

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED (Y/N)
ADOPTED AS AMENDED (Y/N)
ADOPTED W/O OBJECTION (Y/N)
FAILED TO ADOPT (Y/N)
WITHDRAWN (Y/N)
OTHER

1 Committee/Subcommittee hearing bill: Judiciary Committee
2 Representative Perez offered the following:

3
4 **Amendment (with title amendment)**

5 Remove everything after the enacting clause and insert:

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

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

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

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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, new subsections (4) and (7) are added to that
31 section, and subsection (2) of that section is amended, to read:

32 117.021 Electronic notarization.—

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

35 (a) Unique to the notary public;

36 (b) Capable of independent verification;

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

40 (d) Attached to or logically associated with the
41 electronic document in a manner that any subsequent alteration

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42 to the electronic document displays evidence of the alteration.

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

46 (7) The Department of State, in collaboration with the
47 Agency for State Technology, shall adopt rules establishing
48 standards for tamper-evident technologies that will indicate any
49 alteration or change to an electronic record after completion of
50 an electronic notarial act. All electronic notarizations
51 performed on or after January 1, 2020, must comply with the
52 adopted standards.

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

58 117.05 Use of notary commission; unlawful use; notary fee;
59 seal; duties; employer liability; name change; advertising;
60 photocopies; penalties.—

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

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67 subsection commits ~~is guilty of~~ a felony of the third degree,
68 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

69 (2) (a) The fee of a notary public may not exceed \$10 for
70 any one notarial act, except as provided in s. 117.045 or s.
71 117.275.

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

77 (a) The venue stating the location of the notary public at
78 the time of the notarization in the format, "State of Florida,
79 County of"

80 (b) The type of notarial act performed, an oath or an
81 acknowledgment, evidenced by the words "sworn" or
82 "acknowledged."

83 (c) Whether ~~That~~ the signer personally appeared before the
84 notary public at the time of the notarization by physical
85 presence or by means of audio-video communication technology as
86 authorized under part II of this chapter.

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

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

91 (f) The specific type of identification the notary public

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92 is relying upon in identifying the signer, either based on
93 personal knowledge or satisfactory evidence specified in
94 subsection (5).

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

96 (h) The notary public's ~~notary's~~ name, which must be
97 typed, printed, or stamped below the signature.

98 (i) The notary public's ~~notary's~~ official seal affixed
99 below or to either side of the notary public's ~~notary's~~
100 signature.

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

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

115 (b) For the purposes of this subsection, the term
116 "satisfactory evidence" means the absence of any information,

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117 evidence, or other circumstances which would lead a reasonable
118 person to believe that the person whose signature is to be
119 notarized is not the person he or she claims to be and any one
120 of the following:

121 1. The sworn written statement of one credible witness
122 personally known to the notary public or the sworn written
123 statement of two credible witnesses whose identities are proven
124 to the notary public upon the presentation of satisfactory
125 evidence that each of the following is true:

126 a. That the person whose signature is to be notarized is
127 the person named in the document;

128 b. That the person whose signature is to be notarized is
129 personally known to the witnesses;

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

135 d. That it is the reasonable belief of the witnesses that
136 the person whose signature is to be notarized does not possess
137 any of the identification documents specified in subparagraph
138 2.; and

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

141 2. Reasonable reliance on the presentation to the notary

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142 public of any one of the following forms of identification, if
143 the document is current or has been issued within the past 5
144 years and bears a serial or other identifying number:

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

147 b. A passport issued by the Department of State of the
148 United States;

149 c. A passport issued by a foreign government if the
150 document is stamped by the United States Bureau of Citizenship
151 and Immigration Services;

152 d. A driver license or an identification card issued by a
153 public agency authorized to issue driver licenses in a state
154 other than Florida or in, a territory of the United States, or
155 Canada or Mexico;

