

By Representatives Culp, Trovillion and Effman

1 A bill to be entitled
2 An act relating to electronic commerce;
3 amending s. 117.05, F.S.; specifying that
4 certain seals be used on "paper" documents;
5 creating s. 117.20, F.S.; providing
6 application; specifying "electronic
7 notarization"; providing for the Secretary of
8 State to provide commissions for notaries
9 public to perform electronic notarizations;
10 providing procedures; requiring a fee;
11 requiring notice of the compromise of certain
12 keys; providing for suspension under certain
13 circumstances; amending s. 215.322, F.S.;
14 authorizing state agencies to accept debit
15 cards for payment of goods and services with
16 the approval of the Florida Fiscal Accounting
17 Management Information System Coordinating
18 Council; providing responsibilities of the
19 council; providing for collecting convenience
20 fees instead of service fees; providing a
21 limitation on such fees; amending s. 282.20,
22 F.S.; providing a definition; conforming
23 certain references; specifying a formula for
24 votes by members of the data processing board
25 of the Technology Resources Center; revising
26 the monetary threshold for approval by the
27 policy board of acquisitions by the Technology
28 Resource Center; creating s. 282.745, F.S.;
29 authorizing the Secretary of State to establish
30 a voluntary licensure program for private
31 certification authorities; providing for fees;

1 providing for rulemaking; authorizing the
2 Secretary of State to enter into reciprocity
3 agreements with other jurisdictions; amending
4 s. 471.025, F.S.; providing for electronic
5 engineering seals and digital signatures;
6 prohibiting certain activities relating to
7 digitally sealing or signing documents;
8 amending s. 471.033, F.S.; providing for
9 disciplinary action for illegal use of a
10 digital signature; amending s. 472.025, F.S.;
11 providing for electronic land surveying and
12 mapping seals; prohibiting certain activities
13 relating to digitally sealing or signing
14 certain documents; authorizing the regulation
15 of international attorney-notaries by the
16 Secretary of State; providing for fees;
17 providing definitions; providing rulemaking
18 authority; authorizing the use of
19 authentication methods by international
20 attorney-notaries; providing for effect of acts
21 of international attorney-notaries; providing
22 for rulemaking; amending ss. 240.289 and
23 402.18, F.S., to conform; repealing ss. 118.01,
24 118.02, 118.03, and 118.04, F.S., relating to
25 commissioners of deeds; providing an effective
26 date.

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28 Be It Enacted by the Legislature of the State of Florida:

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30 Section 1. Subsection (3) of section 117.05, Florida
31 Statutes, is amended to read:

1 117.05 Use of notary commission; unlawful use; notary
2 fee; seal; duties; employer liability; name change;
3 advertising; photocopies; penalties.--

4 (3)(a) A notary public seal shall be affixed to all
5 notarized paper documents and shall be of the rubber stamp
6 type and shall include the words "Notary Public-State of
7 Florida." The seal shall also include the name of the notary
8 public, the date of expiration of the commission of the notary
9 public, and the commission number. The rubber stamp seal must
10 be affixed to the notarized paper document in photographically
11 reproducible black ink. Every notary public shall print, type,
12 or stamp below his or her signature on a paper document his or
13 her name exactly as commissioned. An impression-type
14 ~~impression-type~~ seal may be used in addition to the rubber
15 stamp seal, but the rubber stamp seal shall be the official
16 seal for use on a paper document ~~notary public~~, and the
17 impression-type ~~impression-type~~ seal may not be substituted
18 therefor.

19 (b) Any notary public whose term of appointment
20 extends beyond January 1, 1992, is required to use a rubber
21 stamp type notary public seal on paper documents only upon
22 reappointment on or after January 1, 1992.

23 Section 2. Section 117.20, Florida Statutes, is
24 created to read:

25 117.20 Electronic notarization.--

26 (1) The provisions of ss. 117.01, 117.03, and 117.04,
27 117.05(1)-(14), 117.05(16), 117.105, and 117.107 apply to all
28 notarizations under this section except as set forth in this
29 section.

30 (2) An electronic notarization shall include the name
31 of the notary public, exactly as commissioned, the date of

1 expiration of the commission of the notary public, the
2 commission number, and the notary's digital signature.
3 Neither a rubber stamp seal nor an impression-type seal is
4 required for an electronic notarization.

