online course covering the duties,
655 obligations, and technology requirements for serving as an
656 online notary public.

657 (3) Paying a notary public registration fee as required by
658 s. 113.01.

659 (4) Submitting a registration as an online notary public to
660 the Department of State, signed and sworn to by the registrant.

661 (5) Identifying the RON service provider whose audio-video
662 communication technology and processes for credential analysis
663 and identity proofing technologies the registrant intends to use
664 for online notarizations, and confirming that such technology
665 and processes satisfy the requirements of this chapter and any
666 rules adopted by the Department of State pursuant to s. 117.295.

667 (6) Providing evidence satisfactory to the Department of

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668 State that the registrant has obtained a bond in the amount of
669 \$25,000, payable to any individual harmed as a result of a
670 breach of duty by the registrant acting in his or her official
671 capacity as an online notary public, conditioned for the due
672 discharge of the office, and on such terms as are specified in
673 rule by the Department of State as reasonably necessary to
674 protect the public. The bond shall be approved and filed with
675 the Department of State and executed by a surety company duly
676 authorized to transact business in this state. Compliance by an
677 online notary public with this requirement shall satisfy the
678 requirement of obtaining a bond under s. 117.01(7).

679 (7) Providing evidence satisfactory to the Department of
680 State that the registrant acting in his or her capacity as an
681 online notary public is covered by an errors and omissions
682 insurance policy from an insurer authorized to transact business
683 in this state, in the minimum amount of \$25,000 and on such
684 terms as are specified by rule by the Department of State as
685 reasonably necessary to protect the public.

686 Section 10. Section 117.235, Florida Statutes, is created
687 to read:

688 117.235 Performance of notarial acts.-

689 (1) An online notary public is subject to part I of this
690 chapter to the same extent as a notary public appointed and
691 commissioned only under that part, including the provisions of
692 s. 117.021 relating to electronic notarizations.

693 (2) An online notary public may perform notarial acts as
694 provided by part I of this chapter in addition to performing
695 online notarizations as authorized and pursuant to the
696 provisions of this part.

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697 Section 11. Section 117.245, Florida Statutes, is created
698 to read:

699 117.245 Electronic journal of online notarizations.—

700 (1) An online notary public shall keep one or more secure
701 electronic journals of online notarizations performed by the
702 online notary public. For each online notarization, the
703 electronic journal entry must contain all of the following:

704 (a) The date and time of the notarization.

705 (b) The type of notarial act.

706 (c) The type, the title, or a description of the electronic
707 record or proceeding.

708 (d) The name and address of each principal involved in the
709 transaction or proceeding.

710 (e) Evidence of identity of each principal involved in the
711 transaction or proceeding in any of the following forms:

712 1. A statement that the person is personally known to the
713 online notary public.

714 2. A notation of the type of government-issued
715 identification credential provided to the online notary public.

716 (f) An indication that the principal satisfactorily passed
717 the identity proofing.

718 (g) An indication that the government-issued identification
719 credential satisfied the credential analysis.

720 (h) The fee, if any, charged for the notarization.

721 (2) The online notary public shall retain an uninterrupted
722 and unedited copy of the recording of the audio-video
723 communication in which an online notarization is performed. The
724 recording must include all of the following:

725 (a) Appearance by the principal and any witness before the

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726 online notary public.

727 (b) Confirmation of the identity of the principal and any
728 witness.

729 (c) A general description or identification of the records
730 to be signed.

731 (d) At the commencement of the recording, recitation by the
732 online notary public of information sufficient to identify the
733 notarial act.

734 (e) A declaration by the principal that his or her
735 signature on the record is knowingly and voluntarily made.

736 (f) All of the actions and spoken words of the principal,
737 notary public, and any required witness during the entire online
738 notarization, including the signing of any records before the
739 online notary public.

740 (3) The online notary public shall take reasonable steps
741 to:

742 (a) Ensure the integrity, security, and authenticity of
743 online notarizations.

744 (b) Maintain a backup record of the electronic journal
745 required by subsection (1).

746 (c) Protect the electronic journal, the backup record, and
747 any other records received by the online notary public from
748 unauthorized access or use.

749 (4) The electronic journal required under subsection (1)
750 and the recordings of audio-video communications required under
751 subsection (2) shall be maintained for at least 10 years after
752 the date of the notarial act. However, a full copy of the
753 recording of the audio-video communication required under
754 subsection (2) relating to an online notarization session that

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755 involves the signing of an electronic will must be maintained by
756 a qualified custodian in accordance with chapters 731 and 732.
757 The Department of State maintains jurisdiction over the
758 electronic journal and audio-video communication recordings to
759 investigate notarial misconduct for a period of 10 years after
760 the date of the notarial act. The online notary public, a
761 guardian of an incapacitated online notary public, or the
762 personal representative of a deceased online notary public may,
763 by contract with a secure repository in accordance with any
764 rules established under this chapter, delegate to the repository
765 the online notary public's duty to retain the electronic journal
766 and the required recordings of audio-video communications,
767 provided that the Department of State is notified of such
768 delegation of retention duties to the repository within 30 days
769 thereafter, including the address and contact information for
770 the repository. If an online notary public delegates to a secure
771 repository under this section, the online notary public shall
772 make an entry in his or her electronic journal identifying such
773 repository, and provide notice to the Department of State as
774 required in this subsection.

775 (5) An omitted or incomplete entry in the electronic
776 journal does not impair the validity of the notarial act or of
777 the electronic record which was notarized, but may be introduced
778 as evidence to establish violations of this chapter; as evidence
779 of possible fraud, forgery, impersonation, duress, incapacity,
780 undue influence, minority, illegality, unconscionability; or for
781 other evidentiary purposes. However, if the recording of the
782 audio-video communication required under subsection (2) relating
783 to the online notarization of the execution of an electronic

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784 will cannot be produced by the online notary public or the
785 qualified custodian, the electronic will shall be treated as a
786 lost or destroyed will subject to s. 733.207.

787 Section 12. Section 117.255, Florida Statutes, is created
788 to read:

789 117.255 Use of electronic journal, signature, and seal.—An
790 online notary public shall:

791 (1) Take reasonable steps to ensure that any registered
792 device used to create an electronic seal is current and has not
793 been revoked or terminated by the issuing or registering
794 authority of the device.

795 (2) Keep the electronic journal and electronic seal secure
796 and under his or her sole control, which includes access
797 protection using passwords or codes under control of the online
798 notary public. The online notary public may not allow another
799 person to use the online notary public's electronic journal,
800 electronic signature, or electronic seal, other than a RON
801 service provider or other authorized person providing services
802 to an online notary public to facilitate performance of online
803 notarizations.

804 (3) Attach or logically associate the electronic signature
805 and seal to the electronic notarial certificate of an electronic
806 record in a manner that is capable of independent verification
807 using tamper-evident technology that renders any subsequent
808 change or modification to the electronic record evident.

809 (4) Notify an appropriate law enforcement agency and the
810 Department of State of any unauthorized use of or compromise to
811 the security of the electronic journal, official electronic
812 signature, or electronic seal within 7 days after discovery of

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813 such unauthorized use or compromise to security.

