

Bill No. CS/HB 1125, 2nd Eng.

Amendment No.     

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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11 Senator Grant moved the following amendment:

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13 **Senate Amendment (with title amendment)**

14 On page 36, between lines 11 and 12,

15

16 insert:

17 Section 17. Section 118.10, Florida Statutes, is  
18 amended to read:

19 118.10 Civil-law ~~Florida international~~ notary.--

20 (1) As used in this section, the term:

21 (a) "Authentic act" ~~"Authentication instrument"~~ means  
22 an instrument executed by a civil-law ~~Florida international~~  
23 notary referencing this section, which includes the  
24 particulars and capacities to act of transacting parties, a  
25 confirmation of the full text of the instrument, the  
26 signatures of the parties or legal equivalent thereof, and the  
27 signature and seal of a civil-law ~~Florida international~~ notary  
28 as prescribed by the Florida Secretary of State ~~for use in a~~  
29 ~~jurisdiction outside the borders of the United States.~~

30 (b) "Civil-law notary" ~~"Florida international notary"~~  
31 means a person who is a member in good standing of The Florida

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1 ~~Bar~~ admitted to the practice of law in this state, who has  
2 practiced law for at least 5 years, and who is appointed by  
3 the Secretary of State as a civil-law ~~Florida international~~  
4 notary.

5 (c) "Protocol" means a registry maintained by a  
6 civil-law ~~Florida international~~ notary in which the acts of  
7 the civil-law ~~Florida international~~ notary are archived.

8 (2) The Secretary of State shall have the power to  
9 appoint civil-law ~~Florida international~~ notaries and  
10 administer this section.

11 (3) A civil-law ~~Florida international~~ notary is  
12 authorized to issue authentic acts and may administer an oath  
13 and make a certificate thereof when it is necessary for  
14 execution of any writing or document to be attested,  
15 protested, or published under the seal of a notary public  
16 ~~authentication instruments for use in non-United States~~  
17 ~~jurisdictions.~~ A civil-law notary may also take  
18 acknowledgements of deeds and other instruments of writing for  
19 record, and solemnize the rites of matrimony, as fully as  
20 other officers of this state. A civil-law ~~Florida~~  
21 ~~international~~ notary is not authorized to issue authentic acts  
22 ~~authentication instruments~~ for use in a ~~non-United States~~  
23 jurisdiction if the United States Department of State has  
24 determined that the jurisdiction does not have diplomatic  
25 relations with the United States or is a terrorist country, or  
26 if trade with the jurisdiction is prohibited under the Trading  
27 With the Enemy Act of 1917, as amended, 50 U.S.C. ss. 1, et  
28 seq.

29 ~~(4) The authentication instruments of a Florida~~  
30 ~~international notary shall not be considered authentication~~  
31 ~~instruments within the borders of the United States and shall~~

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1 ~~have no consequences or effects as authentication instruments~~  
2 ~~in the United States.~~

3       (4)(5) The authentic acts, oaths and acknowledgements,  
4 and solemnizations ~~authentication instruments~~ of a civil-law  
5 ~~Florida international~~ notary shall be recorded in the  
6 civil-law ~~Florida international~~ notary's protocol in a manner  
7 prescribed by the Secretary of State.

8       (5)(6) The Secretary of State may adopt rules  
9 prescribing:

10           (a) The form and content of signatures and seals or  
11 their legal equivalents for authentic acts ~~authentication~~  
12 ~~instruments;~~

13           (b) Procedures for the permanent archiving of  
14 authentic acts, maintaining records of acknowledgments, oaths  
15 and solemnizations, and procedures for the administration of  
16 oaths and taking of acknowledgments ~~authentication~~  
17 ~~instruments;~~

18           (c) The charging of reasonable fees to be retained by  
19 the Secretary of State for the purpose of administering this  
20 section;

21           (d) Educational requirements and procedures for  
22 testing applicants' knowledge of the effects and consequences  
23 associated with authentic acts ~~authentication instruments in~~  
24 ~~jurisdictions outside the United States;~~

25           (e) Procedures for the disciplining of civil-law  
26 ~~Florida international~~ notaries, including the suspension and  
27 revocation of appointments for misrepresentation or fraud  
28 regarding the civil-law ~~Florida international~~ notary's  
29 authority, the effect of the civil-law ~~Florida international~~  
30 notary's authentic acts ~~authentication instruments~~, or the  
31 identities or acts of the parties to a transaction; and

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1           (f) Other matters necessary for administering this  
2 section.

3           (6)(7) The Secretary of State shall not regulate,  
4 discipline or attempt to discipline, or establish any  
5 educational requirements for any civil-law Florida  
6 ~~international~~ notary for, or with regard to, any action or  
7 conduct that would constitute the practice of law in this  
8 state, except by agreement with The Florida Bar. The  
9 Secretary of State shall not establish as a prerequisite to  
10 the appointment of a civil-law Florida ~~international~~ notary  
11 any test containing any question that inquires of the  
12 applicant's knowledge regarding the practice of law in the  
13 United States, except by agreement with The Florida Bar.

