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LEGISLATIVE ACTION

Senate

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House

Senator Brandes moved the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. The Division of Law Revision and Information is
directed to:

(1) Create part I of chapter 117, Florida Statutes,
consisting of ss. 117.01-117.108, Florida Statutes, to be
entitled "General Provisions."

(2) Create part II of chapter 117, Florida Statutes,
consisting of ss. 117.201-117.305, Florida Statutes, to be



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12 entitled "Online Notarizations."

13 Section 2. Subsection (1) of section 117.01, Florida
14 Statutes, is amended to read:

15 117.01 Appointment, application, suspension, revocation,
16 application fee, bond, and oath.—

17 (1) The Governor may appoint as many notaries public as he
18 or she deems necessary, each of whom must ~~shall~~ be at least 18
19 years of age and a legal resident of this ~~the~~ state. A permanent
20 resident alien may apply and be appointed and shall file with
21 his or her application a recorded Declaration of Domicile. The
22 residence required for appointment must be maintained throughout
23 the term of appointment. A notary public ~~Notaries public~~ shall
24 be appointed for 4 years and may only ~~shall~~ use and exercise the
25 office of notary public if he or she is within the boundaries of
26 this state. An applicant must be able to read, write, and
27 understand the English language.

28 Section 3. Present subsections (4) and (5) of section
29 117.021, Florida Statutes, are renumbered as subsections (5) and
30 (6), respectively, a new subsection (4) and subsection (7) are
31 added to that section, and subsection (2) of that section is
32 amended, to read:

33 117.021 Electronic notarization.—

34 (2) In performing an electronic notarial act, a notary
35 public shall use an electronic signature that is:

36 (a) Unique to the notary public;

37 (b) Capable of independent verification;

38 (c) Retained under the notary public's sole control and
39 includes access protection through the use of passwords or codes
40 under control of the notary public; and



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41 (d) Attached to or logically associated with the electronic
42 document in a manner that any subsequent alteration to the
43 electronic document displays evidence of the alteration.

44 (4) A person may not require a notary public to perform a
45 notarial act with respect to an electronic record with a form of
46 technology that the notary public has not selected to use.

47 (7) The Department of State, in collaboration with the
48 Agency for State Technology, shall adopt rules establishing
49 standards for tamper-evident technologies that will indicate any
50 alteration or change to an electronic record after completion of
51 an electronic notarial act and shall publish a list of
52 technologies that satisfy those standards and are approved for
53 use in electronic notarizations, effective January 1, 2019. All
54 electronic notarizations performed on or after January 1, 2019,
55 must comply with the adopted standards and use an approved
56 technology.

57 Section 4. Subsection (1), paragraph (a) of subsection (2),
58 subsections (4) and (5), paragraph (a) of subsection (12), and
59 subsections (13) and (14) of section 117.05, Florida Statutes,
60 are amended, and paragraph (c) is added to subsection (12) of
61 that section, to read:

62 117.05 Use of notary commission; unlawful use; notary fee;
63 seal; duties; employer liability; name change; advertising;
64 photocopies; penalties.—

65 (1) A No person may not shall obtain or use a notary public
66 commission in other than his or her legal name, and it is
67 unlawful for a notary public to notarize his or her own
68 signature. Any person applying for a notary public commission
69 must submit proof of identity to the Department of State ~~if so~~



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70 ~~requested~~. Any person who violates ~~the provisions of~~ this
71 subsection commits ~~is guilty of~~ a felony of the third degree,
72 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

73 (2) (a) The fee of a notary public may not exceed \$10 for
74 any one notarial act, except as provided in s. 117.045 or s.
75 117.275.

76 (4) When notarizing a signature, a notary public shall
77 complete a jurat or notarial certificate in substantially the
78 same form as those found in subsection (13). The jurat or
79 certificate of acknowledgment shall contain the following
80 elements:

81 (a) The venue stating the location of the notary public at
82 the time of the notarization in the format, "State of Florida,
83 County of"

84 (b) The type of notarial act performed, an oath or an
85 acknowledgment, evidenced by the words "sworn" or
86 "acknowledged."

87 (c) That the signer personally appeared before the notary
88 public at the time of the notarization either by physical
89 presence or by means of audio-video communication technology as
90 authorized under part II of this chapter.

91 (d) The exact date of the notarial act.

92 (e) The name of the person whose signature is being
93 notarized. It is presumed, absent such specific notation by the
94 notary public, that notarization is to all signatures.

95 (f) The specific type of identification the notary public
96 is relying upon in identifying the signer, either based on
97 personal knowledge or satisfactory evidence specified in
98 subsection (5).



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99 (g) The notary public's ~~notary's~~ official signature.

100 (h) The notary public's ~~notary's~~ name, typed, printed, or
101 stamped below the signature.

102 (i) The notary public's ~~notary's~~ official seal affixed
103 below or to either side of the notary public's ~~notary's~~
104 signature.

105 (5) A notary public may not notarize a signature on a
106 document unless he or she personally knows, or has satisfactory
107 evidence, that the person whose signature is to be notarized is
108 the individual who is described in and who is executing the
109 instrument. A notary public shall certify in the certificate of
110 acknowledgment or jurat the type of identification, either based
111 on personal knowledge or other form of identification, upon
112 which the notary public is relying. In the case of an online
113 notarization, the online notary public shall comply with the
114 requirements set forth in part II of this chapter.

115 (a) For purposes of this subsection, the term "personally
116 knows" means having an acquaintance, derived from association
117 with the individual, which establishes the individual's identity
118 with at least a reasonable certainty.

119 (b) For the purposes of this subsection, the term
120 "satisfactory evidence" means the absence of any information,
121 evidence, or other circumstances which would lead a reasonable
122 person to believe that the person whose signature is to be
123 notarized is not the person he or she claims to be and any one
124 of the following:

125 1. The sworn written statement of one credible witness
126 personally known to the notary public or the sworn written
127 statement of two credible witnesses whose identities are proven



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128 to the notary public upon the presentation of satisfactory
129 evidence that each of the following is true:

130 a. That the person whose signature is to be notarized is
131 the person named in the document;

132 b. That the person whose signature is to be notarized is
133 personally known to the witnesses;

134 c. That it is the reasonable belief of the witnesses that
135 the circumstances of the person whose signature is to be
136 notarized are such that it would be very difficult or impossible
137 for that person to obtain another acceptable form of
138 identification;

139 d. That it is the reasonable belief of the witnesses that
140 the person whose signature is to be notarized does not possess
141 any of the identification documents specified in subparagraph
142 2.; and

143 e. That the witnesses do not have a financial interest in
144 nor are parties to the underlying transaction; or

145 2. Reasonable reliance on the presentation to the notary
146 public of any one of the following forms of identification, if
147 the document is current or has been issued within the past 5
148 years and bears a serial or other identifying number:

149 a. A Florida identification card or driver license issued
150 by the public agency authorized to issue driver licenses;

151 b. A passport issued by the Department of State of the
152 United States;

153 c. A passport issued by a foreign government if the
154 document is stamped by the United States Bureau of Citizenship
155 and Immigration Services;

156 d. A driver license or an identification card issued by a



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157 public agency authorized to issue driver licenses in a state
158 other than Florida, a territory of the United States, or Canada
159 or Mexico;

160 e. An identification card issued by any branch of the armed
161 forces of the United States;

162 f. A veteran health identification card issued by the
163 United States Department of Veterans Affairs;

164 g. An inmate identification card issued on or after January
165 1, 1991, by the Florida Department of Corrections for an inmate
166 who is in the custody of the department;

167 h. An inmate identification card issued by the United
168 States Department of Justice, Bureau of Prisons, for an inmate
169 who is in the custody of the department;

170 i. A sworn, written statement from a sworn law enforcement
171 officer that the forms of identification for an inmate in an
172 institution of confinement were confiscated upon confinement and
173 that the person named in the document is the person whose
174 signature is to be notarized; or

175 j. An identification card issued by the United States
176 Bureau of Citizenship and Immigration Services.

