

Amendment No. 01 (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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ORIGINAL STAMP BELOW

The Committee on Judiciary offered the following:

Amendment (with title amendment)

Remove from the bill: Everything after the enacting clause
and insert in lieu thereof:

Section 1. Section 117.103, Florida Statutes, is amended to read:

117.103 Certification of notary's authority by Secretary of State.--A notary public is not required to record his or her notary public commission in an office of a clerk of the circuit court. If certification of the notary public's commission is required, it must be obtained from the Secretary of State. Upon the receipt of a written request, ~~the notarized document,~~ and a fee of \$10 payable to the Secretary of State, the Secretary of State shall provide a certified copy of the notary public's original certificate of commission which shall be legally sufficient to establish the notary public's authority to provide the services specifically authorized for a notary public by the Florida Statutes, and which may be used in support of domestic transactions. ~~certificate of notarial~~

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1 ~~authority. Documents destined for countries participating in~~
2 ~~an International Treaty called the Hague Convention require an~~
3 ~~Apostille, and that requirement shall be determined by the~~
4 ~~Secretary of State.~~

5 Section 2. Section 118.10, Florida Statutes, is
6 amended to read:

7 118.10 Civil-law notary.--

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

9 (a) "Authentic act" means an instrument executed by a
10 civil-law notary referencing this section, which includes the
11 particulars and capacities to act of the transacting party or
12 parties, a confirmation of the full text of the instrument,
13 the signatures of the party or parties or legal equivalent
14 thereof, and the signature and seal of a civil-law notary as
15 prescribed by the Florida Secretary of State.

16 (b) "Civil-law notary" means a person who is a member
17 in good standing of The Florida Bar, who has practiced law for
18 at least 5 years, and who is appointed by the Secretary of
19 State as a civil-law notary.

20 (c) "Protocol" means a registry maintained by a
21 civil-law notary in which the acts of the civil-law notary are
22 archived.

23 (2) The Secretary of State shall have the power to
24 appoint civil-law notaries and administer this section.

25 (3) A civil-law notary is authorized to issue
26 authentic acts and thereby may authenticate or certify any
27 document, transaction, event, condition or occurrence. The
28 contents of an authentic act and matters incorporated therein
29 shall be presumed correct. A civil-law notary may also
30 administer an oath and make a certificate thereof when it is
31 necessary for execution of any writing or document to be

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1 attested, protested, or published under the seal of a notary
2 public. A civil-law notary may also take acknowledgements of
3 deeds and other instruments of writing for record, and
4 solemnize the rites of matrimony, as fully as other officers
5 of this state. A civil-law notary is not authorized to issue
6 authentic acts for use in a jurisdiction if the United States
7 Department of State has determined that the jurisdiction does
8 not have diplomatic relations with the United States or is a
9 terrorist country, or if trade with the jurisdiction is
10 prohibited under the Trading With the Enemy Act of 1917, as
11 amended, 50 U.S.C. ss. 1, et seq.

12 (4) The authentic acts, oaths and acknowledgements,
13 and solemnizations of a civil-law notary shall be recorded in
14 the civil-law notary's protocol in a manner prescribed by the
15 Secretary of State.

16 (5) The Secretary of State may adopt rules
17 prescribing:

18 (a) The form and content of authentic acts, oaths,
19 acknowledgments, solemnizations and signatures and seals or
20 their legal equivalents.~~for authentic acts;~~

21 (b) Procedures for the permanent archiving of
22 authentic acts, maintaining records of acknowledgments, oaths
23 and solemnizations, and procedures for the administration of
24 oaths and taking of acknowledgments and for solemnizations;

25 (c) The charging of reasonable fees to be retained by
26 the Secretary of State for the purpose of administering this
27 section;

28 (d) Educational requirements and procedures for
29 testing applicants' knowledge of all matters relevant to the
30 appointment, authority, duties or legal or ethical
31 responsibilities of a civil-law notary ~~the effects and~~

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1 ~~consequences associated with authentic acts;~~

2 (e) Procedures for the disciplining of civil-law
3 notaries, including but not limited to the suspension and
4 revocation of appointments for failure to comply with the
5 requirements of Chapter 118 or the rules of the Department of
6 State, for misrepresentation or fraud regarding the civil-law
7 notary's authority, the effect of the civil-law notary's
8 authentic acts, or the identities or acts of the parties to a
9 transaction; ~~and~~

10 (f) Bonding or errors and omissions insurance
11 requirements, or both, for civil-law notaries.

12 (g) ~~(f)~~ Other matters necessary for administering this
13 section.

14 (6) The Secretary of State shall not regulate,
15 discipline or attempt to discipline, ~~or establish any~~
16 ~~educational requirements for~~ any civil-law notary for, or with
17 regard to, any action or conduct that would constitute the
18 practice of law in this state, except by agreement with The
19 Florida Bar. The Secretary of State shall not establish as a
20 prerequisite to the appointment of a civil-law notary any test
21 containing any question that inquires of the applicant's
22 knowledge regarding the practice of law in the United States,
23 unless such test is offered in connection with an educational
24 program approved by the Florida Bar for continuing legal
25 education credit ~~except by agreement with The Florida Bar.~~

26 (7) The powers of civil-law notaries include, but are
27 not limited to, all of the powers of a notary public under any
28 law of this state.

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

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1 Section 3. Section 118.42, Florida Statutes, is
2 created to read:
3 118.12 Certification of civil-law notary's authority;
4 apostilles.--If certification of a civil-law notary's
5 authority is necessary for a particular document or
6 transaction, it must be obtained from the Secretary of State.
7 Upon the receipt of a written request from a civil-law notary,
8 a copy of the document, and a fee of \$10 payable to the
9 Secretary of State, the Secretary of State shall provide a
10 certification of the civil-law notary's authority which may be
11 used in support of the document submitted and any related
12 transaction. Documents destined for countries participating
13 in an International Treaty called the Hague Convention may
14 require an Apostille and the Secretary of State shall upon
15 receiving a written request from a civil-law notary, a copy of
16 the document, and a fee of \$10 payable to the Secretary of
17 State, provide an apostille conforming to the requirements of
18 the Hague Convention and including such other matters as the
19 Secretary of State may establish by rule.

20 Section 4. This act shall take effect September 1,
21 1999.

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23
24 ===== T I T L E A M E N D M E N T =====

25 And the title is amended as follows:

26 On page 1,
27 remove entire title of bill

28
29 and insert in lieu thereof:

30 An act relating to notaries public and
31 civil-law notaries; amending s. 117.03, F.S.,

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1 providing for the issuance of certified copies
2 of certificates of commission; amending s.
3 118.10, F.S.; clarifying the definition and
4 purposes of authentic acts; providing for a
5 presumption of correctness; expanding and
6 clarifying the Secretary of State's rulemaking
7 powers with regard to authentic acts,
8 acknowledgements, oaths, solemnizations of
9 marriage, and discipline, testing, bonding, and
10 insurance requirements for civil-law notaries;
11 creating s. 118.12, F.S., authorizing the
12 issuance of certificates of notarial authority
13 and apostilles to civil-law notaries; providing
14 an effective date.

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