

Bill No. CS for CS for SB 1566, 1st Eng.

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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Representative(s) Alexander offered the following:

**Amendment to Amendment (553475) (with title amendment)**

On page 87, line 7 thru page 91, line 23 of the bill  
remove: all of said lines

and insert in lieu thereof:

Section 35. Subsection (6) is added to section 15.16,  
Florida Statutes, to read.

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

(6) The Secretary of State may issue apostilles  
conforming to the requirements of the international treaty  
known as the Hague Convention of 1961 and may charge a fee for  
the issuance of apostilles not to exceed \$10 per  
apostille. The Secretary of State has the sole authority in  
this state to establish, in accordance with the laws of the  
United States, the requirements and procedures for the  
issuance of apostilles. The Department of State may adopt  
rules to implement this subsection.

1           Section 36. Section 117.103, Florida Statutes, 1998  
2 Supplement, is amended to read:

3           117.103 Certification of notary's authority by  
4 Secretary of State.--A notary public is not required to record  
5 his or her notary public commission in an office of a clerk of  
6 the circuit court. If certification of the notary public's  
7 commission is required, it must be obtained from the Secretary  
8 of State. Upon the receipt of a written request, ~~the notarized~~  
9 ~~document,~~ and a fee of \$10 payable to the Secretary of State,  
10 the Secretary of State shall ~~provide a~~ issue a certificate of  
11 notarial authority, in a form prescribed by the Secretary of  
12 State, which shall include a statement explaining the legal  
13 qualifications and authority of a notary public in this state  
14 ~~certificate of notarial authority. Documents destined for~~  
15 ~~countries participating in an International Treaty called the~~  
16 ~~Hague Convention require an Apostille, and that requirement~~  
17 ~~shall be determined by the Secretary of State.~~

18           Section 37. Subsections (1), (3), (5), and (6) of  
19 section 118.10, Florida Statutes, 1998 Supplement, are amended  
20 to read:

21           118.10 Civil-law notary.--

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

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

31           (b) "Civil-law notary" means a person who is a member

1 in good standing of The Florida Bar, who has practiced law for  
2 at least 5 years, and who is appointed by the Secretary of  
3 State as a civil-law notary.

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

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

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

27 (a) The form and content of authentic acts, oaths,  
28 acknowledgements, solemnizations, and signatures and seals or  
29 their legal equivalents ~~for authentic acts~~;

30 (b) Procedures for the permanent archiving of  
31 authentic acts, maintaining records of acknowledgments, oaths

1 and solemnizations, and procedures for the administration of  
2 oaths and taking of acknowledgments;

3 (c) The charging of reasonable fees to be retained by  
4 the Secretary of State for the purpose of administering this  
5 chapter section;

6 (d) Educational requirements and procedures for  
7 testing applicants' knowledge of all matters relevant to the  
8 appointment, authority, duties or legal or ethical  
9 responsibilities of a civil-law notary ~~the effects and~~  
10 ~~consequences associated with authentic acts~~;

11 (e) Procedures for the disciplining of civil-law  
12 notaries, including, but not limited to, the suspension and  
13 revocation of appointments for failure to comply with the  
14 requirements of chapter 118 or the rules of the Department of  
15 State, or for misrepresentation or fraud regarding the  
16 civil-law notary's authority, the effect of the civil-law  
17 notary's authentic acts, or the identities or acts of the  
18 parties to a transaction; and

19 (f) Bonding or errors and omissions insurance  
20 requirements, or both, for civil-law notaries; and

21 (g) ~~(f)~~ Other matters necessary for administering this  
22 section.

23 (6) The Secretary of State shall not regulate,  
24 discipline, or attempt to discipline, ~~or establish any~~  
25 ~~educational requirements for~~ any civil-law notary for, or with  
26 regard to, any action or conduct that would constitute the  
27 practice of law in this state, except by agreement with The  
28 Florida Bar. The Secretary of State shall not establish as a  
29 prerequisite to the appointment of a civil-law notary any test  
30 containing any question that inquires of the applicant's  
31 knowledge regarding the practice of law in the United States,

1 unless such test is offered in conjunction with an educational  
2 program approved by The Florida Bar for continuing legal  
3 education credit ~~except by agreement with The Florida Bar.~~

4 Section 38. Section 118.12, Florida Statutes, is  
5 created to read:

6 118.12 Certification of civil-law notary's authority;  
7 apostilles.--If certification of a civil-law notary's  
8 authority is necessary for a particular document or  
9 transaction, it must be obtained from the Secretary of  
10 State. Upon the receipt of a written request from a civil-law  
11 notary and the fee prescribed by the Secretary of State, the  
12 Secretary of State shall issue a certification of the  
13 civil-law notary's authority, in a form prescribed by the  
14 Secretary of State, which shall include a statement explaining  
15 the legal qualifications and authority of a civil-law notary  
16 in this state. The fee prescribed for the issuance of the  
17 certification under this section or an apostille under s.  
18 15.16 may not exceed \$10 per document. The Department of  
19 State may adopt rules to implement this section.

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