814 (5) Make electronic copies, upon request, of the pertinent
815 entries in the electronic journal and provide access to the
816 related audio-video communication recordings to the following
817 persons:

818 (a) The parties to an electronic record notarized by the
819 online notary public;

820 (b) The qualified custodian of an electronic will notarized
821 by the online notary public;

822 (c) The title agent, settlement agent, or title insurer who
823 insured the electronic record or engaged the online notary
824 public with regard to a real estate transaction;

825 (d) The online notary public's RON service provider whose
826 services were used by the online notary public to notarize the
827 electronic record;

828 (e) Any person who is asked to accept a power of attorney
829 that was notarized by the online notary public;

830 (f) The Department of State pursuant to a notary misconduct
831 investigation; and

832 (g) To other persons pursuant to a subpoena, court order,
833 law enforcement investigation, or other lawful inspection
834 demand.

835 (6) The online notary public may charge a fee not to exceed
836 \$20 per transaction record for making and delivering electronic
837 copies of a given series of related electronic records, except
838 if requested by:

839 (a) A party to the electronic record;

840 (b) In a real estate transaction, the title agent,
841 settlement agent, or title insurer who insured the electronic

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842 record or engaged the online notary public with regard to such
843 transaction; or

844 (c) The Department of State pursuant to an investigation
845 relating to the official misconduct of an online notary public.

846

847 If the online notary public does charge a fee, the online notary
848 public shall disclose the amount of such fee to the requester
849 before making the electronic copies.

850 Section 13. Section 117.265, Florida Statutes, is created
851 to read:

852 117.265 Online notarization procedures.—

853 (1) An online notary public physically located in this
854 state may perform an online notarization that meets the
855 requirements of this part regardless of whether the principal or
856 any witnesses are physically located in this state at the time
857 of the online notarization. A commissioner of deeds registered
858 as an online notary public may perform an online notarization
859 while physically located within or outside of this state in
860 accordance with the territorial limits of its jurisdiction and
861 other limitations and requirements otherwise applicable to
862 notarial acts by commissioners of deeds. An online notarization
863 performed in accordance with this chapter is deemed to have been
864 performed within this state and is governed by the applicable
865 laws of this state.

866 (2) In performing an online notarization, an online notary
867 public shall confirm the identity of a principal and any witness
868 appearing online, at the time that the signature is taken, by
869 using audio-video communication technology and processes that
870 meet the requirements of this part and of any rules adopted

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871 hereunder and record the two-way audio-video conference session
872 between the notary public and the principal and any witnesses. A
873 principal may not act in the capacity of a witness for his or
874 her own signature in an online notarization.

875 (3) In performing an online notarization of a principal not
876 located within this state, an online notary public must confirm,
877 either verbally or through the principal's written consent, that
878 the principal desires for the notarial act to be performed by a
879 Florida notary public and under the general law of this state.

880 (4) An online notary public shall confirm the identity of
881 the principal by:

882 (a) Personal knowledge of each principal; or

883 (b) All of the following, as such criteria may be modified
884 or supplemented in rules adopted by the Department of State
885 pursuant to s. 117.295:

886 1. Remote presentation of a government-issued
887 identification credential by each principal.

888 2. Credential analysis of each government-issued
889 identification credential.

890 3. Identity proofing of each principal in the form of
891 knowledge-based authentication or another method of identity
892 proofing that conforms to the standards of this chapter.

893
894 If the online notary public is unable to satisfy subparagraphs
895 (b)1.-3., or if the databases consulted for identity proofing do
896 not contain sufficient information to permit authentication, the
897 online notary public may not perform the online notarization.

898 (5) An online notary public may change his or her RON
899 service provider or providers from time to time, but shall

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900 notify the Department of State of such change within 30 days
901 thereafter.

902 (6) The online notary public or his or her RON service
903 provider shall take reasonable steps to ensure that the audio-
904 video communication technology used in an online notarization is
905 secure from unauthorized interception.

906 (7) The electronic notarial certificate for an online
907 notarization must include a notation that the notarization is an
908 online notarization which may be satisfied by placing the term
909 "online notary" in or adjacent to the online notary public's
910 seal.

911 (8) Except where otherwise expressly provided in this part,
912 the provisions of part I of this chapter apply to an online
913 notarization and an online notary public.

914 (9) Any failure to comply with the online notarization
915 procedures set forth in this section does not impair the
916 validity of the notarial act or the electronic record that was
917 notarized, but may be introduced as evidence to establish
918 violations of this chapter or as an indication of possible
919 fraud, forgery, impersonation, duress, incapacity, undue
920 influence, minority, illegality, unconscionability, or for other
921 evidentiary purposes. This subsection may not be construed to
922 alter the duty of an online notary public to comply with this
923 chapter and any rules adopted hereunder.

924 Section 14. Section 117.275, Florida Statutes, is created
925 to read:

926 117.275 Fees for online notarization.—An online notary
927 public or the employer of such online notary public may charge a
928 fee, not to exceed \$25, for performing an online notarization

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929 under this part. Fees for services other than notarial acts are
930 not governed by this section.

931 Section 15. Section 117.285, Florida Statutes, is created
932 to read:

933 117.285 Supervising the witnessing of electronic records.-
934 An online notary public may supervise the witnessing of
935 electronic records by the same audio-video communication
936 technology used for online notarization, as follows:

937 (1) The witness may be in the physical presence of the
938 principal or remote from the principal provided the witness and
939 principal are using audio-video communication technology.

940 (2) If the witness is remote from the principal and viewing
941 and communicating with the principal by means of audio-video
942 communication technology, the witness's identity must be
943 verified in accordance with the procedures for identifying a
944 principal as set forth in s. 117.265(4). If the witness is in
945 the physical presence of the principal, the witness must confirm
946 his or her identity by stating his or her name and current
947 address on the audio-video recording as part of the act of
948 witnessing.

949 (3) The act of witnessing an electronic signature means the
950 witness is either in the physical presence of the principal or
951 present through audio-video communication technology at the time
952 the principal affixes the electronic signature and the witness
953 hears the principal make a statement to the effect that the
954 principal has signed the electronic record.

955 (4) A witness remote from the principal and appearing
956 through audio-video communication technology must verbally
957 confirm that he or she is a resident of and physically located

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958 within the United States or a territory of the United States at
959 the time of witnessing.

960 (5) Notwithstanding subsections (2) and (3), if an
961 electronic record to be signed is a will under chapter 732, a
962 trust with testamentary aspects under chapter 736, an advance
963 health care directive, a durable power of attorney defined in s.
964 709.2104 which is being executed concurrently with a will, or a
965 waiver of spousal rights under s. 732.701 or s. 732.702:

966 (a) The act of witnessing an electronic signature through
967 the witness's presence by audio-video communication is valid
968 only if, during the audio-video communication, the principal
969 provides verbal answers to all of the following questions, each
970 of which must be asked by the online notary public in
971 substantially the following form:

972 1. What is your date of birth?

973 2. Are you under the influence of any drug or alcohol that
974 impairs your ability to make decisions?

975 3. Do you have any physical or mental condition or long-
976 term disability that impairs your ability to perform the normal
977 activities of daily living?

978 4. Are you unable to provide for your own daily care?

979 5. Did anyone assist you in accessing this video conference
980 or in drafting the documents you're here to sign? If so, who?

981 6. Where are you currently located?

982 7. Name everyone you know who is with you.

983 (b) An online notary public shall consider the responses to
984 the questions specified in paragraph (a) in the carrying out of
985 the notary public's existing duties as set forth in s.
986 117.107(5).

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987 (c) A principal's responses to the questions in paragraph
988 (a) may be offered as evidence regarding the validity of the
989 instrument, but an incorrect answer may not serve as the sole
990 basis to invalidate an instrument.