5 (3) Any notary public who seeks to perform electronic
6 notarizations and obtains a certificate from any certification
7 authority, as defined in s. 282.72(2), shall request an
8 amended commission from the Secretary of State and shall send
9 \$25, his or her current commission, and a notice of change
10 form, obtained from the Secretary of State, which shall
11 include the name of the notary and the name of the
12 certification authority. The Secretary of State shall issue
13 an amended commission to the notary public indicating that the
14 notary is a subscriber to the certification authority
15 identified in the notary's request for an amended commission.
16 After requesting an amended commission, the notary public may
17 continue to perform notarial acts, but may not use his or her
18 digital signature in the performance of notarial acts until
19 receipt of the amended commission.

20 (4) If the notary public's private key corresponding
21 to his or her public key has been compromised, the notary
22 public shall immediately notify the Secretary of State in
23 writing of the breach of security and shall request the
24 issuing certification authority to suspend or revoke the
25 certificate.

26 (5) Failure to comply with this section constitutes
27 grounds for suspension from office by the Governor.

28 Section 3. Section 215.322, Florida Statutes, 1996
29 Supplement, is amended to read:
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31

1 215.322 Acceptance of credit cards or debit cards by
2 state agencies, units of local government, and the judicial
3 branch.--

4 (1) A state agency as defined in s. 216.011, or the
5 judicial branch, may accept credit cards or debit cards in
6 payment for goods and services with the prior approval of the
7 Florida Fiscal Accounting Management Information System
8 Coordinating Council Treasurer.

9 (2) The council may ~~Treasurer shall~~ adopt rules
10 governing the establishment and acceptance of credit cards or
11 debit cards by state agencies or the judicial branch,
12 including, but not limited to, the following:

13 (a) Utilization of a standardized contract between the
14 financial institution and the agency or judicial branch which
15 shall be developed by the council and competitively procured
16 by the Treasurer or approval by the council ~~Treasurer~~ of a
17 substitute agreement.

18 (b)1. The types of revenue or collections that may be
19 subject to convenience ~~service~~ fees by a state agency or the
20 judicial branch ~~or surcharges by the financial institution,~~
21 ~~vending service company, or credit card company. Only taxes,~~
22 ~~license fees, tuition, and other statutorily prescribed~~
23 ~~revenues may be subject to a service fee or surcharge.~~
24 However, the amount of such convenience fees shall not exceed
25 the reasonable additional cost of providing remote electronic
26 access to goods and services, less the actual savings to be
27 achieved. Notwithstanding the foregoing, this section shall
28 not be construed to permit surcharges on any other credit card
29 purchase in violation of s. 501.0117.

30 2. The recommended minimum public disclosure
31 guidelines ~~requirements~~ to persons who elect to pay ~~taxes,~~

1 ~~license fees, tuition, and other statutorily prescribed~~
2 ~~revenues~~ by credit card or debit card which are subject to a
3 convenience fee surcharge pursuant to this section. Any state
4 agency, unit of local government, or the judicial branch that
5 charges surcharges a person a convenience fee is encouraged to
6 follow ~~who pays by credit card shall be subject to~~ the minimum
7 public disclosure guidelines established ~~requirements adopted~~
8 ~~by the Treasurer~~ pursuant to this subsection ~~subparagraph~~.

9 (c) All convenience service fees payable pursuant to
10 this section ~~financial institutions~~ when practicable shall be
11 invoiced and paid by state warrant in accordance with s.
12 215.422.

13 (d) Submission of information to the Treasurer
14 concerning the acceptance of credit cards or debit cards by
15 all state agencies or the judicial branch.

16 (3) The Treasurer is authorized to establish contracts
17 with one or more financial institutions or credit card
18 companies, in a manner consistent with chapter 287, for
19 processing credit card or debit card collections for deposit
20 into the State Treasury or another qualified public depository
21 with prior approval of the council. Any state agency, or the
22 judicial branch, which accepts payment by credit card or debit
23 card shall use at least one of the contractors established by
24 the Treasurer unless the state agency or judicial branch
25 obtains authorization from the council ~~Treasurer~~ to use
26 another contractor which is more ~~financially~~ advantageous to
27 such state agency or the judicial branch. Such contracts may
28 authorize a unit of local government to use the services upon
29 the same terms and conditions for deposit of credit card or
30 debit card transactions into its qualified public
31 depositories.

