

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 any pleading, order, or other filing in any
31 court sitting in the United States or a United States territory,
32 or a document or record entry filed with or retained by the
33 United States or any state, municipality, district,
34 commonwealth, territory, or governmental department or agency of
35 such an entity which is available to the public from an Internet
36 website operated by a governmental agency or authorized by a
37 governmental agency.

38 (a) The party seeking authentication of a document
39 pursuant to this subsection must:

40 1. File a Notice of Reliance on Electronic Records which
41 attaches a copy of the document to be authenticated and
42 discloses the website and web address where the document can be
43 located.

44 2. Serve the written Notice of Reliance on Electronic
45 Records at least 20 days before a hearing at which the
46 authenticity of the document or its acceptance by a court as an
47 authentic document is at issue. The court may waive or shorten
48 the time period for filing the notice set forth in this
49 subparagraph.

50 (b) A party may object to the authenticity of a document
51 that is the subject of a Notice of Reliance on Electronic
52 Records by filing and serving on every other party an affidavit

53 at least 5 days before a hearing, unless such time period is
54 waived or shortened by the court. The affidavit must challenge
55 either the authenticity of the document by attaching a copy of
56 what the challenging party asserts is the true, correct, and
57 authentic document, and detailing in writing the portion of the
58 document that is not authentic; or assert that the document does
59 not exist on the website or web address as specified in the
60 Notice of Reliance on Electronic Records.

61 (c) After review and consideration by the court, the court
62 shall deem authentic the document that is the subject of the
63 Notice of Reliance on Electronic Records unless:

64 1. The party seeking authentication of the document does
65 not satisfy the requirements of paragraph (a);

66 2. An affidavit objecting to the authenticity of the
67 document is filed pursuant to paragraph (b) and the court
68 sustains the objection;

69 3. The document does not have the same content or text, in
70 all material respects, as the document that appears on the
71 website identified in the Notice of Reliance on Electronic
72 Records; or

73 4. The court otherwise determines the document is not
74 authentic.

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76 This subsection does not prohibit a party from authenticating a
77 document under s. 90.901 or as otherwise provided in subsection
78 (4), all of which are alternative methods of authentication.

79 Section 2. Paragraph (a) of subsection (6) of section
80 90.803, Florida Statutes, is amended to read:

81 90.803 Hearsay exceptions; availability of declarant
82 immaterial.—The provision of s. 90.802 to the contrary
83 notwithstanding, the following are not inadmissible as evidence,
84 even though the declarant is available as a witness:

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

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

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