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

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

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

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

166 i. A sworn, written statement from a sworn law enforcement

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167 officer that the forms of identification for an inmate in an
168 institution of confinement were confiscated upon confinement and
169 that the person named in the document is the person whose
170 signature is to be notarized; or

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

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

181 (c) A notary public must use a certificate in
182 substantially the following form in notarizing a copy of a
183 tangible or an electronic record or a printout of an electronic
184 record:

185
186 STATE OF FLORIDA
187 COUNTY OF

188
189 On this day of, ... (year)..., I attest that the
190 preceding or attached document is a true, exact, complete, and
191 unaltered ... (copy of a tangible or an electronic record

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192 presented to me by the document's custodian)... or a
193 ...(printout made by me from such record).... If a printout, I
194 further attest that, at the time of printing, no security
195 features, if any, present on the electronic record, indicated
196 that the record had been altered since execution.

197
198 ...(Signature of Notary Public - State of Florida)...
199 ...(Print, Type, or Stamp Commissioned Name of Notary Public)...

200
201 (13) The following notarial certificates are sufficient
202 for the purposes indicated, if completed with the information
203 required by this chapter. The specification of forms under this
204 subsection does not preclude the use of other forms.

205 (a) For an oath or affirmation:

206
207 STATE OF FLORIDA
208 COUNTY OF

209
210 Sworn to (or affirmed) and subscribed before me by means of
211 []) physical presence or [] online notarization, this day of
212, ...(year)...., by ...(name of person making
213 statement)....

214
215 ...(Signature of Notary Public - State of Florida)...
216 ...(Print, Type, or Stamp Commissioned Name of Notary Public)...

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217 Personally Known OR Produced Identification
218

219 Type of Identification Produced

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

222
223 STATE OF FLORIDA

224 COUNTY OF

225
226 The foregoing instrument was acknowledged before me by means of
227 [] physical presence or [] online notarization, this day of
228, ...(year)...., by ...(name of person acknowledging)....

229
230 ...(Signature of Notary Public - State of Florida)...

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

232 Personally Known OR Produced Identification
233

234 Type of Identification Produced

235
236 (c) For an acknowledgment in a representative capacity:

237
238 STATE OF FLORIDA

239 COUNTY OF

240
241 The foregoing instrument was acknowledged before me by means of

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242 [] physical presence or [] online notarization, this day of
243, ... (year)...., by ... (name of person)... as ... (type of
244 authority, . . . e.g. officer, trustee, attorney in fact)...
245 for ... (name of party on behalf of whom instrument was
246 executed)....

247
248 ... (Signature of Notary Public - State of Florida)...
249 ... (Print, Type, or Stamp Commissioned Name of Notary Public)...
250 Personally Known OR Produced Identification
251
252 Type of Identification Produced

253
254 (14) A notary public must make reasonable accommodations
255 to provide notarial services to persons with disabilities.

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

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

261 1. The document signing is witnessed by two disinterested
262 persons;

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

266 3. The notary public prints the words "his (or her) mark"

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267 below the person's signature mark.

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

270 1. For an oath or affirmation:

271
272 ... (First Name) ... (Last Name) ...
273 ... His (or Her) Mark ...
274

275 STATE OF FLORIDA

276 COUNTY OF

277

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

282

283 ... (Signature of Notary Public - State of Florida) ...
284 ... (Print, Type, or Stamp Commissioned Name of Notary Public) ...

285 Personally Known OR Produced Identification

286

287 Type of Identification Produced

288

289 2. For an acknowledgment in an individual capacity:

290

291 ... (First Name) ... (Last Name) ...

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...His (or Her) Mark...

STATE OF FLORIDA
COUNTY OF

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

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

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

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

3. The notary public writes below the signature the

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317 following statement: "Signature affixed by notary, pursuant to
318 s. 117.05(14), Florida Statutes," and states the circumstances
319 and the means by which the notary public was directed to sign ~~of~~
320 ~~the signing in~~ the notarial certificate.

