

Bill No. SB 1894

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 21, between lines 4 and 5,

insert:

Section 3. 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 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.

Section 4. 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

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1 his or her notary public commission in an office of a clerk of
 2 the circuit court. If certification of the notary public's
 3 commission is required, it must be obtained from the Secretary
 4 of State. Upon the receipt of a written request, ~~the notarized~~
 5 ~~document,~~ and a fee of \$10 payable to the Secretary of State,
 6 the Secretary of State shall provide a certified copy of the
 7 notary public's original certificate of commission which shall
 8 be legally sufficient to establish the notary public's
 9 authority to provide the services specifically authorized for
 10 a notary public by the Florida Statutes, and shall issue a
 11 certificate of notarial authority, the contents of which shall
 12 be determined by the Secretary of State and shall establish
 13 for third parties the extent of the legal authority of the
 14 notary public. ~~certificate of notarial authority. Documents~~
 15 ~~destined for countries participating in an International~~
 16 ~~Treaty called the Hague Convention require an Apostille, and~~
 17 ~~that requirement shall be determined by the Secretary of~~
 18 ~~State.~~

19 Section 5. Section 118.10, Florida Statutes, is
 20 amended 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 includes the
 25 particulars and capacities to act of the transacting party or
 26 parties, a confirmation of the full text of the instrument,
 27 the signatures of the party or parties or legal equivalent
 28 thereof, and the signature and seal of a civil-law notary as
 29 prescribed by the Florida Secretary of State.

30 (b) "Civil-law notary" means a person who is a member
 31 in good standing of The Florida Bar, who has practiced law for

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1 at least 5 years, and who is appointed by the Secretary of
2 State as a civil-law notary.

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

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

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

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

30 (5) The Secretary of State may adopt rules
31 prescribing:

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

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

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

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

15 Section 6. Section 118.12, Florida Statutes, is
16 created to read:

17 118.12 Certification of civil-law notary's authority;
18 apostilles.--If certification of a civil-law notary's
19 authority is necessary for a particular document or
20 transaction, it must be obtained from the Secretary of State.
21 Upon the receipt of a written request from a civil-law notary,
22 a copy of the document, and a fee of \$10 payable to the
23 Secretary of State, the Secretary of State shall provide a
24 certification of the civil-law notary's authority which may be
25 used in support of the document submitted and any related
26 transaction. Documents destined for countries participating
27 in an International Treaty called the Hague Convention may
28 require an Apostille and the Secretary of State shall upon
29 receiving a written request from a civil-law notary, a copy of
30 the document, and a fee of \$10 payable to the Secretary of
31 State, provide an apostille conforming to the requirements of

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1 the Hague Convention and including such other matters as the
2 Secretary of State may establish by rule.

3 Section 7. Sections 282.74 and 282.745, Florida
4 Statutes, and section 117.20, Florida Statutes, 1998
5 Supplement, are repealed.

6 Section 8. The Department of State is authorized to
7 allocate the following funds from the department's
8 Corporations Trust Fund to administer this act:

9 (1) Effective July 1, 2000, two full-time equivalent
10 positions and \$137,429 in Salaries and Benefits, \$100,000 in
11 Expense, and \$317,753 in Operating Capital Outlay; and

12 (2) Effective January 1, 2001, 9 additional full-time
13 equivalent positions and \$213,243 in Salaries and Benefits and
14 \$32,247 in Operating Capital Outlay.

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16 The funds allocated under this section are not subject to
17 reversion.

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19 (Redesignate subsequent sections.)

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

23 And the title is amended as follows:

24 On page 1, line 19,

25
26 insert:

27 amending s. 15.16, F.S.; authorizing the
28 Secretary of State to issue apostilles;
29 authorizing a fee; amending s. 117.103, F.S. ;
30 providing procedures and effect relating to
31 issuance of certified copies of certificates of

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1 notary public commission; amending s. 118.10,
2 F.S.; revising the definition and purposes of
3 "authentic act" governing civil-law notaries;
4 providing for a presumption of correctness of
5 matters incorporated into authentic acts;
6 authorizing civil-law notaries to authenticate
7 documents, transactions, events, conditions, or
8 occurrences; expanding the rulemaking authority
9 of the Secretary of State governing civil-law
10 notaries; authorizing the Secretary of State to
11 test the legal knowledge of a civil-law notary
12 applicant under certain circumstances; creating
13 s. 118.12, F.S.; authorizing the issuance of
14 certificates of notarial authority and
15 apostilles to civil-law notaries; repealing s.
16 282.74, F.S., relating to certification to
17 verify electronic signatures, s. 282.745, F.S.,
18 relating to voluntary licensure, s. 117.20,
19 F.S., relating to electronic notarization;
20 allocating money from the Corporations Trust
21 Fund to the Department of State;

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