1 (4) A unit of local government, which term means a
2 municipality, special district, or board of county
3 commissioners or other governing body of a county, however
4 styled, including that of a consolidated or metropolitan
5 government, and means any clerk of the circuit court, sheriff,
6 property appraiser, tax collector, or supervisor of elections,
7 is authorized to accept payment by use of credit cards and
8 bank debit cards for financial obligations that are owing to
9 such unit of local government and to charge a convenience fee
10 to ~~surcharge~~ the person who uses a credit card or bank debit
11 card in payment of taxes, license fees, tuition, fines, civil
12 penalties, court-ordered payments, or court costs, or other
13 statutorily prescribed revenues ~~an amount sufficient to pay~~
14 ~~the service fee charges by the financial institution, vending~~
15 ~~service company, or credit card company~~ for such services.
16 However, the amount of such convenience fees shall not exceed
17 the reasonable additional cost of providing remote electronic
18 access to goods and services, less the actual savings to be
19 achieved. A unit of local government shall verify both the
20 validity of any credit card or bank debit card used pursuant
21 to this subsection and the existence of appropriate credit
22 with respect to the person using the card. The unit of local
23 government does not incur any liability as a result of such
24 verification or any subsequent action taken.

25 (5) Credit card account numbers in the possession of a
26 state agency, a unit of local government, or the judicial
27 branch are confidential and exempt from the provisions of s.
28 119.07(1).

29 Section 4. Section 282.20, Florida Statutes, is
30 amended to read:

31 282.20 Technology Resource Center.--

1 (1)(a) The Division of Information Services of the
2 Department of Management Services shall operate and manage the
3 Technology Resource Center.

4 (b) For the purposes of this section, the term:

5 1. "Department" means the Department of Management
6 Services.

7 2. "Division" means the Division of Information
8 Services of the Department of Management Services.

9 3. "Information-system utility" means a full-service
10 information-processing facility offering hardware, software,
11 operations, integration, networking, and consulting services
12 ~~to state agencies.~~

13 4. "Customer" means a state agency or other entity
14 which is authorized to use the SUNCOM Network pursuant to this
15 chapter.

16 (2) The division and the Technology Resource Center
17 shall:

18 (a) Serve the department and other customers ~~state~~
19 ~~agencies~~ as an information-system utility.

20 (b) Cooperate with the Information Resource Commission
21 and with other customers ~~state agencies~~ to offer, develop, and
22 support a wide range of services and applications needed by
23 users of the Technology Resource Center.

24 (c) Cooperate with the Florida Legal Resource Center
25 of the Department of Legal Affairs and other state agencies to
26 develop and provide access to repositories of legal
27 information throughout the state.

28 (d) Cooperate with the Division of Communications of
29 the department to facilitate interdepartmental networking and
30 integration of network services for customers of the division
31 and the Technology Resource Center ~~state agencies.~~

1 (e) Assist customers ~~state agencies~~ in testing and
2 evaluating new and emerging technologies that could be used to
3 meet the needs of the state.

4 (3) The division may contract with customers ~~state~~
5 ~~agencies~~ to provide any combination of services necessary for
6 agencies to fulfill their responsibilities and to serve their
7 users.

8 (4)(a) There is created for the Technology Resource
9 Center a data processing policy board as provided in s.
10 282.313.

11 (b) In addition to the members of the policy board
12 provided in s. 282.313, the following ex officio members are
13 appointed to the data processing policy board of the
14 Technology Resource Center: the Executive Director of the
15 Information Resource Commission, the Director of the Division
16 of Communications of the Department of Management Services,
17 and the chair of the coordinating council to the Florida
18 Fiscal Accounting Management Information System, as created in
19 s. 215.96, or their respective designees. The ex officio
20 members provided in this subsection shall vote and serve in
21 the same manner as other policy board members.

22 (c) Each board member shall be entitled to cast the
23 number of votes corresponding to the percentage of the data
24 processing center's prior year revenues paid by the member's
25 entity rounded to the nearest whole number.

