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

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

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11 Representative(s) Kosmas offered the following:

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Substitute Amendment for Amendment (210033) (with title amendment)

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remove from the bill: Remove everything after the enacting clause

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and insert in lieu thereof:

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Section 1. Subsection (6) is added to section 15.16, Florida Statutes, to read:

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15.16 Reproduction of records; admissibility in evidence; electronic receipt and transmission of records; certification; acknowledgment.--

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(6) The Secretary of State is authorized to issue apostilles. The Secretary of State shall have the sole authority to establish, in conformity with the laws of the United States, the requirements and procedures for the issuance of apostilles and may charge a fee for the issuance of an apostille not to exceed \$10 per apostille.

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Section 2. Section 117.103, Florida Statutes, is amended to read:

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1 117.103 Certification of notary's authority by
2 Secretary of State.--A notary public is not required to record
3 his or her notary public commission in an office of a clerk of
4 the circuit court. If certification of the notary public's
5 commission is required, it must be obtained from the Secretary
6 of State. Upon the receipt of a written request, ~~the notarized~~
7 ~~document,~~ and a fee of \$10 payable to the Secretary of State,
8 the Secretary of State shall provide a certified copy of the
9 notary public's original certificate of commission which shall
10 be legally sufficient to establish the notary public's
11 authority to provide the services specifically authorized for
12 a notary public by the Florida Statutes, and shall issue a
13 certificate of notarial authority, the contents of which shall
14 be determined by the Secretary of State and shall establish
15 for third parties the extent of the legal authority of the
16 notary public.~~certificate of notarial authority. Documents~~
17 ~~destined for countries participating in an International~~
18 ~~Treaty called the Hague Convention require an Apostille, and~~
19 ~~that requirement shall be determined by the Secretary of~~
20 ~~State.~~

21 Section 3. Section 118.10, Florida Statutes, is
22 amended to read:

23 118.10 Civil-law notary.--

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

25 (a) "Authentic act" means an instrument executed by a
26 civil-law notary referencing this section, which includes the
27 particulars and capacities to act of the transacting party or
28 parties, a confirmation of the full text of the instrument,
29 the signatures of the party or parties or legal equivalent
30 thereof, and the signature and seal of a civil-law notary as
31 prescribed by the Florida Secretary of State.

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

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

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

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

28 (4) The authentic acts, oaths and acknowledgements,
29 and solemnizations of a civil-law notary shall be recorded in
30 the civil-law notary's protocol in a manner prescribed by the
31 Secretary of State.

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- 1 (5) The Secretary of State may adopt rules
- 2 prescribing:
- 3 (a) The form and content of authentic acts, oaths,
- 4 acknowledgments, solemnizations and signatures and seals or
- 5 their legal equivalents. ~~for authentic acts;~~
- 6 (b) Procedures for the permanent archiving of
- 7 authentic acts, maintaining records of acknowledgments, oaths
- 8 and solemnizations, and procedures for the administration of
- 9 oaths and taking of acknowledgments and for solemnizations;
- 10 (c) The charging of reasonable fees to be retained by
- 11 the Secretary of State for the purpose of administering this
- 12 section;
- 13 (d) Educational requirements and procedures for
- 14 testing applicants' knowledge of all matters relevant to the
- 15 appointment, authority, duties or legal or ethical
- 16 responsibilities of a civil-law notary ~~the effects and~~
- 17 ~~consequences associated with authentic acts;~~
- 18 (e) Procedures for the disciplining of civil-law
- 19 notaries, including but not limited to the suspension and
- 20 revocation of appointments for failure to comply with the
- 21 requirements of Chapter 118 or the rules of the Department of
- 22 State, for misrepresentation or fraud regarding the civil-law
- 23 notary's authority, the effect of the civil-law notary's
- 24 authentic acts, or the identities or acts of the parties to a
- 25 transaction; ~~and~~
- 26 (f) Bonding or errors and omissions insurance
- 27 requirements, or both, for civil-law notaries.
- 28 (g) ~~(f)~~ Other matters necessary for administering this
- 29 section.
- 30 (6) The Secretary of State shall not regulate,
- 31 discipline or attempt to discipline, ~~or establish any~~

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1 ~~educational requirements for any civil-law notary for, or with~~
2 ~~regard to, any action or conduct that would constitute the~~
3 ~~practice of law in this state, except by agreement with The~~
4 ~~Florida Bar. The Secretary of State shall not establish as a~~
5 ~~prerequisite to the appointment of a civil-law notary any test~~
6 ~~containing any question that inquires of the applicant's~~
7 ~~knowledge regarding the practice of law in the United States,~~
8 ~~unless such test is offered in connection with an educational~~
9 ~~program approved by the Florida Bar for continuing legal~~
10 ~~education credit except by agreement with The Florida Bar.~~

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

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

17 Section 4. Section 118.42, Florida Statutes, is
18 created to read:

19 118.12 Certification of civil-law notary's authority;
20 apostilles.--If certification of a civil-law notary's
21 authority is necessary for a particular document or
22 transaction, it must be obtained from the Secretary of State.
23 Upon the receipt of a written request from a civil-law notary,
24 a copy of the document, and a fee of \$10 payable to the
25 Secretary of State, the Secretary of State shall provide a
26 certification of the civil-law notary's authority which may be
27 used in support of the document submitted and any related
28 transaction. Documents destined for countries participating
29 in an International Treaty called the Hague Convention may
30 require an Apostille and the Secretary of State shall upon
31 receiving a written request from a civil-law notary, a copy of

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1 the document, and a fee of \$10 payable to the Secretary of
 2 State, provide an apostille conforming to the requirements of
 3 the Hague Convention and including such other matters as the
 4 Secretary of State may establish by rule.

5 Section 5. This act shall take effect September 1,
 6 1999.

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

10 And the title is amended as follows:

11 remove from the title of the bill: the entire title

12

13 and insert in lieu thereof:

14 A bill to be entitled
 15 An act relating to notaries public and
 16 civil-law notaries; amending s. 15.16, F.S.;
 17 authorizing the Secretary of State to issue
 18 apostilles; authorizing a fee; amending s.
 19 117.03, F.S., providing for the issuance of
 20 certified copies of certificates of commission
 21 and certificates of notarial authority;
 22 amending s. 118.10, F.S.; clarifying the
 23 definition and purposes of authentic acts;
 24 providing for a presumption of correctness;
 25 expanding and clarifying the Secretary of
 26 State's rulemaking powers with regard to
 27 authentic acts, acknowledgements, oaths,
 28 solemnizations of marriage, and discipline,
 29 testing, bonding, and insurance requirements
 30 for civil-law notaries; creating s. 118.12,
 31 F.S., authorizing the issuance of certificates

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of notarial authority and apostilles to
civil-law notaries; providing an effective
date.