177 (12) (a) A notary public may supervise the making of a copy
178 of a tangible or an electronic record or the printing of an
179 electronic record, photocopy of an original document and attest
180 to the trueness of the copy or of the printout, provided the
181 document is neither a vital record in this state, another state,
182 a territory of the United States, or another country, nor a
183 public record, if a copy can be made by the custodian of the
184 public record.

185 (c) A notary public must use a certificate in substantially



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186 the following form in notarizing a copy of a tangible or an
187 electronic record or a printout of an electronic record:

188
189 STATE OF FLORIDA

190 COUNTY OF

191
192 On this day of, ...(year)..., I attest that the
193 preceding or attached document is a true, exact, complete, and
194 unaltered ...(copy of a tangible or an electronic record
195 presented to me by the document's custodian)... or a
196 ...(printout made by me from such record).... If a printout, I
197 further attest that at the time of printing, no security
198 features, if any, present on the electronic record, indicated
199 that the record had been altered since execution.

200
201 ...(Signature of Notary Public - State of Florida)...

202 ...(Print, Type, or Stamp Commissioned Name of Notary Public)...

203
204 (13) The following notarial certificates are sufficient for
205 the purposes indicated, if completed with the information
206 required by this chapter. The specification of forms under this
207 subsection does not preclude the use of other forms.

208 (a) For an oath or affirmation:

209
210 STATE OF FLORIDA

211 COUNTY OF

212
213 Sworn to (or affirmed) and subscribed before me by means of
214 [] physical presence or [] online notarization, this day of



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215 , ... (year) ... , by ... (name of person making
216 statement)

217
218 ... (Signature of Notary Public - State of Florida) ...

219 ... (Print, Type, or Stamp Commissioned Name of Notary Public) ...

220 Personally Known OR Produced Identification

221

222 Type of Identification Produced.....

223

224 (b) For an acknowledgment in an individual capacity:

225

226 STATE OF FLORIDA

227 COUNTY OF

228

229 The foregoing instrument was acknowledged before me by means of

230 [] physical presence or [] online notarization, this day of

231 , ... (year) ... , by ... (name of person acknowledging)

232

233 ... (Signature of Notary Public - State of Florida) ...

234 ... (Print, Type, or Stamp Commissioned Name of Notary Public) ...

235 Personally Known OR Produced Identification

236

237 Type of Identification Produced.....

238

239 (c) For an acknowledgment in a representative capacity:

240

241 STATE OF FLORIDA

242 COUNTY OF

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244 The foregoing instrument was acknowledged before me by means of
245 [] physical presence or [] online notarization, this day of
246, ... (year) ..., by ... (name of person) ... as ... (type of
247 authority, . . . e.g. officer, trustee, attorney in fact) ... for
248 ... (name of party on behalf of whom instrument was executed)

249
250 ... (Signature of Notary Public - State of Florida) ...
251 ... (Print, Type, or Stamp Commissioned Name of Notary Public) ...

252 Personally Known OR Produced Identification

253

254 Type of Identification Produced.....

255

256 (14) A notary public must make reasonable accommodations to
257 provide notarial services to persons with disabilities.

258 (a) A notary public may notarize the signature of a person
259 who is blind after the notary public has read the entire
260 instrument to that person.

261 (b) A notary public may notarize the signature of a person
262 who signs with a mark if:

263 1. The document signing is witnessed by two disinterested
264 persons;

265 2. The notary public prints the person's first name at the
266 beginning of the designated signature line and the person's last
267 name at the end of the designated signature line; and

268 3. The notary public prints the words "his (or her) mark"
269 below the person's signature mark.

270 (c) The following notarial certificates are sufficient for
271 the purpose of notarizing for a person who signs with a mark:

272 1. For an oath or affirmation:



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...(First Name)... ...(Last Name)..
...His (or Her) Mark...

STATE OF FLORIDA
COUNTY OF

Sworn to and subscribed before me by means of [] physical
presence or [] online notarization, this day of,
...(year)...., by ...(name of person making statement)...., who
signed with a mark in the presence of these witnesses:

...(Signature of Notary Public - State of Florida)...
...(Print, Type, or Stamp Commissioned Name of Notary Public)...
Personally Known OR Produced Identification
.....
Type of Identification Produced.....

2. For an acknowledgment in an individual capacity:

...(First Name)... ...(Last Name)..
...His (or Her) Mark...

STATE OF FLORIDA
COUNTY OF

The foregoing instrument was acknowledged before me by means of
[] physical appearance or [] online notarization, this day
of, ...(year)...., by ...(name of person



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302 acknowledging)..., who signed with a mark in the presence of
303 these witnesses:

304
305 ... (Signature of Notary Public - State of Florida)...

306 ... (Print, Type, or Stamp Commissioned Name of Notary Public)...

307 Personally Known OR Produced Identification

308

309 Type of Identification Produced.....

310

311 (d) A notary public may sign the name of a person whose
312 signature is to be notarized when that person is physically
313 unable to sign or make a signature mark on a document if:

314 1. The person with a disability directs the notary public
315 to sign in his or her presence, either by verbal, written, or
316 other means;

317 2. The document signing is witnessed by two disinterested
318 persons; and

319 3. The notary public writes below the signature the
320 following statement: "Signature affixed by notary, pursuant to
321 s. 117.05(14), Florida Statutes," and states the circumstances
322 and the means by which the notary public was directed to sign ~~of~~
323 ~~the signing in~~ the notarial certificate.

324

325 The notary public must maintain the proof of direction and
326 authorization to sign on behalf of the person with a disability
327 for 10 years from the date of the notarial act.

328 (e) The following notarial certificates are sufficient for
329 the purpose of notarizing for a person with a disability who
330 directs the notary public to sign his or her name:



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331 1. For an oath or affirmation:

332

333 STATE OF FLORIDA

334 COUNTY OF

335

336 Sworn to (or affirmed) before me by means of [] physical
337 presence or [] online notarization, this day of,
338 ...(year)..., by ...(name of person making statement)..., and
339 subscribed by ...(name of notary)... at the direction of ~~and in~~
340 ~~the presence of~~ ...(name of person making statement)... by
341 ...(written, verbal, or other means)..., and in the presence of
342 these witnesses:

343

344 ...(Signature of Notary Public - State of Florida)...

345 ...(Print, Type, or Stamp Commissioned Name of Notary Public)...

346 Personally Known OR Produced Identification

347

348 Type of Identification Produced.....

349

350 2. For an acknowledgment in an individual capacity:

351

352 STATE OF FLORIDA

353 COUNTY OF

354

355 The foregoing instrument was acknowledged before me by means of
356 [] physical presence or [] online notarization, this day of
357, ...(year)..., by ...(name of person acknowledging)...
358 and subscribed by ...(name of notary)... at the direction of ~~and~~
359 ~~in the presence of~~ ...(name of person acknowledging)..., and in



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360 the presence of these witnesses:

361

362 ...(Signature of Notary Public - State of Florida)...

363 ...(Print, Type, or Stamp Commissioned Name of Notary Public)...