991 (d) An instrument governed by this subsection which is
992 witnessed by a witness remote from the principal and present
993 through audio-video communication technology is voidable if
994 signed by a principal who is a vulnerable adult as defined in s.
995 415.102. The contestant of an electronic record has the burden
996 of proving that the principal was a vulnerable adult at the time
997 of executing the electronic record.

998 (e) A RON service provider shall provide written notice to
999 the signers, in substance, that an instrument governed by this
1000 subsection which is signed by a vulnerable adult as defined in
1001 s. 415.102, and is remotely witnessed in accordance with this
1002 subsection, is voidable and that the signer can instead choose
1003 to have such instruments signed in the physical presence of any
1004 required witnesses.

1005 (6) Pursuant to subpoena, court order, an authorized law
1006 enforcement inquiry, or other lawful request, an online notary
1007 public shall provide the last known address of any witness who
1008 witnessed the signing of an electronic record using audio-video
1009 communication technology pursuant to this section.

1010 (7) An act of witnessing performed pursuant to this section
1011 satisfies any requirement that the witness be a subscribing or
1012 attesting witness or be in the presence of the principal at the
1013 time of signing.

1014
1015 The law of this state governs the validity of an act of

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1016 witnessing supervised by an online notary public pursuant to
1017 this section, regardless of the physical location of the witness
1018 at the time of witnessing. State courts and federal courts of
1019 this state have subject matter jurisdiction over any dispute
1020 arising out of an act of witnessing pursuant to this section,
1021 and may issue subpoenas for records or appearance in relation
1022 thereto in accordance with applicable law.

1023 Section 16. Effective upon becoming a law, section 117.295,
1024 Florida Statutes, is created to read:

1025 117.295 Standards for electronic and online notarization;
1026 rulemaking authority.-

1027 (1) For purposes of this part, the Department of State may
1028 adopt rules necessary to implement the requirements of this
1029 chapter and to set standards for online notarization which
1030 include, but are not limited to:

1031 (a) Improvements in technology and methods of assuring the
1032 identity of principals and the security of an electronic record,
1033 including tamper-evident technologies in compliance with the
1034 standards adopted pursuant to s. 117.021 which apply to online
1035 notarizations.

1036 (b) Education requirements for online notaries public and
1037 the required terms of bonds and errors and omissions insurance,
1038 but not including the amounts of such bonds and insurance
1039 policies.

1040 (c) Identity proofing, credential analysis, unauthorized
1041 interception, remote presentation, audio-video communication
1042 technology, and retention of electronic journals and copies of
1043 audio-video communications recordings in a secure repository.

1044 (2) By January 1, 2020, the Department of State shall adopt

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1045 forms, processes, and interim or emergency rules necessary to
1046 accept applications from and register online notaries public
1047 pursuant to s. 117.225.

1048 (3) Until such time as the Department of State adopts rules
1049 setting standards that are equally or more protective, the
1050 following minimum standards shall apply to any online
1051 notarization performed by an online notary public of this state
1052 or his or her RON service provider:

1053 (a) Use of identity proofing by means of knowledge-based
1054 authentication which must have, at a minimum, the following
1055 security characteristics:

1056 1. The principal must be presented with five or more
1057 questions with a minimum of five possible answer choices per
1058 question.

1059 2. Each question must be drawn from a third-party provider
1060 of public and proprietary data sources and be identifiable to
1061 the principal's social security number or other identification
1062 information, or the principal's identity and historical events
1063 records.

1064 3. Responses to all questions must be made within a 2-
1065 minute time constraint.

1066 4. The principal must answer a minimum of 80 percent of the
1067 questions correctly.

1068 5. The principal may be offered one additional attempt in
1069 the event of a failed attempt.

1070 6. During the second attempt, the principal may not be
1071 presented with more than three questions from the prior attempt.

1072 (b) Use of credential analysis using one or more
1073 commercially available automated software or hardware processes

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1074 that are consistent with sound commercial practices; that aid
1075 the notary public in verifying the authenticity of the
1076 credential by analyzing the integrity of visual, physical, or
1077 cryptographic security features to indicate that the credential
1078 is not fraudulent or inappropriately modified; and that use
1079 information held or published by the issuing source or
1080 authoritative source, as available, to confirm the validity of
1081 credential details. The output of the credential analysis
1082 process must be provided to the online notary public performing
1083 the notarial act.

1084 (c) Use of audio-video communication technology in
1085 completing online notarizations that must meet the following
1086 requirements:

1087 1. The signal transmission must be reasonably secure from
1088 interception, access, or viewing by anyone other than the
1089 participants communicating.

1090 2. The technology must provide sufficient audio clarity and
1091 video resolution to enable the notary to communicate with the
1092 principal and any witness, and to confirm the identity of the
1093 principal and any witness, as required, using the identification
1094 methods described in s. 117.265.

1095 (4) A RON service provider is deemed to have satisfied
1096 tamper-evident technology requirements by use of technology that
1097 renders any subsequent change or modification to the electronic
1098 record evident.

1099 (5) In addition to any coverage it elects to provide for
1100 individual online notaries public, maintenance of errors and
1101 omissions insurance coverage by a RON service provider in a
1102 total amount of at least \$250,000 in the annual aggregate with

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1103 respect to potential errors or omissions in or relating to the
1104 technology or processes provided by the RON service provider. An
1105 online notary public is not responsible for the security of the
1106 systems used by the principal or others to access the online
1107 notarization session.

1108 (6) A 2-hour in-person or online course addressing the
1109 duties, obligations, and technology requirements for serving as
1110 an online notary public offered by the Florida Land Title
1111 Association; the Real Property, Probate and Trust Law Section of
1112 The Florida Bar; the Florida Legal Education Association; the
1113 Department of State; or a vendor approved by the Department of
1114 State shall satisfy the education requirements of s. 117.225(2).
1115 Each such provider shall make the in-person or online course
1116 generally available to all applicants, at the same cost,
1117 regardless of membership in the provider's organization.

1118 (7) The rulemaking required under this section is exempt
1119 from s. 120.541(3).

1120 Section 17. Section 117.305, Florida Statutes, is created
1121 to read:

1122 117.305 Relation to federal law.—This part supersedes the
1123 Electronic Signatures in Global and National Commerce Act as
1124 authorized under 15 U.S.C. s. 7001 et seq., but does not modify,
1125 limit, or supersede s. 101(c) of that act, 15 U.S.C. s. 7001(c),
1126 or authorize the electronic delivery of the notices described in
1127 15 U.S.C. s. 7003(b).

1128 Section 18. Present paragraph (h) of subsection (3) of
1129 section 28.222, Florida Statutes, is redesignated as paragraph
1130 (i), and a new paragraph (h) is added to that subsection, to
1131 read:

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1132 28.222 Clerk to be county recorder.—

1133 (3) The clerk of the circuit court shall record the
1134 following kinds of instruments presented to him or her for
1135 recording, upon payment of the service charges prescribed by
1136 law:

1137 (h) Copies of any instruments originally created and
1138 executed using an electronic signature, as defined in s. 695.27,
1139 and certified to be a true and correct paper printout by a
1140 notary public in accordance with chapter 117, if the county
1141 recorder is not prepared to accept electronic documents for
1142 recording electronically.