26 (d) The duties of the policy board shall be as
27 provided in s. 282.313, except approval of technology resource
28 acquisitions below the amount provided in s. 287.017 for
29 CATEGORY TWO shall not be required. In addition, approval by
30 the policy board of new customers who are expected to pay
31 during the initial 12 months of use less than 10 percent of

1 the previous year's revenues of the data processing center
2 shall not be required, provided existing customers' level of
3 service will not be degraded as a result of accepting a new
4 customer.

5 (5) The Technology Resource Center may plan, design,
6 establish pilot projects for, and conduct experiments with
7 information technology resources, and may implement
8 enhancements in services when such implementation is
9 cost-effective. Funding for experiments and pilot projects
10 shall be derived from service revenues and may not exceed 5
11 percent of the service revenues for the Technology Resource
12 Center for any fiscal year. Any experiment, pilot project,
13 plan, or design must be approved by the data processing policy
14 board of the center.

15 (6) Notwithstanding the provisions of s. 216.272, the
16 Technology Resource Center may spend the funds in the reserve
17 account of its working capital trust fund for enhancements to
18 center operations or for information technology resources. Any
19 expenditure of reserve account funds must be approved by the
20 data processing policy board of the center. Any funds
21 remaining in the reserve account at the end of the fiscal year
22 may be carried forward and spent as approved by the policy
23 board.

24 Section 5. Section 282.745, Florida Statutes, is
25 created to read:

26 282.745 Voluntary licensure.--

27 (1) The Secretary of State may adopt, amend, or repeal
28 any rules as necessary, pursuant to chapter 120, to implement,
29 enforce, and interpret the voluntary licensure of private
30 certification authorities. Such rules shall provide, at a
31 minimum, for:

1 (a) Licensing fees sufficient to support the licensing
2 program.

3 (b) Standards and requirements for voluntary
4 licensure.

5 (c) Audit procedures and requirements to assure
6 program compliance.

7 (d) Insurance reserve or bonding requirements.

8 (e) Procedures for license revocation and suspension
9 for failure to meet licensure requirements or for misconduct.

10 (2) No private certification authority shall be
11 required to obtain a license from the Secretary of State
12 pursuant to this section.

13 (3) The Secretary of State may also enter into
14 reciprocity agreements with other jurisdictions on behalf of
15 this state to allow for the fullest possible recognition of
16 digital signatures executed under Florida law and the fullest
17 possible recognition of certification authorities licensed
18 under this section.

19 Section 6. Section 471.025, Florida Statutes, is
20 amended to read:

21 471.025 Seals.--

22 (1) The board shall prescribe, by rule, a form of seal
23 to be used by registrants holding valid certificates of
24 registration. Each registrant shall obtain an impression-type
25 metal seal in the form aforesaid and may, in addition,
26 register his or her seal electronically in accordance with ss.
27 282.70-282.75. All final drawings, specifications, plans,
28 reports, or documents prepared or issued by the registrant and
29 being filed for public record shall be signed by the
30 registrant, dated, and stamped with said seal. Such
31 signature, date, and seal shall be evidence of the

1 authenticity of that to which they are affixed. Drawings,
2 specifications, plans, reports, or documents prepared or
3 issued by a registrant may be transmitted electronically and
4 may be signed by the registrant, dated, and stamped
5 electronically with said seal in accordance with ss.
6 ~~282.70-282.75. It is unlawful for any person to stamp or seal~~
7 ~~any document with a seal after his certificate of registration~~
8 ~~has expired or been revoked or suspended, unless reinstated or~~
9 ~~reissued.~~

10 (2) It is unlawful for any person to stamp, seal, or
11 digitally sign any document with a seal or digital signature
12 after his or her certificate of registration has expired or
13 been revoked or suspended, unless such certificate of
14 registration has been reinstated or reissued. When the
15 certificate of registration of a registrant has been revoked
16 or suspended by the board, it shall be mandatory that the
17 registrant, ~~surrender his seal to the secretary of the board~~
18 within a period of 30 days after the revocation or suspension
19 has become effective, surrender his or her seal to the
20 secretary of the board and confirm to the secretary the
21 cancellation of the registrant's digital signature in
22 accordance with ss. 282.70-282.75. In the event the
23 registrant's certificate has been suspended for a period of
24 time, his or her seal shall be returned to him or her upon
25 expiration of the suspension period.