364 Personally Known OR Produced Identification

365

366 Type of Identification Produced.....

367

368 Section 5. Subsections (2) and (9) of section 117.107,
369 Florida Statutes, are amended to read:

370 117.107 Prohibited acts.—

371 (2) A notary public may not sign notarial certificates
372 using a facsimile signature stamp unless the notary public has a
373 physical disability that limits or prohibits his or her ability
374 to make a written signature and unless the notary public has
375 first submitted written notice to the Department of State with
376 an exemplar of the facsimile signature stamp. This subsection
377 does not apply to or prohibit the use of an electronic signature
378 and seal by a notary public who is registered as an online
379 notary public to perform an electronic or online notarization in
380 accordance with this chapter.

381 (9) A notary public may not notarize a signature on a
382 document if the person whose signature is being notarized does
383 not appear before the notary public either by means of physical
384 presence or by means of audio-video communication technology as
385 authorized under part II of this chapter ~~is not in the presence~~
386 ~~of the notary public~~ at the time the signature is notarized. Any
387 notary public who violates this subsection is guilty of a civil
388 infraction, punishable by penalty not exceeding \$5,000, and such



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389 violation constitutes malfeasance and misfeasance in the conduct
390 of official duties. It is no defense to the civil infraction
391 specified in this subsection that the notary public acted
392 without intent to defraud. A notary public who violates this
393 subsection with the intent to defraud is guilty of violating s.
394 117.105.

395 Section 6. Section 117.201, Florida Statutes, is created to
396 read:

397 117.201 Definitions.—As used in this part, the term:

398 (1) "Appear before," "before," "appear personally before,"
399 or "in the presence of" mean:

400 (a) In the same physical location as another person and
401 close enough to see, hear, communicate with, and exchange
402 credentials with that person; or

403 (b) In a different physical location from another person,
404 but able to see, hear, and communicate with the person by means
405 of audio-video communication technology.

406 (2) "Audio-video communication technology" means technology
407 in compliance with this chapter which enables real-time, two-way
408 communication using electronic means in which participants are
409 able to see, hear, and communicate with one another.

410 (3) "Credential analysis" means a process or service, in
411 compliance with this chapter, in which a third party affirms the
412 validity of a government-issued identification credential and
413 data thereon through review of public or proprietary data
414 sources.

415 (4) "Errors and omissions insurance" means a type of
416 insurance that provides coverage for potential errors or
417 omissions in or relating to the notarial act and is maintained,



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418 as applicable, by the online notary public or a provider of
419 software services used to directly facilitate the performance of
420 the online notarial act.

421 (5) "Government-issued identification credential" means any
422 approved credential for verifying identity under s.
423 117.05(5)(b)2.

424 (6) "Identity proofing" means a process or service in
425 compliance with this chapter in which a third party affirms the
426 identity of an individual through use of public or proprietary
427 data sources, which may include by means of knowledge-based
428 authentication or biometric verification.

429 (7) "Knowledge-based authentication" means a form of
430 identity proofing based on a set of questions which pertain to
431 an individual and are formulated from public or proprietary data
432 sources.

433 (8) "Online notarization" means the performance of an
434 electronic notarization by means of audio-video communication
435 technology in compliance with this chapter.

436 (9) "Online notary public" means a notary public who has
437 registered with the Executive Office of the Governor and the
438 Department of State to perform online notarizations under this
439 part, a civil-law notary appointed under chapter 118, or a
440 commissioner of deeds appointed under part IV of chapter 721.

441 (10) "Principal" means an individual whose electronic
442 signature is acknowledged, witnessed, or attested to in an
443 online notarization or who takes an oath or affirmation from the
444 online notary public.

445 (11) "Remote presentation" means transmission of an image
446 of a government-issued identification credential that is of



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447 sufficient quality to enable the online notary public to
448 identify the individual seeking the notary's services and to
449 perform credential analysis through audio-video communication
450 technology.

451
452 Except where the context otherwise requires, any term defined in
453 s. 668.50 has the same meaning when used in this part.

454 Section 7. Section 117.209, Florida Statutes, is created to
455 read:

456 117.209 Authority to perform online notarizations.—

457 (1) An online notary public may perform any of the
458 functions authorized under part I of this chapter as an online
459 notarization, excluding solemnizing the rites of matrimony.

460 (2) If a notarial act requires a principal to appear before
461 or in the presence of the online notary public, the principal
462 may appear before the online notary public by means of audio-
463 video communication technology that meets the requirements of
464 this chapter and any rules adopted by the Department of State
465 under s. 117.295.

466 (3) An online notary public may perform an online
467 notarization as authorized under this part, regardless of the
468 physical location of the principal at the time of the notarial
469 act, provided the notary public, other than a civil-law notary
470 or a commissioner of deeds, is physically located in this state
471 while performing the online notarization.

472 (4) The validity of an online notarization performed by an
473 online notary public registered in this state shall be
474 determined by applicable laws of this state regardless of the
475 physical location of the principal at the time of the notarial



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476 act.

477 Section 8. Section 117.215, Florida Statutes, is created to
478 read:

479 117.215 Relation to other laws.-

480 (1) If a provision of law requires a notary public or other
481 authorized official of this state to notarize a signature or a
482 statement, to take an acknowledgement of an instrument, or to
483 administer an oath or affirmation so that a document may be
484 sworn, affirmed, made under oath, or subject to penalty of
485 perjury, an online notarization performed in accordance with the
486 provisions of this part and any rules adopted hereunder
487 satisfies such requirement.

488 (2) If a provision of law requires a signature or an act to
489 be witnessed, compliance with the online electronic witnessing
490 standards prescribed in s. 117.285 and any rules adopted
491 thereunder satisfies that requirement.

492 Section 9. Section 117.225, Florida Statutes, is created to
493 read:

494 117.225 Registration; qualifications.-A notary public, a
495 civil-law notary appointed under chapter 118, or a commissioner
496 of deeds appointed under part IV of chapter 721 may complete
497 registration as an online notary public with the Executive
498 Office of the Governor and the Department of State by:

499 (1) Holding a current commission as a notary public under
500 part I of this chapter and submitting a copy of such commission
501 with his or her registration.

502 (2) Certifying that the notary public, civil-law notary, or
503 commissioner of deeds registering as an online notary public has
504 completed a classroom or online course covering the duties,



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505 obligations, and technology requirements for serving as an
506 online notary public.

507 (3) Paying an online notary public commission fee in the
508 amount of \$10, as required by s. 113.01.

509 (4) Submitting a registration as an online notary public to
510 the Executive Office of the Governor and the Department of
511 State, signed and sworn to by the registrant.

512 (5) Confirming in a statement that the audio-video
513 communication and identity proofing technologies the registrant
514 intends to use in performing online notarizations satisfy the
515 requirements of this chapter.

516 (6) Providing evidence satisfactory to the Executive Office
517 of the Governor and the Department of State that the registrant
518 has obtained a bond, payable to any individual harmed as a
519 result of a breach of duty by the registrant acting in his or
520 her official capacity as an online notary public, conditioned
521 for the due discharge of the office, in the minimum amount of
522 \$25,000 and on such terms as are specified by rule by the
523 Department of State as reasonably necessary to protect the
524 public. The bond shall be approved and filed with the Department
525 of State and executed by a surety company duly authorized to
526 transact business in this state. Compliance by an online notary
527 public with this requirement shall satisfy the requirement of
528 obtaining a bond under s. 117.01(7).

529 (7) Providing evidence satisfactory to the Executive Office
530 of the Governor and the Department of State that the registrant
531 acting in his or her capacity as an online notary public is
532 covered by an errors and omissions insurance policy from an
533 insurer authorized to transact business in this state, in the



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534 minimum amount of \$25,000 and on such terms as are specified by
535 rule by the Department of State as reasonably necessary to
536 protect the public.