1143 Section 19. Subsections (1) and (2) of section 92.50,
1144 Florida Statutes, are amended to read:

1145 92.50 Oaths, affidavits, and acknowledgments; who may take
1146 or administer; requirements.—

1147 (1) IN THIS STATE.—Oaths, affidavits, and acknowledgments
1148 required or authorized under the laws of this state (except
1149 oaths to jurors and witnesses in court and such other oaths,
1150 affidavits and acknowledgments as are required by law to be
1151 taken or administered by or before particular officers) may be
1152 taken or administered by or before any judge, clerk, or deputy
1153 clerk of any court of record within this state, including
1154 federal courts, or by or before any United States commissioner
1155 or any notary public within this state. The jurat, or
1156 certificate of proof or acknowledgment, shall be authenticated
1157 by the signature and official seal of such officer or person
1158 taking or administering the same; however, when taken or
1159 administered by or before any judge, clerk, or deputy clerk of a
1160 court of record, the seal of such court may be affixed as the

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1161 seal of such officer or person.

1162 (2) IN OTHER STATES, TERRITORIES, AND DISTRICTS OF THE
1163 UNITED STATES.—Oaths, affidavits, and acknowledgments required
1164 or authorized under the laws of this state, may be taken or
1165 administered in any other state, territory, or district of the
1166 United States, by or before any judge, clerk or deputy clerk of
1167 any court of record, within such state, territory, or district,
1168 having a seal, or by or before any notary public or justice of
1169 the peace, having a seal, in such state, territory, or district;
1170 provided, however, such officer or person is authorized under
1171 the laws of such state, territory, or district to take or
1172 administer oaths, affidavits and acknowledgments. The jurat, or
1173 certificate of proof or acknowledgment, shall be authenticated
1174 by the signature and official seal of such officer or person
1175 taking or administering the same; provided, however, when taken
1176 or administered by or before any judge, clerk, or deputy clerk
1177 of a court of record, the seal of such court may be affixed as
1178 the seal of such officer or person.

1179 Section 20. Subsection (1) of section 95.231, Florida
1180 Statutes, is amended to read:

1181 95.231 Limitations where deed or will on record.—

1182 (1) Five years after the recording of an instrument
1183 required to be executed in accordance with s. 689.01; 5 years
1184 after the recording of a power of attorney accompanying and used
1185 for an instrument required to be executed in accordance with s.
1186 689.01; or 5 years after the probate of a will purporting to
1187 convey real property, from which it appears that the person
1188 owning the property attempted to convey, affect, or devise it,
1189 the instrument, power of attorney, or will shall be held to have

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1190 its purported effect to convey, affect, or devise, the title to
1191 the real property of the person signing the instrument, as if
1192 there had been no lack of seal or seals, witness or witnesses,
1193 defect in, failure of, or absence of acknowledgment or
1194 relinquishment of dower, in the absence of fraud, adverse
1195 possession, or pending litigation. The instrument is admissible
1196 in evidence. A power of attorney validated under this subsection
1197 shall be valid only for the purpose of effectuating the
1198 instrument with which it was recorded.

1199 Section 21. Section 689.01, Florida Statutes, is amended to
1200 read:

1201 689.01 How real estate conveyed.—

1202 (1) No estate or interest of freehold, or for a term of
1203 more than 1 year, or any uncertain interest of, in or out of any
1204 messuages, lands, tenements or hereditaments shall be created,
1205 made, granted, transferred or released in any other manner than
1206 by instrument in writing, signed in the presence of two
1207 subscribing witnesses by the party creating, making, granting,
1208 conveying, transferring or releasing such estate, interest, or
1209 term of more than 1 year, or by the party's lawfully authorized
1210 agent, unless by will and testament, or other testamentary
1211 appointment, duly made according to law; and no estate or
1212 interest, either of freehold, or of term of more than 1 year, or
1213 any uncertain interest of, in, to, or out of any messuages,
1214 lands, tenements or hereditaments, shall be assigned or
1215 surrendered unless it be by instrument signed in the presence of
1216 two subscribing witnesses by the party so assigning or
1217 surrendering, or by the party's lawfully authorized agent, or by
1218 the act and operation of law. No seal shall be necessary to give

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1219 validity to any instrument executed in conformity with this
1220 section. Corporations may execute any and all conveyances in
1221 accordance with the provisions of this section or ss. 692.01 and
1222 692.02.

1223 (2) For purposes of this chapter:

1224 (a) Any requirement that an instrument be signed in the
1225 presence of two subscribing witnesses may be satisfied by
1226 witnesses being present and electronically signing by means of
1227 audio-video communication technology, as defined in s. 117.201.

1228 (b) The act of witnessing an electronic signature is
1229 satisfied if a witness is in the physical presence of the
1230 principal or present through audio-video communication
1231 technology at the time the principal affixes his or her
1232 electronic signature and the witness hears the principal make a
1233 statement acknowledging that the principal has signed the
1234 electronic record.

1235 (c) The terms used in this subsection have the same
1236 meanings as the terms defined in s. 117.201.

1237 (3) All acts of witnessing made or taken in the manner
1238 described in subsection (2) are validated and, upon recording,
1239 may not be denied to have provided constructive notice based on
1240 any alleged failure to have strictly complied with this section
1241 or the laws governing notarization of instruments, including
1242 online notarization. This subsection does not preclude a
1243 challenge to the validity or enforceability of an instrument or
1244 electronic record based upon fraud, forgery, impersonation,
1245 duress, incapacity, undue influence, minority, illegality,
1246 unconscionability, or any other basis not related to the act of
1247 witnessing.

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1248 Section 22. Section 694.08, Florida Statutes, is amended to
1249 read:

1250 694.08 Certain instruments validated, notwithstanding lack
1251 of seals or witnesses, or defect in acknowledgment,~~—etc.—~~

1252 (1) Whenever any power of attorney has been executed and
1253 delivered, or any conveyance has been executed and delivered to
1254 any grantee by the person owning the land therein described, or
1255 conveying the same in an official or representative capacity,
1256 and has, for a period of 7 years or more been spread upon the
1257 records of the county wherein the land therein described has
1258 been or was at the time situated, and one or more subsequent
1259 conveyances of said land or parts thereof have been made,
1260 executed, delivered and recorded by parties claiming under such
1261 instrument or instruments, and such power of attorney or
1262 conveyance, or the public record thereof, shows upon its face a
1263 clear purpose and intent of the person executing the same to
1264 authorize the conveyance of said land or to convey the said
1265 land, the same shall be taken and held by all the courts of this
1266 state, in the absence of any showing of fraud, adverse
1267 possession, or pending litigation, to have authorized the
1268 conveyance of, or to have conveyed, the fee simple title, or any
1269 interest therein, of the person signing such instruments, or the
1270 person in behalf of whom the same was conveyed by a person in an
1271 official or representative capacity, to the land therein
1272 described as effectively as if there had been no defect in,
1273 failure of, or absence of the acknowledgment or the certificate
1274 of acknowledgment, if acknowledged, or the relinquishment of
1275 dower, and as if there had been no lack of the word "as"
1276 preceding the title of the person conveying in an official or

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1277 representative capacity, of any seal or seals, or of any witness
 1278 or witnesses, and shall likewise be taken and held by all the
 1279 courts of this state to have been duly recorded so as to be
 1280 admissible in evidence;

1281 (2) Provided, however, that this section shall not apply to
 1282 any conveyance the validity of which shall be contested or have
 1283 been contested by suit commenced heretofore or within 1 year of
 1284 the effective date of this law.

