

1 A bill to be entitled
2 An act relating to self-authentication of documents;
3 amending s. 90.902, F.S.; allowing certified copies of
4 official public documents to be filed electronically;
5 providing a method for authenticating public documents
6 other than by certified copies; amending s. 90.803,
7 F.S.; conforming a cross-reference; providing an
8 effective date.

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

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12 Section 1. Subsection (4) of section 90.902, Florida
13 Statutes, is amended, subsections (5) through (11) are
14 renumbered as subsections (6) through (12), respectively, and a
15 new subsection (5) is added to that section, to read:

16 90.902 Self-authentication.—Extrinsic evidence of
17 authenticity as a condition precedent to admissibility is not
18 required for:

19 (4) A copy of an official public record, report, or entry,
20 or of a document authorized by law to be recorded or filed and
21 actually recorded or filed in a public office, including data
22 compilations in any form, certified as correct by the custodian
23 or other person authorized to make the certification by
24 certificate complying with subsection (1), subsection (2), or
25 subsection (3) or complying with any act of the Legislature or
26 rule adopted by the Supreme Court, which certified copy may be

27 filed electronically pursuant to s. 28.22205. An electronically
 28 filed certified copy is admissible to the same extent as the
 29 original would be if it complies with this subsection.

30 (5) A copy of:

31 (a) Any pleading, order, or other filing in any court
 32 sitting in the United States or a United States territory; or

33 (b) Any document or record entry filed with or retained by
 34 the United States or any state, municipality, district,
 35 commonwealth, territory, or governmental department or agency of
 36 such an entity which is available to the public from an Internet
 37 website operated by a governmental agency or authorized by a
 38 governmental agency if the party seeking authentication of the
 39 document files a Notice of Reliance on Electronic Records which:

40 1. Attaches a copy of the document to be admitted.

41 2. Discloses the website and web address on the Internet
 42 where said document can be located.

43 3. Serves written notice not less than 20 days before a
 44 hearing at which the authenticity of the document or its
 45 acceptance by a court as an authentic document is at issue. The
 46 court may waive or shorten the time period for filing the notice
 47 set forth in this subparagraph.

48 a. If a party desires to object to the authenticity of a
 49 document which is the subject of a Notice of Reliance on
 50 Electronic Records, such party shall file and serve on every
 51 other party an affidavit within 5 days before a hearing, which
 52 time period may be waived or shortened by the court, challenging

53 either the authenticity of said document by attaching a copy of
54 what the challenging party asserts is the true, correct, and
55 authentic document, and detailing in writing the portion of said
56 document which is not authentic; or that said document does not
57 exist on the website or web address as specified in the notice.

58 b. After review and consideration by the court, the court
59 shall deem authentic the document that is the subject of the
60 Notice of Reliance on Electronic Records unless:

61 (I) The document does not satisfy the requirements of this
62 paragraph;

63 (II) An objection is filed pursuant to sub-subparagraph a.
64 and the court sustains the objection or otherwise determines the
65 document to not be authentic; or

66 (III) The document does not have the same content or text,
67 in all material respects, as the document that appears on the
68 website identified in the Notice of Reliance on Electronic
69 Records.

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71 This subsection does not prohibit a party from authenticating a
72 document under s. 90.901 or as otherwise provided in subsection
73 (4) or this subsection, all of which are alternative methods of
74 authentication.

75 Section 2. Paragraph (a) of subsection (6) of section
76 90.803, Florida Statutes, is amended to read:

77 90.803 Hearsay exceptions; availability of declarant
78 immaterial.—The provision of s. 90.802 to the contrary

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79 notwithstanding, the following are not inadmissible as evidence,
80 even though the declarant is available as a witness:

81 (6) RECORDS OF REGULARLY CONDUCTED BUSINESS ACTIVITY.—

82 (a) A memorandum, report, record, or data compilation, in
83 any form, of acts, events, conditions, opinion, or diagnosis,
84 made at or near the time by, or from information transmitted by,
85 a person with knowledge, if kept in the course of a regularly
86 conducted business activity and if it was the regular practice
87 of that business activity to make such memorandum, report,
88 record, or data compilation, all as shown by the testimony of
89 the custodian or other qualified witness, or as shown by a
90 certification or declaration that complies with paragraph (c)
91 and s. 90.902(12) ~~90.902(11)~~, unless the sources of information
92 or other circumstances show lack of trustworthiness. The term
93 "business" as used in this paragraph includes a business,
94 institution, association, profession, occupation, and calling of
95 every kind, whether or not conducted for profit.

96 Section 3. This act shall take effect upon becoming a law.