14           (7) The powers of civil law notaries include, but are  
15 not limited to, all of the powers of a notary public under any  
16 law of this state.

17           (8) This section shall not be construed as abrogating  
18 the provisions of any other act relating to notaries public,  
19 attorneys, or the practice of law in this state.

20           Section 18. Section 695.03, Florida Statutes, is  
21 amended to read:

22           695.03 Acknowledgment and proof; validation of certain  
23 acknowledgments; legalization or authentication before foreign  
24 officials.--To entitle any instrument concerning real property  
25 to be recorded, the execution must be acknowledged by the  
26 party executing it, proved by a subscribing witness to it, or  
27 legalized or authenticated by a civil-law notary or notary  
28 public who affixes her or his official seal, before the  
29 officers and in the form and manner following:

30           (1) WITHIN THIS STATE.--An acknowledgment or proof  
31 made within this state may be made before a judge, clerk, or

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1 deputy clerk of any court; a United States commissioner or  
2 magistrate; or a notary public or civil-law notary of this  
3 state, and the certificate of acknowledgment or proof must be  
4 under the seal of the court or officer, as the case may be.  
5 All affidavits and acknowledgments heretofore made or taken in  
6 this manner are hereby validated.

7 (2) WITHOUT THIS STATE BUT WITHIN THE UNITED  
8 STATES.--An acknowledgment or proof made out of this state but  
9 within the United States may be made before a civil-law notary  
10 of this state or a commissioner of deeds appointed by the  
11 Governor of this state; a judge or clerk of any court of the  
12 United States or of any state, territory, or district; a  
13 United States commissioner or magistrate; or a notary public,  
14 justice of the peace, master in chancery, or registrar or  
15 recorder of deeds of any state, territory, or district having  
16 a seal, and the certificate of acknowledgment or proof must be  
17 under the seal of the court or officer, as the case may be.  
18 If the acknowledgment or proof is made before a notary public  
19 who does not affix a seal, it is sufficient for the notary  
20 public to type, print, or write by hand on the instrument, "I  
21 am a Notary Public of the State of ...(state)..., and my  
22 commission expires on ...(date)...."

23 (3) WITHIN FOREIGN COUNTRIES.--If the acknowledgment,  
24 legalization, authentication, or proof is made in a foreign  
25 country, it may be made before a commissioner of deeds  
26 appointed by the Governor of this state to act in such  
27 country; before a ~~civil-law notary~~ or notary public of such  
28 foreign country or a civil-law notary of this state or of such  
29 foreign country who has an official seal; before an  
30 ambassador, envoy extraordinary, minister plenipotentiary,  
31 minister, commissioner, charge d'affaires, consul general,

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1 consul, vice consul, consular agent, or other diplomatic or  
2 consular officer of the United States appointed to reside in  
3 such country; or before a military or naval officer authorized  
4 by the Laws or Articles of War of the United States to perform  
5 the duties of notary public, and the certificate of  
6 acknowledgment, legalization, authentication, or proof must be  
7 under the seal of the officer. A certificate legalizing or  
8 authenticating the signature of a person executing an  
9 instrument concerning real property and to which a civil-law  
10 notary or notary public of that country has affixed her or his  
11 official seal is sufficient as an acknowledgment. For the  
12 purposes of this section, the term "civil-law notary" means a  
13 civil-law notary as defined in chapter 118 or an official of a  
14 foreign country who has an official seal and who is authorized  
15 to make legal or lawful the execution of any document in that  
16 jurisdiction, in which jurisdiction the affixing of her or his  
17 official seal is deemed proof of the execution of the document  
18 or deed in full compliance with the laws of that jurisdiction.

19  
20 All affidavits, legalizations, authentications, and  
21 acknowledgments heretofore made or taken in the manner set  
22 forth above are hereby validated.

23  
24 (Redesignate subsequent sections.)

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26  
27 ===== T I T L E A M E N D M E N T =====

28 And the title is amended as follows:

29 On page 1, line 22, after the semicolon

30  
31 insert:

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1           amending s. 118.10, F.S.; providing for  
2           civil-law notaries in lieu of Florida  
3           international notaries; providing requirements  
4           for becoming a civil-law notary; providing  
5           definitions; providing for "authentic acts," in  
6           lieu of "authentication instruments"; providing  
7           powers of civil-law notaries; providing  
8           educational requirements; providing for  
9           discipline; amending s. 695.03, F.S., relating  
10          to acknowledgement and proof of certain  
11          instruments concerning real property; including  
12          civil-law notaries as officials before whom  
13          acknowledgements of proof may be made;

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