1285 Section 23. Section 695.03, Florida Statutes, is amended to
 1286 read:

1287 695.03 Acknowledgment and proof; validation of certain
 1288 acknowledgments; legalization or authentication before foreign
 1289 officials.—To entitle any instrument concerning real property to
 1290 be recorded, the execution must be acknowledged by the party
 1291 executing it, proved by a subscribing witness to it, or
 1292 legalized or authenticated in one of the following forms ~~by a~~
 1293 ~~civil-law notary or notary public who affixes her or his~~
 1294 ~~official seal, before the officers and in the form and manner~~
 1295 ~~following:~~

1296 (1) WITHIN THIS STATE.—An acknowledgment or a proof may be
 1297 taken, administered, or made within this state by or ~~may be made~~
 1298 before a judge, clerk, or deputy clerk of any court; a United
 1299 States commissioner or magistrate; or any ~~a~~ notary public or
 1300 civil-law notary of this state, and the certificate of
 1301 acknowledgment or proof must be under the seal of the court or
 1302 officer, as the case may be. ~~All affidavits and acknowledgments~~
 1303 ~~heretofore made or taken in this manner are hereby validated.~~

1304 (2) OUTSIDE WITHOUT THIS STATE BUT WITHIN THE UNITED
 1305 STATES.—An acknowledgment or a proof taken, administered, or

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1306 made outside ~~out~~ of this state but within the United States may
1307 be taken, administered, or made by or before a civil-law notary
1308 of this state or a commissioner of deeds appointed by the
1309 Governor of this state; a judge or clerk of any court of the
1310 United States or of any state, territory, or district; by or
1311 before a United States commissioner or magistrate; or by or
1312 before any a notary public, justice of the peace, master in
1313 chancery, or registrar or recorder of deeds of any state,
1314 territory, or district having a seal, and the certificate of
1315 acknowledgment or proof must be under the seal of the court or
1316 officer, as the case may be. If the acknowledgment or proof is
1317 taken, administered, or made by or before a notary public who
1318 does not affix a seal, it is sufficient for the notary public to
1319 type, print, or write by hand on the instrument, "I am a Notary
1320 Public of the State of ...(state)..., and my commission expires
1321 on ...(date)...."

1322 (3) OUTSIDE OF THE UNITED STATES OR WITHIN FOREIGN
1323 COUNTRIES.~~An If the~~ acknowledgment, an affidavit, an oath, a
1324 legalization, an authentication, or a proof taken, administered,
1325 or made outside the United States or ~~is made~~ in a foreign
1326 country, ~~it~~ may be taken, administered, or made by or before a
1327 commissioner of deeds appointed by the Governor of this state to
1328 act in such country; before a notary public of such foreign
1329 country or a civil-law notary of this state or of such foreign
1330 country who has an official seal; before an ambassador, envoy
1331 extraordinary, minister plenipotentiary, minister, commissioner,
1332 charge d'affaires, consul general, consul, vice consul, consular
1333 agent, or other diplomatic or consular officer of the United
1334 States appointed to reside in such country; or before a military

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1335 or naval officer authorized by 10 U.S.C. s. 1044a ~~the Laws or~~
1336 ~~Articles of War of the United States~~ to perform the duties of
1337 notary public, and the certificate of acknowledgment,
1338 legalization, authentication, or proof must be under the seal of
1339 the officer. A certificate legalizing or authenticating the
1340 signature of a person executing an instrument concerning real
1341 property and to which a civil-law notary or notary public of
1342 that country has affixed her or his official seal is sufficient
1343 as an acknowledgment. For the purposes of this section, the term
1344 "civil-law notary" means a civil-law notary as defined in
1345 chapter 118 or an official of a foreign country who has an
1346 official seal and who is authorized to make legal or lawful the
1347 execution of any document in that jurisdiction, in which
1348 jurisdiction the affixing of her or his official seal is deemed
1349 proof of the execution of the document or deed in full
1350 compliance with the laws of that jurisdiction.

1351 (4) COMPLIANCE AND VALIDATION.—The affixing of the official
1352 seal or the electronic equivalent thereof under s. 117.021 or
1353 other applicable law, including part II of chapter 117,
1354 conclusively establishes that the acknowledgment or proof was
1355 taken, administered, or made in full compliance with the laws of
1356 this state or, as applicable, the laws of the other state, or of
1357 the foreign country governing notarial acts. All affidavits,
1358 oaths, acknowledgments, legalizations, authentications, or
1359 proofs taken, administered, or made in any manner as set forth
1360 in subsections (1), (2), and (3) are validated and upon
1361 recording may not be denied to have provided constructive notice
1362 based on any alleged failure to have strictly complied with this
1363 section, as currently or previously in effect, or the laws

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1364 governing notarization of instruments. This subsection does not
1365 preclude a challenge to the validity or enforceability of an
1366 instrument or electronic record based upon fraud, forgery,
1367 impersonation, duress, incapacity, undue influence, minority,
1368 illegality, unconscionability, or any other basis not related to
1369 the notarial act or constructive notice provided by recording.

1370

1371 ~~All affidavits, legalizations, authentications, and~~
1372 ~~acknowledgments heretofore made or taken in the manner set forth~~
1373 ~~above are hereby validated.~~

1374 Section 24. Section 695.04, Florida Statutes, is amended to
1375 read:

1376 695.04 Requirements of certificate.—The certificate of the
1377 officer before whom the acknowledgment or proof is taken, except
1378 for a certificate legalizing or authenticating the signature of
1379 a person executing an instrument concerning real property
1380 pursuant to s. 695.03(3), shall contain and set forth
1381 substantially the matter required to be done or proved to make
1382 such acknowledgment or proof effectual as set forth in s.
1383 117.05.

1384 Section 25. Section 695.25, Florida Statutes, is amended to
1385 read:

1386 695.25 Short form of acknowledgment.—The forms of
1387 acknowledgment set forth in this section may be used, and are
1388 sufficient for their respective purposes, under any law of this
1389 state. The forms shall be known as "Statutory Short Forms of
1390 Acknowledgment" and may be referred to by that name. The
1391 authorization of the forms in this section does not preclude the
1392 use of other forms.

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1393 (1) For an individual acting in his or her own right:

1394 STATE OF

1395 COUNTY OF

1396 The foregoing instrument was acknowledged before me by
 1397 means of [] physical presence or [] online notarization, this
 1398 ... (date) ... by ... (name of person acknowledging) ..., who is
 1399 personally known to me or who has produced ... (type of
 1400 identification) ... as identification.

1401 ... (Signature of person taking acknowledgment) ...

1402 ... (Name typed, printed or stamped) ...

1403 ... (Title or rank) ...

1404 ... (Serial number, if any) ...

1405 (2) For a corporation:

1406 STATE OF

1407 COUNTY OF

1408 The foregoing instrument was acknowledged before me by
 1409 means of [] physical presence or [] online notarization, this
 1410 ... (date) ... by ... (name of officer or agent, title of officer
 1411 or agent) ... of ... (name of corporation acknowledging) ..., a
 1412 ... (state or place of incorporation) ... corporation, on behalf
 1413 of the corporation. He/she is personally known to me or has
 1414 produced ... (type of identification) ... as identification.

1415 ... (Signature of person taking acknowledgment) ...

1416 ... (Name typed, printed or stamped) ...

1417 ... (Title or rank) ...

1418 ... (Serial number, if any) ...