537 Section 10. Section 117.235, Florida Statutes, is created
538 to read:

539 117.235 Performance of notarial acts.-

540 (1) An online notary public is subject to part I of this
541 chapter to the same extent as a notary public appointed and
542 commissioned only under that part, including the provisions of
543 s. 117.021 relating to electronic notarizations.

544 (2) An online notary public may perform notarial acts as
545 provided by part I of this chapter in addition to performing
546 online notarizations as authorized and pursuant to the
547 provisions of this part.

548 Section 11. Section 117.245, Florida Statutes, is created
549 to read:

550 117.245 Electronic journal of online notarizations.-

551 (1) An online notary public shall keep a secure electronic
552 journal of electronic records notarized by the online notary
553 public. For each online notarization, the electronic journal
554 entry must contain all of the following:

555 (a) The date and time of the notarization.

556 (b) The type of notarial act.

557 (c) The type, the title, or a description of the electronic
558 record or proceeding.

559 (d) The printed name and address of each principal involved
560 in the transaction or proceeding.

561 (e) Evidence of identity of each principal involved in the
562 transaction or proceeding in any of the following forms:



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563 1. A statement that the person is personally known to the
564 online notary public.

565 2. A notation of the type of government-issued
566 identification credential provided to the online notary public.

567 3. A copy of the government-issued identification
568 credential provided.

569 4. A copy of any other identification credential or
570 information provided.

571 (f) An indication that the principal satisfactorily passed
572 the identity proofing.

573 (g) An indication that the government-issued identification
574 credential satisfied the credential analysis.

575 (h) The fee, if any, charged for the notarization.

576 (2) The online notary public shall retain a copy of the
577 recording of the audio-video communication in which:

578 (a) The principal and any witnesses appeared before the
579 notary public.

580 (b) The identity of each was confirmed.

581 (c) Electronic records were signed by the principal and any
582 witnesses.

583 (d) The notarial act was performed.

584 (3) The online notary public shall take reasonable steps
585 to:

586 (a) Ensure the integrity, security, and authenticity of
587 online notarizations.

588 (b) Maintain a backup record of the electronic journal
589 required by subsection (1).

590 (c) Protect the electronic journal, the backup record, and
591 any other records received by the online notary public from



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592 unauthorized access or use.

593 (4) The electronic journal required under subsection (1)
594 and the recordings of audio-video communications required under
595 subsection (2) shall be maintained for at least 10 years after
596 the date of the notarial act. The Executive Office of the
597 Governor maintains jurisdiction over the electronic journal and
598 audio-video communication recordings to investigate notarial
599 misconduct for a period of 10 years after the date of the
600 notarial act. The online notary public, a guardian of an
601 incapacitated online notary public, or the personal
602 representative of a deceased online notary public, may, by
603 contract with a secure repository in accordance with any rules
604 established under this chapter, delegate to the repository the
605 online notary public's duty to retain the required recordings of
606 audio-video communications.

607 (5) An omitted or incomplete entry in the electronic
608 journal does not impair the validity of the notarial act or of
609 the electronic record which was notarized, but may be introduced
610 as evidence to establish violations of this chapter as an
611 indication of possible fraud, forgery, or impersonation or for
612 other evidentiary purposes.

613 Section 12. Section 117.255, Florida Statutes, is created
614 to read:

615 117.255 Use of electronic journal, signature, and seal.—An
616 online notary public shall:

617 (1) Take reasonable steps to ensure that any registered
618 device used to create an electronic signature is current and has
619 not been revoked or terminated by the issuing or registering
620 authority of the device.



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621 (2) Keep the electronic journal, electronic signature, and
622 electronic seal secure and under his or her sole control, which
623 includes access protection using passwords or codes under
624 control of the online notary public. The online notary public
625 may not allow another person to use the online notary public's
626 electronic journal, electronic signature, or electronic seal.

627 (3) Only use an electronic signature for performing online
628 notarization.

629 (4) Attach or logically associate the electronic signature
630 and seal to the electronic notarial certificate of an electronic
631 record in a manner that is capable of independent verification
632 using tamper-evident technology that renders any subsequent
633 change or modification to the electronic record evident.

634 (5) Within 7 days, notify an appropriate law enforcement
635 agency and the Department of State of theft or vandalism of the
636 electronic journal, electronic signature, or electronic seal. An
637 online notary public shall within 7 days notify the Department
638 of State of the loss or use by another person of the online
639 notary public's electronic journal, electronic signature, or
640 electronic seal.

641 (6) Make electronic copies, upon request, of the pertinent
642 entries in the electronic journal and provide access to the
643 related audio-video communication recordings to the parties to
644 the electronic records notarized, and to the title agent,
645 settlement agent, or title insurer who engaged the online notary
646 with regard to a real estate transaction. The online notary
647 public may charge a fee not to exceed \$20 per transaction record
648 for making and delivering electronic copies of a given series of
649 related electronic records, except if required by the Executive



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650 Office of the Governor or the Department of State to submit
651 copies pursuant to a notary misconduct investigation. If the
652 online notary public does charge a fee, the online notary public
653 shall disclose the amount of such fee to the requester before
654 making the electronic copies.

655 Section 13. Section 117.265, Florida Statutes, is created
656 to read:

657 117.265 Online notarization procedures.—

658 (1) An online notary public physically located in this
659 state may perform an online notarization that meets the
660 requirements of this part regardless of whether the principal or
661 any witnesses are physically located in this state at the time
662 of the online notarization. A civil-law notary or a commissioner
663 of deeds registered as an online notary public may perform an
664 online notarization while physically located outside of this
665 state. An online notarial act performed in accordance with this
666 chapter is deemed to have been performed within this state and
667 is governed by the applicable laws of this state.

668 (2) In performing an online notarization, an online notary
669 public shall confirm the identity of a principal and any witness
670 appearing online, at the time that the signature is taken, by
671 using audio-video communication technology and processes that
672 meet the requirements of this part and of any rules adopted
673 hereunder and record the entire two-way audio-video conference
674 session between the notary public and the principal and any
675 subscribing witnesses. A principal may not act in the capacity
676 of a witness for his or her own signature in an online
677 notarization.

678 (3) In performing an online notarization of a principal not



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679 located within this state, an online notary public must confirm
680 that the principal desires for the notarial act to be performed
681 by a Florida notary public and under the general law of this
682 state.

683 (4) An online notary public shall confirm the identity of
684 the principal or any witness by:

685 (a) Personal knowledge of each such individual; or

686 (b) All of the following, as the same may be refined or
687 supplemented in rules adopted pursuant to s. 117.295:

688 1. Remote presentation of a government-issued
689 identification credential by each individual;

690 2. Credential analysis of each government-issued
691 identification credential; and

692 3. Identity proofing of each individual in the form of
693 knowledge-based authentication or another method of identity
694 proofing that conforms to the standards of this chapter.

695
696 If the online notary public is unable to satisfy subparagraphs
697 (b)1.-3., or if the databases consulted for identity proofing do
698 not contain sufficient information to permit authentication, the
699 online notary public may not perform the online notarization.

700 (5) The online notary public shall take reasonable steps to
701 ensure that the audio-video communication technology used in an
702 online notarization is secure from unauthorized interception.

703 (6) The electronic notarial certificate for an online
704 notarization must include a notation that the notarization is an
705 online notarization.

706 (7) Except where otherwise expressly provided in this part,
707 the provisions of part I of this chapter apply to an online



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708 notarization and an online notary public.

709 (8) Any failure to comply with the online notarization
710 procedures set forth in this section does not impair the
711 validity of the notarial act or the electronic record that was
712 notarized, but may be introduced as evidence to establish
713 violations of this chapter or as an indication of possible
714 fraud, forgery, or impersonation or for other evidentiary
715 purposes. This subsection may not be construed to alter the duty
716 of an online notary public to comply with this chapter and any
717 rules adopted hereunder.