26 (3) No registrant shall affix or permit to be affixed
27 his or her seal, ~~or name,~~ or digital signature to any plan,
28 specification, drawing, or other document which depicts work
29 which he or she is not licensed to perform or which is beyond
30 his or her profession or specialty therein.
31

1 Section 7. Paragraph (j) of subsection (1) of section
2 471.033, Florida Statutes, is amended to read:

3 471.033 Disciplinary proceedings.--

4 (1) The following acts constitute grounds for which
5 the disciplinary actions in subsection (3) may be taken:

6 (j) Affixing or permitting to be affixed his or her
7 seal, ~~or his~~ name, or digital signature to any final drawings,
8 specifications, plans, reports, or documents that were not
9 prepared by him or her or under his or her responsible
10 supervision, direction, or control.

11 Section 8. Section 472.025, Florida Statutes, is
12 amended to read:

13 472.025 Seals.--

14 (1) The board shall prescribe, by rule, a form of seal
15 to be used by all registrants holding valid certificates of
16 registration, whether the registrants are corporations,
17 partnerships, or individuals. Each registrant shall obtain an
18 impression-type metal seal in that form; and all final
19 drawings, plans, specifications, plats, or reports prepared or
20 issued by the registrant in accordance with minimum technical
21 standards set by the board shall be signed by the registrant,
22 dated, and stamped with his or her seal. This signature,
23 date, and seal shall be evidence of the authenticity of that
24 to which they are affixed. Each registrant may in addition
25 register his or her seal electronically in accordance with ss.
26 282.70-282.75. Drawings, plans, specifications, reports, or
27 documents prepared or issued by a registrant may be
28 transmitted electronically and may be signed by the
29 registrant, dated, and stamped electronically with such seal
30 in accordance with ss. 282.70-282.75. ~~It is unlawful for any~~
31 person to stamp or seal any document with a seal after his

1 ~~certificate of registration has expired or been revoked or~~
2 ~~suspended unless reinstated or reissued.~~

3 (2) It is unlawful for any person to stamp, seal, or
4 digitally sign any document with a seal or digital signature
5 after his or her certificate of registration has expired or
6 been revoked or suspended, unless such certificate of
7 registration has been reinstated or reissued.When the
8 certificate of registration of a registrant has been revoked
9 or suspended by the board, the registrant shall, ~~surrender his~~
10 ~~seal to the secretary of the board~~ within a period of 30 days
11 after the revocation or suspension has become effective,
12 surrender his or her seal to the secretary of the board and
13 confirm to the secretary the cancellation of the registrant's
14 digital signature in accordance with ss. 282.70-282.75. In
15 the event the registrant's certificate has been suspended for
16 a period of time, his or her seal shall be returned to him or
17 her upon expiration of the suspension period.

18 (3) No registrant shall affix or permit to be affixed
19 his or her seal, ~~or name,~~ or digital signature to any plan,
20 specification, drawing, or other document which depicts work
21 which he or she is not licensed to perform or which is beyond
22 his or her profession or specialty therein.

23 Section 9. (1) As used in this section:

24 (a) "Authentic act" means an instrument, executed by
25 an international attorney-notary, which references this
26 section and which includes the particulars and capacities to
27 act of transacting parties, a confirmation of the full text of
28 the instrument, the signatures of the parties or the legal
29 equivalent of such signatures, and the international
30 attorney-notary's signature and seal or the legal equivalent
31 of such signature and seal.

1 (b) "International attorney-notary" means a lawyer,
2 licensed under the laws of this state, who:

3 1. Has practiced law and been a member of The Florida
4 Bar for a period of not less than 5 years.

5 2. Holds a commission as an international
6 attorney-notary issued by the Secretary of State.

7 3. Has a specialized knowledge of the drafting
8 authentication and public recording formalities of non-United
9 States jurisdictions and has passed any examination
10 prescribed by the Secretary of State which shall establish the
11 qualification to act as an international attorney-notary.