1419 (3) For a limited liability company:

1420 STATE OF

1421 COUNTY OF

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1422 The foregoing instrument was acknowledged before me by
 1423 means of [] physical presence or [] online notarization, this
 1424 ...(date)... by ...(name of member, manager, officer or agent,
 1425 title of member, manager, officer or agent)..., of ...(name of
 1426 company acknowledging)..., a ...(state or place of formation)...
 1427 limited liability company, on behalf of the company, who is
 1428 personally known to me or has produced ...(type of
 1429 identification)... as identification.

1430
 1431 ...(Signature of person taking acknowledgment)...
 1432 ...(Name typed, printed or stamped)...
 1433 ...(Title or rank)...
 1434 ...(Serial number, if any)...

1435 ~~(4)~~⁽³⁾ For a partnership:

1436 STATE OF
 1437 COUNTY OF

1438 The foregoing instrument was acknowledged before me by
 1439 means of [] physical presence or [] online notarization, this
 1440 ...(date)... by ...(name of acknowledging partner or agent)...,
 1441 partner (or agent) on behalf of ...(name of partnership)..., a
 1442 partnership. He/she is personally known to me or has produced
 1443 ...(type of identification)... as identification.

1444 ...(Signature of person taking acknowledgment)...
 1445 ...(Name typed, printed or stamped)...
 1446 ...(Title or rank)...
 1447 ...(Serial number, if any)...

1448 ~~(5)~~⁽⁴⁾ For an individual acting as principal by an attorney
 1449 in fact:
 1450 STATE OF

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1451 COUNTY OF

1452 The foregoing instrument was acknowledged before me by
 1453 means of [] physical presence or [] online notarization, this
 1454 ...(date)... by ...(name of attorney in fact)... as attorney in
 1455 fact, who is personally known to me or who has produced ...(type
 1456 of identification)... as identification on behalf of ...(name of
 1457 principal)....

1458 ...(Signature of person taking acknowledgment)...
 1459 ...(Name typed, printed or stamped)...
 1460 ...(Title or rank)...
 1461 ...(Serial number, if any)...

1462 ~~(6)~~⁽⁵⁾ By any public officer, trustee, or personal
 1463 representative:

1464 STATE OF
 1465 COUNTY OF

1466 The foregoing instrument was acknowledged before me by
 1467 means of [] physical presence or [] online notarization, this
 1468 ...(date)... by ...(name and title of position)..., who is
 1469 personally known to me or who has produced ...(type of
 1470 identification)... as identification.

1471 ...(Signature of person taking acknowledgment)...
 1472 ...(Name typed, printed or stamped)...
 1473 ...(Title or rank)...
 1474 ...(Serial number, if any)....

1476 Section 26. Section 695.28, Florida Statutes, is amended to
 1477 read:

1478 695.28 Validity of recorded electronic documents.—

1479 (1) A document that is otherwise entitled to be recorded

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1480 and that was or is submitted to the clerk of the court or county
1481 recorder by electronic or other means and accepted for
1482 recordation is deemed validly recorded and provides notice to
1483 all persons notwithstanding:

1484 (a) That the document was received and accepted for
1485 recordation before the Department of State adopted standards
1486 implementing s. 695.27; ~~or~~

1487 (b) Any defects in, deviations from, or the inability to
1488 demonstrate strict compliance with any statute, rule, or
1489 procedure relating to electronic signatures, electronic
1490 witnesses, electronic notarization, or online notarization, or
1491 for submitting or recording to submit or record an electronic
1492 document in effect at the time the electronic document was
1493 executed or was submitted for recording;

1494 (c) That the document was signed, witnessed, or notarized
1495 electronically, and that the document was notarized by an online
1496 notary public outside the physical presence of the signer
1497 through audio-video communication technology, as defined in s.
1498 117.201, or that witnessing may have been done outside the
1499 physical presence of the notary public or principal through such
1500 audio-visual communication; or

1501 (d) That the document recorded was a certified printout of
1502 a document to which one or more electronic signatures have been
1503 affixed.

1504 (2) This section does not alter the duty of the clerk or
1505 recorder to comply with s. 28.222, s. 695.27, or any rules
1506 adopted pursuant to those sections ~~that section.~~

1507 (3) This section does not preclude a challenge to the
1508 validity or enforceability of an instrument or electronic record

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1509 based upon fraud, forgery, impersonation, duress, incapacity,
1510 undue influence, minority, illegality, unconscionability, or any
1511 other basis not in the nature of those matters described in
1512 subsection (1).

1513 Section 27. Subsections (3) and (4) of section 709.2119,
1514 Florida Statutes, are amended to read:

1515 709.2119 Acceptance of and reliance upon power of
1516 attorney.—

1517 (3) A third person who is asked to accept a power of
1518 attorney that appears to be executed in accordance with s.
1519 709.2105 may in good faith request, and rely upon, without
1520 further investigation:

1521 (a) A certified English translation of the power of
1522 attorney if the power of attorney contains, in whole or in part,
1523 language other than English;

1524 (b) An opinion of counsel as to any matter of law
1525 concerning the power of attorney if the third person making the
1526 request provides in a writing or other record the reason for the
1527 request; ~~or~~

1528 (c) The affidavit described in subsection (2); or

1529 (d) The electronic journal or record made by the notary
1530 public pursuant to the laws of the state in which the notary
1531 public is appointed if the power of attorney is witnessed or
1532 notarized remotely through the use of online witnesses or
1533 notarization.

1534 (4) An English translation, ~~or~~ an opinion of counsel, or an
1535 electronic journal or record requested under this section must
1536 be provided at the principal's expense unless the request is
1537 made after the time specified in s. 709.2120(1) for acceptance

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1538 or rejection of the power of attorney.

1539 Section 28. Subsection (4) of section 709.2120, Florida
1540 Statutes, is amended to read:

1541 709.2120 Rejecting power of attorney.—

1542 (4) A third person is not required to accept a power of
1543 attorney if:

1544 (a) The third person is not otherwise required to engage in
1545 a transaction with the principal in the same circumstances;

1546 (b) The third person has knowledge of the termination or
1547 suspension of the agent's authority or of the power of attorney
1548 before exercising the power;

1549 (c) A timely request by the third person for an affidavit,
1550 English translation, ~~or~~ opinion of counsel, or electronic
1551 journal or record under s. 709.2119 ~~s. 709.2119(4)~~ is refused by
1552 the agent;

1553 (d) The power of attorney is witnessed or notarized
1554 remotely through the use of online witnesses or notarization,
1555 and either the agent is unable to produce the electronic journal
1556 or record, or the notary public did not maintain an electronic
1557 journal or record of the notarization;

1558 (e) ~~(d)~~ Except as provided in paragraph (b), the third
1559 person believes in good faith that the power is not valid or
1560 that the agent does not have authority to perform the act
1561 requested; or

1562 (f) ~~(e)~~ The third person makes, or has knowledge that
1563 another person has made, a report to the local adult protective
1564 services office stating a good faith belief that the principal
1565 may be subject to physical or financial abuse, neglect,
1566 exploitation, or abandonment by the agent or a person acting for

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1567 or with the agent.

1568 Section 29. Present subsection (6) of section 709.2202,
1569 Florida Statutes, is renumbered as subsection (7), and a new
1570 subsection (6) is added to that section, to read:

1571 709.2202 Authority that requires separate signed
1572 enumeration.—

1573 (6) Notwithstanding subsection (1) and s. 709.2106(3), a
1574 power of attorney, executed by a principal domiciled in this
1575 state at the time of execution, that is witnessed remotely
1576 pursuant to s. 117.285 or other applicable law by a witness who
1577 is not in the physical presence of the principal is not
1578 effective to grant authority to an agent to take any of the
1579 actions enumerated in subsection (1).