718 Section 14. Section 117.275, Florida Statutes, is created
719 to read:

720 117.275 Fees for online notarization.—An online notary
721 public or the employer of such online notary public may charge a
722 fee, not to exceed \$25, for performing an online notarization in
723 addition to any other fees authorized under part I of this
724 chapter. Fees for services other than notarial acts are not
725 governed by this section.

726 Section 15. Section 117.285, Florida Statutes, is created
727 to read:

728 117.285 Supervising the witnessing of electronic records.—
729 An online notary public may supervise the witnessing of
730 electronic records by the same audio-video communication
731 technology used for online notarization, as follows:

732 (1) The identity of the witness must be verified in the
733 same manner as the identity of the principal.

734 (2) The witness may physically be present with the
735 principal or remote from the principal provided the witness and
736 principal are using audio-video communication technology.



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737 (3) The witness is present in either physical proximity to
738 the principal or through audio-video communication technology at
739 the time the principal affixes the electronic signature and
740 hears the principal make a statement to the effect that the
741 principal has signed the electronic record.

742 Section 16. Section 117.295, Florida Statutes, is created
743 to read:

744 117.295 Standards for electronic and online notarization;
745 rulemaking authority.-

746 (1) The Legislature intends that the standards applicable
747 to electronic notarization under s. 117.021 and for online
748 notarization under this part reflect future improvements in
749 technology and in methods of assuring the identity of principals
750 and the security of an electronic record. The Department of
751 State may approve companies that meet the minimum standards for
752 online notarizations as described in subsection (2). The
753 Department of State may, at its discretion, periodically review
754 approved companies to ensure ongoing compliance with the minimum
755 standards for online notarization. The Department of State may
756 adopt rules and standards necessary to implement the
757 requirements of this chapter and such other rules and standards
758 as may be required to facilitate the integrity, security, and
759 reliability of online notarization, including education
760 requirements for online notaries public; the required terms of
761 bonds and errors and omissions insurance, but not including the
762 amounts of such policies; standards regarding identity proofing,
763 credential analysis, unauthorized interception, remote
764 presentation, tamper-evident technology, audio-video
765 communication technology, and retention of the electronic



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766 journal and copies of audio-video communications recordings in a
767 secure repository; and may publish lists of technologies that
768 satisfy the standards and are approved for use in online
769 notarizations.

770 (2) Companies that offer online notarization services must
771 meet the following minimum standards:

772 (a) Use of identity proofing by means of knowledge-based
773 authentication which must have, at a minimum, the following
774 security characteristics:

775 1. The principal must be presented with five or more
776 questions with a minimum of five possible answer choices per
777 question.

778 2. Each question must be drawn from a third-party provider
779 of public and proprietary data sources and be identifiable to
780 the principal's social security number or other identification
781 information, or the principal's identity and historical events
782 records.

783 3. Responses to all questions must be made within a 2-
784 minute time constraint.

785 4. The principal must answer a minimum of 80 percent of the
786 questions correctly.

787 5. The principal may be offered one additional attempt in
788 the event of a failed attempt.

789 6. During the second attempt, the principal may not be
790 presented with more than three questions from the prior attempt.

791 (b) Use of credential analysis that must confirm that the
792 credential is valid and matches the signer's claimed identity
793 using one or more automated software or hardware processes which
794 scan the credential, including its format features, data,



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795 barcodes, or other security elements.

796 (c) A company is deemed to have satisfied tamper-evident
797 technology requirements by use of technology that renders any
798 subsequent change or modification to the electronic record
799 evident.

800 (d) Use of audio-video communication technology in
801 completing online notarizations which must meet the following
802 requirements:

803 1. The signal transmission must be reasonably secure from
804 interception, access, or viewing by anyone other than the
805 participants communicating.

806 2. The technology must provide sufficient audio clarity and
807 video resolution to enable the notary to communicate with the
808 principal and to confirm the identity of the principal using
809 identification methods described in s. 117.265.

810 (e) A company which provides software services that
811 facilitate performance of online notarial acts by online
812 notaries public as provided for in this part shall maintain
813 errors and omissions insurance coverage in a total amount of at
814 least \$250,000 in the annual aggregate with respect to potential
815 errors or omissions in or relating to such software services.

816
817 An online notary public is not responsible for the security of
818 the systems used by the principal or others to access the online
819 notarization session.

820 Section 17. Section 117.305, Florida Statutes, is created
821 to read:

822 117.305 Relation to federal law.—This part supersedes the
823 Electronic Signatures in Global and National Commerce Act as



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824 authorized under 15 U.S.C. s. 7001 et seq., but does not modify,
825 limit, or supersede s. 101(c) of that act, 15 U.S.C. s. 7001(c),
826 or authorize the electronic delivery of the notices described in
827 15 U.S.C. s. 7003(b).

828 Section 18. Present paragraph (h) of subsection (3) of
829 section 28.222, Florida Statutes, is redesignated as paragraph
830 (i), and a new paragraph (h) is added to that subsection, to
831 read:

832 28.222 Clerk to be county recorder.—

833 (3) The clerk of the circuit court shall record the
834 following kinds of instruments presented to him or her for
835 recording, upon payment of the service charges prescribed by
836 law:

837 (h) Copies of any instruments originally created and
838 executed using an electronic signature, as defined in s. 695.27,
839 and certified to be a true and correct paper printout by a
840 notary public in accordance with chapter 117, if the county
841 recorder is not prepared to accept electronic documents for
842 recording electronically.

843 Section 19. Subsection (1) of section 95.231, Florida
844 Statutes, is amended to read:

845 95.231 Limitations where deed or will on record.—

846 (1) Five years after the recording of an instrument
847 required to be executed in accordance with s. 689.01; 5 years
848 after the recording of a power of attorney accompanying and used
849 for an instrument required to be executed in accordance with s.
850 689.01; or 5 years after the probate of a will purporting to
851 convey real property, from which it appears that the person
852 owning the property attempted to convey, affect, or devise it,



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853 the instrument, power of attorney, or will shall be held to have
854 its purported effect to convey, affect, or devise, the title to
855 the real property of the person signing the instrument, as if
856 there had been no lack of seal or seals, witness or witnesses,
857 defect in, failure of, or absence of acknowledgment or
858 relinquishment of dower, in the absence of fraud, adverse
859 possession, or pending litigation. The instrument is admissible
860 in evidence. A power of attorney validated under this subsection
861 shall be valid only for the purpose of effectuating the
862 instrument with which it was recorded.

863 Section 20. Section 689.01, Florida Statutes, is amended to
864 read:

865 689.01 How real estate conveyed.-

866 (1) No estate or interest of freehold, or for a term of
867 more than 1 year, or any uncertain interest of, in or out of any
868 messuages, lands, tenements or hereditaments shall be created,
869 made, granted, transferred or released in any other manner than
870 by instrument in writing, signed in the presence of two
871 subscribing witnesses by the party creating, making, granting,
872 conveying, transferring or releasing such estate, interest, or
873 term of more than 1 year, or by the party's lawfully authorized
874 agent, unless by will and testament, or other testamentary
875 appointment, duly made according to law; and no estate or
876 interest, either of freehold, or of term of more than 1 year, or
877 any uncertain interest of, in, to, or out of any messuages,
878 lands, tenements or hereditaments, shall be assigned or
879 surrendered unless it be by instrument signed in the presence of
880 two subscribing witnesses by the party so assigning or
881 surrendering, or by the party's lawfully authorized agent, or by



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882 the act and operation of law. No seal shall be necessary to give
883 validity to any instrument executed in conformity with this
884 section. Corporations may execute any and all conveyances in
885 accordance with the provisions of this section or ss. 692.01 and
886 692.02.