12 4. Has met such other requirements as may be
13 established by rule of the Department of State.

14 (c) "Protocol" means a registry maintained by the
15 international attorney-notary in which his or her authentic
16 acts are archived.

17 (2) International attorney-notaries shall be
18 authorized to issue authentic acts for use in non-United
19 States jurisdictions and, in addition, shall have all of the
20 powers formerly attributed to commissioners of deeds under
21 former s. 118.01, Florida Statutes.

22 (3) The authentic acts of international
23 attorney-notaries shall be recorded in the practitioner's
24 protocol in a manner prescribed by the Secretary of State.

25 (4) The Secretary of State may adopt rules
26 prescribing:

27 (a) Criteria for the qualifications of international
28 attorney-notaries.

29 (b) The form and content of signatures and seals or
30 their legal equivalents for authentic acts.

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1 (c) Procedures for the permanent archiving of
2 authentic acts.

3 (d) The charging of reasonable fees necessary to
4 implement the purposes of this act.

5 (e) Other matters necessary to the implementation of
6 this act.

7 (5) Nothing in this act shall be construed as
8 repealing the provisions of any other act relating to the
9 practice of law or notaries public.

10 Section 10. Section 240.289, Florida Statutes, is
11 amended to read:

12 240.289 Credit card and debit card use in university
13 system; authority.--The several universities in the State
14 University System are authorized, pursuant to s. 215.322, to
15 enter into agreements and accept credit card or debit card
16 payments as compensation for goods, services, tuition, and
17 fees in accordance with rules established by the Board of
18 Regents.

19 Section 11. Subsection (6) of section 402.18, Florida
20 Statutes, is amended to read:

21 402.18 Welfare trust funds created; use of.--

22 (6) The department shall maintain accounts in the
23 welfare trust fund for the sale of goods, services, or
24 products resulting from sheltered workshop, activity center,
25 and agricultural project operations carried out in the
26 rehabilitation of the department's clients, each project being
27 accounted for separately in accordance with cost standards
28 established by the department, but the cost of such projects
29 shall not include any wage or salary expenditures funded by a
30 general revenue appropriation applicable to such
31 rehabilitative activities. The cost of materials incorporated

1 in such products sold, if funded by an appropriation of
2 general revenue, shall be restored to general revenue
3 unallocated at the end of the fiscal year of sale from the
4 proceeds of such sales; provided, however, that the cost of
5 inventories on hand June 30, 1984, shall be accounted for as
6 part of the working capital authorized for such activities.
7 The department may extend credit for the sale of products
8 produced in such activities, and for those sales made for its
9 clients through its hobby shops, to purchasers of demonstrated
10 credit standing sufficient to warrant the amount of credit
11 extended after prudent evaluation of information relating to
12 such credit standing. The department may obtain credit
13 reports from reputable credit reporting agencies to assure
14 prudence in the extending of credit, except when payment is
15 made by credit card or debit card as authorized by s. 215.322.
16 The department shall provide an allowance for doubtful
17 accounts for credit sales and record an expense in a like
18 amount based on a good faith estimate, such provision being
19 recorded as a cost of such sales. The net revenue after such
20 provision shall be retained in the welfare trust fund and used
21 only for the benefit of the department's clients for whom the
22 trust fund was established.

23 Section 12. Sections 118.01, 118.02, and 118.03,
24 Florida Statutes, as amended by chapter 95-147, Laws of
25 Florida, and section 118.04, Florida Statutes, are hereby
26 repealed.

27 Section 13. This act shall take effect upon becoming a
28 law.

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HOUSE SUMMARY

Revises various provisions relating to electronic commerce. Provides for commissions for electronic notarizations. Includes debit cards in provisions providing for payment of state goods and services. Provides for approval by the Florida Fiscal Accounting Management Information System Coordinating Council of debit card acceptance by state agencies. Revises the threshold amount for approval of purchases by the Technology Resource Center. Provides for a voluntary licensure program for private certification authorities. Authorizes the Secretary of State to enter into reciprocity agreements with other jurisdictions. Provides for electronic engineering seals and digital signatures and electronic land surveying and mapping seals. Authorizes the Secretary of State to regulate international attorney-notaries. See bill for details.