1580 Section 30. Subsection (40) of section 731.201, Florida
1581 Statutes, is amended to read:

1582 731.201 General definitions.—Subject to additional
1583 definitions in subsequent chapters that are applicable to
1584 specific chapters or parts, and unless the context otherwise
1585 requires, in this code, in s. 409.9101, and in chapters 736,
1586 738, 739, and 744, the term:

1587 (40) "Will" means an instrument, including a codicil,
1588 executed by a person in the manner prescribed by this code,
1589 which disposes of the person's property on or after his or her
1590 death and includes an instrument which merely appoints a
1591 personal representative or revokes or revises another will. The
1592 term includes an electronic will as defined in s. 732.521.

1593 Section 31. Section 732.506, Florida Statutes, is amended
1594 to read:

1595 732.506 Revocation by act.—A will or codicil, other than an

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1596 electronic will, is revoked by the testator, or some other
1597 person in the testator's presence and at the testator's
1598 direction, by burning, tearing, canceling, defacing,
1599 obliterating, or destroying it with the intent, and for the
1600 purpose, of revocation. An electronic will or codicil is revoked
1601 by the testator, or some other person in the testator's presence
1602 and at the testator's direction, by deleting, canceling,
1603 rendering unreadable, or obliterating the electronic will or
1604 codicil, with the intent, and for the purpose, of revocation, as
1605 proved by clear and convincing evidence.

1606 Section 32. Section 732.521, Florida Statutes, is created
1607 to read:

1608 732.521 Definitions.—As used in ss. 732.521-732.525, the
1609 term:

1610 (1) "Audio-video communication technology" has the same
1611 meaning as provided in s. 117.201.

1612 (2) "Electronic record" has the same meaning as provided in
1613 s. 668.50.

1614 (3) "Electronic signature" means an electronic mark visibly
1615 manifested in a record as a signature and executed or adopted by
1616 a person with the intent to sign the record.

1617 (4) "Electronic will" means an instrument, including a
1618 codicil, executed with an electronic signature by a person in
1619 the manner prescribed by this code, which disposes of the
1620 person's property on or after his or her death and includes an
1621 instrument which merely appoints a personal representative or
1622 revokes or revises another will.

1623 (5) "Online notarization" has the same meaning as provided
1624 in s. 117.201.

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1625 (6) "Online notary public" has the same meaning as provided
1626 in s. 117.201.

1627 (7) "Qualified custodian" means a person who meets the
1628 requirements of s. 732.525(1).

1629 (8) "Secure system" means a system that satisfies the
1630 requirements of a secure repository qualified to retain
1631 electronic journals of online notaries public in accordance with
1632 s. 117.245 and any rules established under part II of chapter
1633 117.

1634 Section 33. Effective July 1, 2020, section 732.522,
1635 Florida Statutes, is created to read:

1636 732.522 Method and place of execution.—For purposes of the
1637 execution or filing of an electronic will, the acknowledgment of
1638 an electronic will by the testator and the affidavits of
1639 witnesses under s. 732.503, or any other instrument under the
1640 Florida Probate Code:

1641 (1) Any requirement that an instrument be signed may be
1642 satisfied by an electronic signature.

1643 (2) Any requirement that individuals sign an instrument in
1644 the presence of one another may be satisfied by witnesses being
1645 present and electronically signing by means of audio-video
1646 communication technology that meets the requirements of part II
1647 of chapter 117 and any rules adopted thereunder, if:

1648 (a) The individuals are supervised by a notary public in
1649 accordance with s. 117.285;

1650 (b) The individuals are authenticated and signing as part
1651 of an online notarization session in accordance with s. 117.265;

1652 (c) The witness hears the signer make a statement
1653 acknowledging that the signer has signed the electronic record;

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1654 and

1655 (d) The signing and witnessing of the instrument complies
1656 with the requirements of s. 117.285.

1657 (3) Except as otherwise provided in this part, all
1658 questions as to the force, effect, validity, and interpretation
1659 of an electronic will which comply with this section must be
1660 determined in the same manner as in the case of a will executed
1661 in accordance with s. 732.502.

1662 (4) An instrument that is signed electronically is deemed
1663 to be executed in this state if the instrument states that the
1664 person creating the instrument intends to execute and
1665 understands that he or she is executing the instrument in, and
1666 pursuant to the laws of, this state.

1667 Section 34. Section 732.523, Florida Statutes, is created
1668 to read:

1669 732.523 Self-proof of electronic will.—An electronic will
1670 is self-proved if:

1671 (1) The acknowledgment of the electronic will by the
1672 testator and the affidavits of the witnesses are made in
1673 accordance with s. 732.503 and are part of the electronic record
1674 containing the electronic will, or are attached to, or are
1675 logically associated with, the electronic will;

1676 (2) The electronic will designates a qualified custodian;

1677 (3) The electronic record that contains the electronic will
1678 is held in the custody of a qualified custodian at all times
1679 before being offered to the court for probate; and

1680 (4) The qualified custodian who has custody of the
1681 electronic will at the time of the testator's death certifies
1682 under oath that, to the best knowledge of the qualified

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1683 custodian, the electronic record that contains the electronic
1684 will was at all times before being offered to the court in the
1685 custody of a qualified custodian in compliance with s. 732.524
1686 and that the electronic will has not been altered in any way
1687 since the date of its execution.

1688 Section 35. Section 732.524, Florida Statutes, is created
1689 to read:

1690 732.524 Qualified custodians.—

1691 (1) To serve as a qualified custodian of an electronic
1692 will, a person must be:

1693 (a) Domiciled in and a resident of this state; or

1694 (b) Incorporated, organized, or have its principal place of
1695 business in this state.

1696 (2) A qualified custodian shall:

1697 (a) In the course of maintaining custody of electronic
1698 wills, regularly employ a secure system and store in such secure
1699 system electronic records containing:

1700 1. Electronic wills;

1701 2. Records attached to or logically associated with
1702 electronic wills; and

1703 3. Acknowledgments of the electronic wills by testators,
1704 affidavits of the witnesses, and the records described in s.
1705 117.245(1) and (2) which pertain to the online notarization; and

1706 (b) Furnish for any court hearing involving an electronic
1707 will that is currently or was previously stored by the qualified
1708 custodian any information requested by the court pertaining to
1709 the qualified custodian's qualifications, policies, and
1710 practices related to the creation, sending, communication,
1711 receipt, maintenance, storage, and production of electronic

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1712 wills.

1713 (c) Provide access to or information concerning the
1714 electronic will, or the electronic record containing the
1715 electronic will, only:

1716 1. To the testator;

1717 2. To persons authorized by the testator in the electronic
1718 will or in written instructions signed by the testator with the
1719 formalities required for the execution of a will in this state;

1720 3. After the death of the testator, to the testator's
1721 nominated personal representative; or

1722 4. At any time, as directed by a court of competent
1723 jurisdiction.

1724 (3) The qualified custodian of the electronic record of an
1725 electronic will may elect to destroy such record, including any
1726 of the documentation required to be created and stored under
1727 paragraph (2) (a), at any time after the earlier of the fifth
1728 anniversary of the conclusion of the administration of the
1729 estate of the testator or 20 years after the death of the
1730 testator.