887 (2) For purposes of this chapter:

888 (a) Any requirement that an instrument be signed in the
889 presence of two subscribing witnesses may be satisfied by
890 witnesses being present and electronically signing by means of
891 audio-video communication technology that meets the requirements
892 of part II of chapter 117 and any rules adopted thereunder.

893 (b) The act of witnessing an electronic signature is
894 satisfied if a witness is present either in physical proximity
895 to the principal or by audio-video communication technology at
896 the time the principal affixes his or her electronic signature
897 and hears the principal make a statement acknowledging that the
898 principal has signed the electronic record.

899 (3) All acts of witnessing heretofore made or taken
900 pursuant to subsection (2) are validated and, upon recording,
901 may not be denied to have provided constructive notice based on
902 any alleged failure to have strictly complied with this section,
903 as currently or previously in effect, or the laws governing
904 notarization of instruments, including online notarization, in
905 this state.

906 Section 21. Section 694.08, Florida Statutes, is amended to
907 read:

908 694.08 Certain instruments validated, notwithstanding lack
909 of seals or witnesses, or defect in acknowledgment, ~~etc.~~—

910 (1) Whenever any power of attorney has been executed and



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911 delivered, or any conveyance has been executed and delivered to
912 any grantee by the person owning the land therein described, or
913 conveying the same in an official or representative capacity,
914 and has, for a period of 7 years or more been spread upon the
915 records of the county wherein the land therein described has
916 been or was at the time situated, and one or more subsequent
917 conveyances of said land or parts thereof have been made,
918 executed, delivered and recorded by parties claiming under such
919 instrument or instruments, and such power of attorney or
920 conveyance, or the public record thereof, shows upon its face a
921 clear purpose and intent of the person executing the same to
922 authorize the conveyance of said land or to convey the said
923 land, the same shall be taken and held by all the courts of this
924 state, in the absence of any showing of fraud, adverse
925 possession, or pending litigation, to have authorized the
926 conveyance of, or to have conveyed, the fee simple title, or any
927 interest therein, of the person signing such instruments, or the
928 person in behalf of whom the same was conveyed by a person in an
929 official or representative capacity, to the land therein
930 described as effectively as if there had been no defect in,
931 failure of, or absence of the acknowledgment or the certificate
932 of acknowledgment, if acknowledged, or the relinquishment of
933 dower, and as if there had been no lack of the word "as"
934 preceding the title of the person conveying in an official or
935 representative capacity, of any seal or seals, or of any witness
936 or witnesses, and shall likewise be taken and held by all the
937 courts of this state to have been duly recorded so as to be
938 admissible in evidence;

939 (2) Provided, however, that this section shall not apply to



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940 any conveyance the validity of which shall be contested or have
941 been contested by suit commenced heretofore or within 1 year of
942 the effective date of this law.

943 Section 22. Section 695.03, Florida Statutes, is amended to
944 read:

945 695.03 Acknowledgment and proof; validation of certain
946 acknowledgments; legalization or authentication before foreign
947 officials.—To entitle any instrument concerning real property to
948 be recorded, the execution must be acknowledged by the party
949 executing it, proved by a subscribing witness to it, or
950 legalized or authenticated by a civil-law notary or notary
951 public who affixes her or his official seal, before the officers
952 and in the following form and manner ~~following~~:

953 (1) WITHIN THIS STATE.—An acknowledgment or a proof made
954 within this state may be made before a judge, clerk, or deputy
955 clerk of any court; a United States commissioner or magistrate;
956 or any ~~a~~ notary public or civil-law notary of this state, and
957 the certificate of acknowledgment or proof must be under the
958 seal of the court or officer, as the case may be. If the
959 acknowledgment or proof is made before a notary public who does
960 not affix a seal, it is sufficient for the notary public to
961 type, print, or write by hand on the instrument, "I am a Notary
962 Public of the State of ...(state)..., and my commission expires
963 ...(date)... ." ~~All affidavits and acknowledgments heretofore~~
964 ~~made or taken in this manner are hereby validated.~~

965 (2) OUTSIDE ~~WITHOUT~~ THIS STATE BUT WITHIN THE UNITED
966 STATES.—An acknowledgment or a proof made outside ~~out~~ of this
967 state but within the United States may be made before a civil-
968 law notary of this state or a commissioner of deeds appointed by



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969 the Governor of this state; a judge or clerk of any court of the
970 United States or of any state, territory, or district; a United
971 States commissioner or magistrate; or any a notary public,
972 justice of the peace, master in chancery, or registrar or
973 recorder of deeds of any state, territory, or district having a
974 seal, and the certificate of acknowledgment or proof must be
975 under the seal of the court or officer, as the case may be. If
976 the acknowledgment or proof is made before a notary public who
977 does not affix a seal, it is sufficient for the notary public to
978 type, print, or write by hand on the instrument, "I am a Notary
979 Public of the State of ...(state)..., and my commission expires
980 on ...(date)...."

981 (3) OUTSIDE OF THE UNITED STATES OR WITHIN FOREIGN
982 COUNTRIES.—~~An If the~~ acknowledgment, an affidavit, an oath, a
983 legalization, an authentication, or a proof made outside the
984 United States or is made in a foreign country, ~~it~~ may be made
985 before a commissioner of deeds appointed by the Governor of this
986 state to act in such country; before any a notary public of such
987 foreign country or a civil-law notary of this state or of such
988 foreign country who has an official seal; before an ambassador,
989 envoy extraordinary, minister plenipotentiary, minister,
990 commissioner, charge d'affaires, consul general, consul, vice
991 consul, consular agent, or other diplomatic or consular officer
992 of the United States appointed to reside in such country; or
993 before a military or naval officer authorized by 10 U.S.C. s.
994 1044a ~~the Laws or Articles of War of the United States~~ to
995 perform the duties of notary public, and the certificate of
996 acknowledgment, legalization, authentication, or proof must be
997 under the seal of the officer. A certificate legalizing or



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998 authenticating the signature of a person executing an instrument
999 concerning real property and to which a civil-law notary or
1000 notary public of that country has affixed her or his official
1001 seal is sufficient as an acknowledgment. For the purposes of
1002 this section, the term "civil-law notary" means a civil-law
1003 notary as defined in chapter 118 or an official of a foreign
1004 country who has an official seal and who is authorized to make
1005 legal or lawful the execution of any document in that
1006 jurisdiction, in which jurisdiction the affixing of her or his
1007 official seal is deemed proof of the execution of the document
1008 or deed in full compliance with the laws of that jurisdiction.

1009 (4) COMPLIANCE AND VALIDATION.—The affixing of the official
1010 seal or the electronic equivalent thereof under s. 117.021 or
1011 other applicable law, including part II of chapter 117,
1012 conclusively establishes that the acknowledgement or proof was
1013 made in full compliance with the laws of this state or, as
1014 applicable, the laws of the other state, or of the foreign
1015 country governing notarial acts. All affidavits, oaths,
1016 acknowledgments, legalizations, authentications, or proofs made
1017 or taken in any manner as set forth in subsections (1), (2), and
1018 (3) are validated and upon recording may not be denied to have
1019 provided constructive notice based on any alleged failure to
1020 have strictly complied with this section, as currently or
1021 previously in effect, or the laws governing notarization of
1022 instruments.

