

Bill No. CS for SB 1130

Amendment No.

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

Senate Amendment (with title amendment)

On page 26, line 20, through page 29, line 9, delete those lines

and insert:

Section 10. Section 118.10, Florida Statutes, is amended to read:

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

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

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

(b) "Civil-law notary" ~~"Florida international notary"~~

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

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

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

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

30 ~~(4) The authentication instruments of a Florida~~
 31 ~~international notary shall not be considered authentication~~

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1 ~~instruments within the borders of the United States and shall~~
2 ~~have no consequences or effects as authentication instruments~~
3 ~~in the United States.~~

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

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

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

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

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

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

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

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1 identities or acts of the parties to a transaction; and
2 (f) Other matters necessary for administering this
3 section.

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

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

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

21 Section 11. Section 695.03, Florida Statutes, is
22 amended to read:

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

31 (1) WITHIN THIS STATE.--An acknowledgment or proof

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

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

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

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

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

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25 (Redesignate subsequent sections.)

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28 ===== T I T L E A M E N D M E N T =====

29 And the title is amended as follows:

30 On page 2, lines 6-9, delete those lines

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and insert:
amending s. 118.10, F.S.; providing for
civil-law notaries in lieu of Florida
international notaries; providing requirements
for becoming a civil-law notary; providing
definitions; providing for "authentic acts," in
lieu of "authentication instruments"; providing
powers of civil-law notaries; providing
educational requirements; providing for
discipline; amending s. 695.03, F.S., relating
to acknowledgement and proof of certain
instruments concerning real property; including
civil-law notaries as officials before whom
acknowledgements of proof may be made; amending