1731 (4) A qualified custodian who at any time maintains custody
1732 of the electronic record of an electronic will may elect to
1733 cease serving in such capacity by:

1734 (a) Delivering the electronic will or the electronic record
1735 containing the electronic will to the testator, if then living,
1736 or, after the death of the testator, by filing the will with the
1737 court in accordance with s. 732.901; and

1738 (b) If the outgoing qualified custodian intends to
1739 designate a successor qualified custodian, by doing the
1740 following:

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1741 1. Providing written notice to the testator of the name,
1742 address, and qualifications of the proposed successor qualified
1743 custodian. The testator must provide written consent before the
1744 electronic record, including the electronic will, is delivered
1745 to a successor qualified custodian;

1746 2. Delivering the electronic record containing the
1747 electronic will to the successor qualified custodian; and

1748 3. Delivering to the successor qualified custodian an
1749 affidavit of the outgoing qualified custodian stating that:

1750 a. The outgoing qualified custodian is eligible to act as a
1751 qualified custodian in this state;

1752 b. The outgoing qualified custodian is the qualified
1753 custodian designated by the testator in the electronic will or
1754 appointed to act in such capacity under this paragraph;

1755 c. The electronic will has at all times been in the custody
1756 of one or more qualified custodians in compliance with this
1757 section since the time the electronic record was created, and
1758 identifying such qualified custodians; and

1759 d. To the best of the outgoing qualified custodian's
1760 knowledge, the electronic will has not been altered since the
1761 time it was created.

1762
1763 For purposes of making this affidavit, the outgoing qualified
1764 custodian may rely conclusively on any affidavits delivered by a
1765 predecessor qualified custodian in connection with its
1766 designation or appointment as qualified custodian; however, all
1767 such affidavits must be delivered to the successor qualified
1768 custodian.

1769 (5) Upon the request of the testator which is made in a

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1770 writing signed with the formalities required for the execution
1771 of a will in this state, a qualified custodian who at any time
1772 maintains custody of the electronic record of the testator's
1773 electronic will must cease serving in such capacity and must
1774 deliver to a successor qualified custodian designated in writing
1775 by the testator the electronic record containing the electronic
1776 will and the affidavit required in subparagraph (4) (b)3.

1777 (6) A qualified custodian may not succeed to office as a
1778 qualified custodian of an electronic will unless he or she
1779 agrees in writing to serve in such capacity.

1780 (7) If a qualified custodian is an entity, an affidavit, or
1781 an appearance by the testator in the presence of a duly
1782 authorized officer or agent of such entity, acting in his or her
1783 own capacity as such, shall constitute an affidavit, or an
1784 appearance by the testator in the presence of the qualified
1785 custodian.

1786 (8) A qualified custodian must provide a paper copy of an
1787 electronic will and the electronic record containing the
1788 electronic will to the testator immediately upon request. For
1789 the first request, the testator may not be charged a fee for
1790 being provided with these documents.

1791 (9) The qualified custodian shall be liable for any damages
1792 caused by the negligent loss or destruction of the electronic
1793 record, including the electronic will, while it is in the
1794 possession of the qualified custodian. A qualified custodian may
1795 not limit liability for such damages.

1796 (10) A qualified custodian may not terminate or suspend
1797 access to, or downloads of, the electronic will by the testator,
1798 provided that a qualified custodian may charge a fee for

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1799 providing such access and downloads.

1800 (11) Upon receiving information that the testator is dead,
1801 a qualified custodian must deposit the electronic will with the
1802 court in accordance with s. 732.901. A qualified custodian may
1803 not charge a fee for depositing the electronic will with the
1804 clerk, provided the affidavit is made in accordance with s.
1805 732.503, or furnishing in writing any information requested by a
1806 court under paragraph (2) (b).

1807 (12) Except as provided in this act, a qualified custodian
1808 must at all times keep information provided by the testator
1809 confidential and may not disclose such information to any third
1810 party.

1811 (13) A contractual venue provision between a qualified
1812 custodian and a testator is not valid or enforceable to the
1813 extent that it requires a specific jurisdiction or venue for any
1814 proceeding relating to the probate of an estate or the contest
1815 of a will.

1816 Section 36. Section 732.525, Florida Statutes, is created
1817 to read:

1818 732.525 Liability coverage; receivership of qualified
1819 custodians.-

1820 (1) A qualified custodian shall:

1821 (a) Post and maintain a blanket surety bond of at least
1822 \$250,000 to secure the faithful performance of all duties and
1823 obligations required under this part. The bond must be made
1824 payable to the Governor and his or her successors in office for
1825 the benefit of all persons who store electronic records with a
1826 qualified custodian and their estates, beneficiaries,
1827 successors, and heirs, and be conditioned on the faithful

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1828 performance of all duties and obligations under this chapter.
1829 The terms of the bond must cover the acts or omissions of the
1830 qualified custodian and each agent or employee of the qualified
1831 custodian; or

1832 (b) Maintain a liability insurance policy that covers any
1833 losses sustained by any person who stores electronic records
1834 with a qualified custodian and their estates, beneficiaries,
1835 successors, and heirs which are caused by errors or omissions by
1836 the qualified custodian and each agent or employee of the
1837 qualified custodian. The policy must cover losses of at least
1838 \$250,000 in the aggregate.

1839 (2) The Attorney General may petition a court of competent
1840 jurisdiction for the appointment of a receiver to manage the
1841 electronic records of a qualified custodian for proper delivery
1842 and safekeeping if any of the following conditions exist:

1843 (a) The qualified custodian is ceasing operation;

1844 (b) The qualified custodian intends to close the facility
1845 and adequate arrangements have not been made for proper delivery
1846 of the electronic records in accordance with this part;

1847 (c) The Attorney General determines that conditions exist
1848 which present a danger that electronic records will be lost or
1849 misappropriated; or

1850 (d) The qualified custodian fails to maintain and post a
1851 surety bond or maintain insurance as required in this section.

1852 Section 37. Section 732.526, Florida Statutes, is created
1853 to read:

1854 732.526 Probate.—

1855 (1) An electronic will that is filed electronically with
1856 the clerk of the court through the Florida Courts E-Filing

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1857 Portal is deemed to have been deposited with the clerk as an
1858 original of the electronic will.

1859 (2) A paper copy of an electronic will which is certified
1860 by a notary public to be a true and correct copy of the
1861 electronic will may be offered for and admitted to probate and
1862 shall constitute an original of the electronic will.

1863 Section 38. Subsection (1) of section 733.201, Florida
1864 Statutes, is amended to read:

1865 733.201 Proof of wills.—

1866 (1) Self-proved wills executed in accordance with this code
1867 may be admitted to probate without further proof. However, a
1868 purportedly self-proved electronic will may be admitted to
1869 probate only in the manners prescribed in subsections (2) and
1870 (3) if the execution of such electronic will, or the
1871 acknowledgment by the testator and the affidavits of the
1872 witnesses, involves an online notarization in which there was a
1873 substantial failure to comply with the procedures set forth in
1874 s. 117.265.

1875 Section 39. Section 740.10, Florida Statutes, is created to
1876 read:

1877 740.10 Relation to wills.—No act taken pursuant to this
1878 chapter is valid to affect the obligation of a person to deposit
1879 a will of a decedent as required under s. 732.901.

1880 Section 40. Except as otherwise expressly provided in this
1881 act, and except for this section, which shall take effect upon
1882 becoming a law, this act shall take effect January 1, 2020.