1023
1024 ~~All affidavits, legalizations, authentications, and~~
1025 ~~acknowledgments heretofore made or taken in the manner set forth~~
1026 ~~above are hereby validated.~~



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1027 Section 23. Section 695.04, Florida Statutes, is amended to
1028 read:

1029 695.04 Requirements of certificate.—The certificate of the
1030 officer before whom the acknowledgment or proof is taken, except
1031 for a certificate legalizing or authenticating the signature of
1032 a person executing an instrument concerning real property
1033 pursuant to s. 695.03(3), shall contain and set forth
1034 substantially the matter required to be done or proved to make
1035 such acknowledgment or proof effectual as set forth in s.
1036 117.05.

1037 Section 24. Section 695.05, Florida Statutes, is amended to
1038 read:

1039 695.05 Certain defects cured as to acknowledgments and
1040 witnesses.—All deeds, conveyances, bills of sale, mortgages or
1041 other transfers of real or personal property within the limits
1042 of this state, heretofore or hereafter made and received bona
1043 fide and upon good consideration by any corporation, and
1044 acknowledged for record by ~~before~~ some officer, stockholder or
1045 other person interested in the corporation, grantee, or
1046 mortgagee as a notary public or other officer authorized to take
1047 acknowledgments of instruments for record within this state,
1048 shall be held, deemed and taken as valid as if acknowledged by
1049 the proper notary public or other officer authorized to take
1050 acknowledgments of instruments for record in this state not so
1051 interested in said corporation, grantee or mortgagee; and said
1052 instrument whenever recorded shall be deemed notice to all
1053 persons; provided, however, that this section shall not apply to
1054 any instrument heretofore made, the validity of which shall be
1055 contested by suit commenced within 1 year of the effective date



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1056 of this law.

1057 Section 25. Section 695.28, Florida Statutes, is amended to
1058 read:

1059 695.28 Validity of recorded electronic documents.—

1060 (1) A document that is otherwise entitled to be recorded
1061 and that was or is submitted to the clerk of the court or county
1062 recorder by electronic or other means and accepted for
1063 recordation is deemed validly recorded and provides notice to
1064 all persons notwithstanding:

1065 (a) That the document was received and accepted for
1066 recordation before the Department of State adopted standards
1067 implementing s. 695.27; ~~or~~

1068 (b) Any defects in, deviations from, or the inability to
1069 demonstrate strict compliance with any statute, rule, or
1070 procedure relating to electronic signatures, electronic
1071 witnesses, electronic notarization, or online notarization, or
1072 for submitting or recording to submit or record an electronic
1073 document in effect at the time the electronic document was
1074 executed or was submitted for recording;

1075 (c) That the document was signed, witnessed, or notarized
1076 electronically or that witnessing or notarization may have been
1077 done outside the physical presence of the notary public or
1078 principal; or

1079 (d) That the document recorded was a certified printout of
1080 a document to which one or more electronic signatures have been
1081 affixed.

1082 (2) This section does not alter the duty of the clerk or
1083 recorder to comply with s. 28.222, s. 695.27, or any rules
1084 adopted pursuant to those sections ~~that section.~~



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1085 (3) This section does not preclude a challenge to the
1086 validity or enforceability of an instrument or electronic record
1087 based upon fraud, forgery, impersonation, duress, undue
1088 influence, minority, illegality, unconscionability, or any other
1089 basis not in the nature of those matters described in subsection
1090 (1).

1091 Section 26. Subsection (1) of section 709.2202, Florida
1092 Statutes, is amended to read:

1093 709.2202 Authority that requires separate signed
1094 enumeration.—

1095 (1) Notwithstanding s. 709.2201, an agent may exercise the
1096 following authority in this subsection only if the principal
1097 signed or initialed next to each specific enumeration of the
1098 authority, the exercise of the authority is consistent with the
1099 agent's duties under s. 709.2114, the power of attorney was
1100 witnessed and notarized in person without the use of online
1101 witnessing of electronic records pursuant to s. 117.285 or
1102 online notarization under part II of chapter 117, and the
1103 exercise is not otherwise prohibited by another agreement or
1104 instrument. A power of attorney or any authority granted therein
1105 to an agent, including where such authority is witnessed and
1106 notarized online through the use of online witnessing of
1107 electronic records pursuant to s. 117.285 or online notarization
1108 under part II of chapter 117, is not affected by this section
1109 except that a power of attorney or other authority notarized and
1110 witnessed is not effective to grant powers pursuant to the
1111 following:

1112 (a) Create an inter vivos trust;

1113 (b) With respect to a trust created by or on behalf of the



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1114 principal, amend, modify, revoke, or terminate the trust, but
1115 only if the trust instrument explicitly provides for amendment,
1116 modification, revocation, or termination by the settlor's agent;

1117 (c) Make a gift, subject to subsection (4);

1118 (d) Create or change rights of survivorship;

1119 (e) Create or change a beneficiary designation;

1120 (f) Waive the principal's right to be a beneficiary of a
1121 joint and survivor annuity, including a survivor benefit under a
1122 retirement plan; or

1123 (g) Disclaim property and powers of appointment.

1124 Section 27. Effective July 1, 2019, subsection (40) of
1125 section 731.201, Florida Statutes, is amended to read:

1126 731.201 General definitions.—Subject to additional
1127 definitions in subsequent chapters that are applicable to
1128 specific chapters or parts, and unless the context otherwise
1129 requires, in this code, in s. 409.9101, and in chapters 736,
1130 738, 739, and 744, the term:

1131 (40) "Will" means an instrument, including a codicil,
1132 executed by a person in the manner prescribed by this code,
1133 which disposes of the person's property on or after his or her
1134 death and includes an instrument which merely appoints a
1135 personal representative or revokes or revises another will. The
1136 term includes an electronic will as defined in s. 732.521.

1137 Section 28. Effective July 1, 2019, section 732.506,
1138 Florida Statutes, is amended to read:

1139 732.506 Revocation by act.—A will or codicil, other than an
1140 electronic will, is revoked by the testator, or some other
1141 person in the testator's presence and at the testator's
1142 direction, by burning, tearing, canceling, defacing,



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1143 obliterating, or destroying it with the intent, and for the
1144 purpose, of revocation.

1145 Section 29. Effective July 1, 2019, section 732.521,
1146 Florida Statutes, is created to read:

1147 732.521 Definitions.—As used in ss. 732.521-732.525, the
1148 term:

1149 (1) "Audio-video communication technology" has the same
1150 meaning as provided in s. 117.201.

1151 (2) "Electronic signature" means an electronic mark visibly
1152 manifested in a record as a signature and executed or adopted by
1153 a person with the intent to sign the record.

1154 (3) "Electronic will" means an instrument, including a
1155 codicil, executed with an electronic signature by a person in
1156 the manner prescribed by this code, which disposes of the
1157 person's property on or after his or her death and includes an
1158 instrument which merely appoints a personal representative or
1159 revokes or revises another will.

1160 (4) "Online notary public" has the same meaning as provided
1161 in s. 117.201.

1162 (5) "Online notarization" has the same meaning as provided
1163 in s. 117.201.

1164 Section 30. Effective July 1, 2019, section 732.522,
1165 Florida Statutes, is created to read:

1166 732.522 Method and place of execution.—For purposes of the
1167 execution or filing of an electronic will, the acknowledgment of
1168 an electronic will by the testator and the affidavits of
1169 witnesses under s. 732.503, or any other instrument under the
1170 Florida Probate Code or the Florida Probate Rules:

1171 (1) Any requirement that an instrument be signed may be



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1172 satisfied by an electronic signature.

1173 (2) Any requirement that individuals sign an instrument in
1174 the presence of one another may be satisfied by witnesses being
1175 present and electronically signing by means of audio-video
1176 communication technology that meets the requirements of part II
1177 of chapter 117 and any rules adopted thereunder.

