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LEGISLATIVE ACTION

Senate

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House

Floor: 1b/AD/2R

03/06/2018 10:48 AM

Senator Brandes moved the following:

Senate Amendment to Amendment (343146)

Delete lines 436 - 606

and insert:

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

(10) "Principal" means an individual whose electronic



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12 signature is acknowledged, witnessed, or attested to in an
13 online notarization or who takes an oath or affirmation from the
14 online notary public.

15 (11) "Remote presentation" means transmission of an image
16 of a government-issued identification credential that is of
17 sufficient quality to enable the online notary public to
18 identify the individual seeking the notary's services and to
19 perform credential analysis through audio-video communication
20 technology.

21
22 Except where the context otherwise requires, any term defined in
23 s. 668.50 has the same meaning when used in this part.

24 Section 7. Section 117.209, Florida Statutes, is created to
25 read:

26 117.209 Authority to perform online notarizations.—

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

30 (2) If a notarial act requires a principal to appear before
31 or in the presence of the online notary public, the principal
32 may appear before the online notary public by means of audio-
33 video communication technology that meets the requirements of
34 this chapter and any rules adopted by the Department of State
35 under s. 117.295.

36 (3) An online notary public may perform an online
37 notarization as authorized under this part, regardless of the
38 physical location of the principal at the time of the notarial
39 act, provided the notary public, other than a civil-law notary
40 or a commissioner of deeds, is physically located in this state



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41 while performing the online notarization.

42 (4) The validity of an online notarization performed by an
43 online notary public registered in this state shall be
44 determined by applicable laws of this state regardless of the
45 physical location of the principal at the time of the notarial
46 act.

47 Section 8. Section 117.215, Florida Statutes, is created to
48 read:

49 117.215 Relation to other laws.—

50 (1) If a provision of law requires a notary public or other
51 authorized official of this state to notarize a signature or a
52 statement, to take an acknowledgement of an instrument, or to
53 administer an oath or affirmation so that a document may be
54 sworn, affirmed, made under oath, or subject to penalty of
55 perjury, an online notarization performed in accordance with the
56 provisions of this part and any rules adopted hereunder
57 satisfies such requirement.

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

62 Section 9. Section 117.225, Florida Statutes, is created to
63 read:

64 117.225 Registration; qualifications.—A notary public, a
65 civil-law notary appointed under chapter 118, or a commissioner
66 of deeds appointed under part IV of chapter 721 may complete
67 registration as an online notary public with the Executive
68 Office of the Governor and the Department of State by:

69 (1) Holding a current commission as a notary public under



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70 part I of this chapter, an appointment as a civil-law notary
71 under chapter 118, or an appointment as a commissioner of deeds
72 under part IV of chapter 721, and submitting a copy of such
73 commission or proof of such appointment with his or her
74 registration.

75 (2) Certifying that the notary public, civil-law notary, or
76 commissioner of deeds registering as an online notary public has
77 completed a classroom or online course covering the duties,
78 obligations, and technology requirements for serving as an
79 online notary public.

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

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

85 (5) Confirming in a statement that the audio-video
86 communication and identity proofing technologies the registrant
87 intends to use in performing online notarizations satisfy the
88 requirements of this chapter.

89 (6) Providing evidence satisfactory to the Executive Office
90 of the Governor and the Department of State that the registrant
91 has obtained a bond, payable to any individual harmed as a
92 result of a breach of duty by the registrant acting in his or
93 her official capacity as an online notary public, conditioned
94 for the due discharge of the office, in the minimum amount of
95 \$25,000 and on such terms as are specified by rule by the
96 Department of State as reasonably necessary to protect the
97 public. The bond shall be approved and filed with the Department
98 of State and executed by a surety company duly authorized to



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99 transact business in this state. Compliance by an online notary
100 public with this requirement shall satisfy the requirement of
101 obtaining a bond under s. 117.01(7).

102 (7) Providing evidence satisfactory to the Executive Office
103 of the Governor and the Department of State that the registrant
104 acting in his or her capacity as an online notary public is
105 covered by an errors and omissions insurance policy from an
106 insurer authorized to transact business in this state, in the
107 minimum amount of \$25,000 and on such terms as are specified by
108 rule by the Department of State as reasonably necessary to
109 protect the public.

110 Section 10. Section 117.235, Florida Statutes, is created
111 to read:

112 117.235 Performance of notarial acts.-

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

117 (2) An online notary public may perform notarial acts as
118 provided by part I of this chapter in addition to performing
119 online notarizations as authorized and pursuant to the
120 provisions of this part.

121 Section 11. Section 117.245, Florida Statutes, is created
122 to read:

123 117.245 Electronic journal of online notarizations.-

124 (1) An online notary public shall keep a secure electronic
125 journal of electronic records notarized by the online notary
126 public. For each online notarization, the electronic journal
127 entry must contain all of the following:



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- 128 (a) The date and time of the notarization.
- 129 (b) The type of notarial act.
- 130 (c) The type, the title, or a description of the electronic
131 record or proceeding.
- 132 (d) The printed name and address of each principal involved
133 in the transaction or proceeding.
- 134 (e) Evidence of identity of each principal involved in the
135 transaction or proceeding in any of the following forms:
- 136 1. A statement that the person is personally known to the
137 online notary public.
- 138 2. A notation of the type of government-issued
139 identification credential provided to the online notary public.
- 140 3. A copy of the government-issued identification
141 credential provided.
- 142 4. A copy of any other identification credential or
143 information provided.
- 144 (f) An indication that the principal satisfactorily passed
145 the identity proofing.
- 146 (g) An indication that the government-issued identification
147 credential satisfied the credential analysis.
- 148 (h) The fee, if any, charged for the notarization.
- 149 (2) The online notary public shall retain a copy of the
150 recording of the audio-video communication in which:
- 151 (a) The principal and any witnesses appeared before the
152 notary public.
- 153 (b) The identity of each was confirmed.
- 154 (c) Electronic records were signed by the principal and any
155 witnesses.
- 156 (d) The notarial act was performed.



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157 (3) The online notary public shall take reasonable steps
158 to:

159 (a) Ensure the integrity, security, and authenticity of
160 online notarizations.

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

163 (c) Protect the electronic journal, the backup record, and
164 any other records received by the online notary public from
165 unauthorized access or use.

166 (4) The electronic journal required under subsection (1)
167 and the recordings of audio-video communications required under
168 subsection (2) shall be maintained for at least 10 years after
169 the date of the notarial act. The Executive Office of the
170 Governor maintains jurisdiction over the electronic journal and
171 audio-video communication recordings to investigate notarial
172 misconduct for a period of 10 years after the date of the
173 notarial act. The online notary public, a guardian of an
174 incapacitated online notary public, or the personal
175 representative of a deceased online notary public, may, by
176 contract with a secure repository in accordance with any rules
177 established under this chapter, delegate to the repository the
178 online notary public's duty to retain the electronic journal and
179 the required recordings of audio-video communications.