1178 (3) The act of witnessing an electronic signature is
1179 satisfied if:

1180 (a) An individual is present either in physical proximity
1181 to the signer or by audio-video communication technology at the
1182 time the signer affixes his or her electronic signature and
1183 hears the signer make a statement acknowledging that the signer
1184 has signed the electronic record; and

1185 (b) The individuals are supervised in accordance with s.
1186 117.285 and, in the case of an electronic will, the testator
1187 provides, to the satisfaction of the online notary public during
1188 the online notarization, verbal answers to all of the following
1189 questions:

1190 1. Are you over the age of 18?

1191 2. Are you of sound mind?

1192 3. Are you signing this will voluntarily?

1193 4. Are you under the influence of any drugs or alcohol that
1194 impairs your ability to make decisions?

1195 5. Has anyone forced or influenced you to include anything
1196 in this will which you do not wish to include?

1197 6. Did anyone assist you in accessing this video
1198 conference? If so, who?

1199 (c) The execution of an electronic will of a testator who
1200 is a vulnerable adult, as defined in s. 415.102, may not be



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1201 witnessed by means of audio-video communication technology. The
1202 contestant of the electronic will has the burden of proving that
1203 the testator was a vulnerable adult at the time of executing the
1204 electronic will.

1205 (4) An instrument that is signed electronically is deemed
1206 to be executed in this state if the instrument states that the
1207 person creating the instrument intends to execute and
1208 understands that he or she is executing the instrument in, and
1209 pursuant to the laws of, this state.

1210 Section 31. Effective July 1, 2019, section 732.524,
1211 Florida Statutes, is created to read:

1212 732.524 Self-proof of electronic will.—An electronic will
1213 is self-proved if the acknowledgment of the electronic will by
1214 the testator and the affidavits of the witnesses are made in
1215 accordance with s. 732.503 and are part of the electronic record
1216 containing the electronic will, or are attached to, or are
1217 logically associated with, the electronic will.

1218 Section 32. Effective July 1, 2019, section 732.525,
1219 Florida Statutes, is created to read:

1220 732.525 Probate.—

1221 (1) An electronic will that is filed electronically with
1222 the clerk of the court through the Florida Courts E-Filing
1223 Portal is deemed to have been deposited with the clerk as an
1224 original of the electronic will.

1225 (2) A paper copy of an electronic will which is certified
1226 by a notary public to be a true and correct copy of the
1227 electronic will may be offered for and admitted to probate and
1228 shall constitute an original of the electronic will.

1229 Section 33. Except as otherwise expressly provided in this



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1230 act, this act shall take effect January 1, 2019.

1231

1232 ===== T I T L E A M E N D M E N T =====

1233 And the title is amended as follows:

1234 Delete everything before the enacting clause
1235 and insert:

1236 A bill to be entitled
1237 An act relating to notaries public; providing
1238 directives to the Division of Law Revision and
1239 Information; amending s. 117.01, F.S.; revising
1240 provisions relating to use of the office of notary
1241 public; amending s. 117.021, F.S.; requiring
1242 electronic signatures to include access protection;
1243 prohibiting a person from requiring a notary public to
1244 perform a notarial act with certain technology;
1245 requiring the Department of State, in collaboration
1246 with the Agency for State Technology, to adopt rules
1247 for certain purposes; amending s. 117.05, F.S.;
1248 revising limitations on notary fees to conform to
1249 changes made by the act; providing for inclusion of
1250 certain information in a jurat or notarial
1251 certificate; providing for compliance with online
1252 notarization requirements; providing for notarial
1253 certification of a printed electronic record; revising
1254 statutory forms for jurats and notarial certificates;
1255 amending s. 117.107, F.S.; providing applicability;
1256 revising prohibited acts; creating s. 117.201, F.S.;
1257 providing definitions; creating s. 117.209, F.S.;
1258 authorizing online notarizations; providing an



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1259 exception; creating s. 117.215, F.S.; specifying the
1260 application of other laws in relation to online
1261 notarizations; creating s. 117.225, F.S.; specifying
1262 registration and qualification requirements for online
1263 notaries public; creating s. 117.235, F.S.;
1264 authorizing the performance of certain notarial acts;
1265 creating s. 117.245, F.S.; requiring a notary public
1266 to keep an electronic journal of online notarizations
1267 and certain audio-video communication recordings;
1268 specifying the information that must be included for
1269 each online notarization; requiring an online notary
1270 public to take certain steps regarding the maintenance
1271 and security of the electronic journal; specifying
1272 that the Executive Office of the Governor maintains
1273 jurisdiction for a specified period of time for
1274 purposes of investigating notarial misconduct;
1275 providing for construction; creating s. 117.255, F.S.;
1276 specifying requirements for the use of electronic
1277 journals, signatures, and seals; requiring an online
1278 notary public to provide notification of the theft,
1279 vandalism, or loss of an electronic journal,
1280 signature, or seal; authorizing an online notary
1281 public to make copies of electronic journal entries
1282 and to provide access to related recordings under
1283 certain circumstances; authorizing an online notary
1284 public to charge a fee for making and delivering such
1285 copies; providing an exception; creating s. 117.265,
1286 F.S.; prescribing online notarization procedures;
1287 specifying the manner by which an online notary public



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1288 must verify the identity of a principal or a witness;
1289 requiring an online notary public to take certain
1290 measures as to the security of technology used;
1291 specifying that an electronic notarial certificate
1292 must identify the performance of an online
1293 notarization; specifying that noncompliance does not
1294 impair the validity of a notarial act or the notarized
1295 electronic record; providing for construction;
1296 creating s. 117.275, F.S.; providing fees for online
1297 notarizations; creating s. 117.285, F.S.; specifying
1298 the manner by which an online notary public may
1299 supervise the witnessing of electronic records of
1300 online notarizations; creating s. 117.295, F.S.;
1301 providing standards for electronic and online
1302 notarizations; authorizing the Department of State to
1303 approve and periodically review companies that offer
1304 online notarization services; authorizing the
1305 department to adopt certain rules; prescribing minimum
1306 standards for companies that offer online notarization
1307 services; creating s. 117.305, F.S.; superseding
1308 certain provisions of federal law regulating
1309 electronic signatures; amending s. 28.222, F.S.;
1310 requiring the clerk of the circuit court to record
1311 certain instruments; amending s. 95.231, F.S.;
1312 providing a limitation period for certain recorded
1313 instruments; amending s. 689.01, F.S.; providing for
1314 witnessing of documents in connection with real estate
1315 conveyances; providing for validation of certain
1316 recorded documents; amending s. 694.08, F.S.;



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1317 providing for validation of certain recorded
1318 documents; amending s. 695.03, F.S.; providing and
1319 revising requirements for making acknowledgments,
1320 proofs, and other documents; amending ss. 695.04 and
1321 695.05, F.S.; conforming provisions to changes made by
1322 the act; amending s. 695.28, F.S.; providing for
1323 validity of recorded documents; conforming provisions
1324 to changes made by the act; amending s. 709.2202,
1325 F.S.; specifying that certain authority granted
1326 through a power of attorney requiring separate signed
1327 enumeration may not be executed by online notarization
1328 or witnessed electronically; amending s. 731.201,
1329 F.S.; redefining the term "will" to conform to changes
1330 made by the act; amending s. 732.506, F.S.; exempting
1331 electronic wills from provisions governing the
1332 revocation of wills and codicils; creating s. 732.521,
1333 F.S.; providing definitions; creating s. 732.522,
1334 F.S.; prescribing the manner by which an electronic
1335 will must be executed; creating s. 732.524, F.S.;
1336 specifying requirements for the self-proof of an
1337 electronic will; creating s. 732.525, F.S.; specifying
1338 conditions by which an electronic will is deemed to be
1339 an original will; providing effective dates.