321
322 The notary public must maintain the proof of direction and
323 authorization to sign on behalf of the person with a disability
324 for 10 years from the date of the notarial act.

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

328 1. For an oath or affirmation:

329
330 STATE OF FLORIDA
331 COUNTY OF

332
333 Sworn to (or affirmed) before me by means of [] physical
334 presence or [] online notarization, this day of,
335 ...(year)..., by ...(name of person making statement)..., and
336 subscribed by ...(name of notary)... at the direction of ~~and in~~
337 ~~the presence of~~ ...(name of person making statement)... by
338 ...(written, verbal, or other means)..., and in the presence of
339 these witnesses:

340
341 ...(Signature of Notary Public - State of Florida)...

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

343 Personally Known OR Produced Identification

344

345 Type of Identification Produced

347 2. For an acknowledgment in an individual capacity:

349 STATE OF FLORIDA

350 COUNTY OF

352 The foregoing instrument was acknowledged before me by means of

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

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

355 and subscribed by ... (name of notary) ... at the direction of ~~and~~

356 ~~in the presence of~~ ... (name of person acknowledging) ..., and in

357 the presence of these witnesses:

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

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

361 Personally Known OR Produced Identification

362

363 Type of Identification Produced

364 Section 5. Subsections (2) and (9) of section 117.107,

365 Florida Statutes, are amended to read:

366 117.107 Prohibited acts.—

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

377 (9) A notary public may not notarize a signature on a
378 document if the person whose signature is being notarized does
379 not appear before the notary public either by means of physical
380 presence or by means of audio-video communication technology as
381 authorized under part II of this chapter ~~is not in the presence~~
382 ~~of the notary public~~ at the time the signature is notarized. Any
383 notary public who violates this subsection is guilty of a civil
384 infraction, punishable by penalty not exceeding \$5,000, and such
385 violation constitutes malfeasance and misfeasance in the conduct
386 of official duties. It is no defense to the civil infraction
387 specified in this subsection that the notary public acted
388 without intent to defraud. A notary public who violates this
389 subsection with the intent to defraud is guilty of violating s.
390 117.105.

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391 Section 6. Section 117.201, Florida Statutes, is created
392 to read:

393 117.201 Definitions.—As used in this part, the term:

394 (1) "Appear before," "before," or "in the presence of"

395 mean:

396 (a) In the physical presence of another person; or

397 (b) Outside of the physical presence of another person,
398 but able to see, hear, and communicate with the person by means
399 of audio-video communication technology.

400 (2) "Audio-video communication technology" means
401 technology in compliance with applicable law which enables real-
402 time, two-way communication using electronic means in which
403 participants are able to see, hear, and communicate with one
404 another.

405 (3) "Credential analysis" means a process or service, in
406 compliance with applicable law, in which a third party aids a
407 public notary in affirming the validity of a government-issued
408 identification credential and data thereon through review of
409 public or proprietary data sources.

410 (4) "Electronic," "electronic record," or "electronic
411 signature" has the same meaning as provided in s. 668.50.

412 (5) "Errors and omissions insurance" means a type of
413 insurance that provides coverage for potential errors or
414 omissions in or relating to the notarial act and is maintained,
415 as applicable, by the online notary public or his or her

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416 employer, or a Remote Online Notarization service provider.

417 (6) "Government-issued identification credential" means
418 any approved credential for verifying identity under s.
419 117.05(5)(b)2.

420 (7) "Identity proofing" means a process or service in
421 compliance with applicable law in which a third party affirms
422 the identity of an individual through use of public or
423 proprietary data sources, which may include by means of
424 knowledge-based authentication or biometric verification.

425 (8) "Knowledge-based authentication" means a form of
426 identity proofing based on a set of questions which pertain to
427 an individual and are formulated from public or proprietary data
428 sources.

429 (9) "Online notarization" means the performance of a
430 notarial act using electronic means in which the principal
431 appears before the notary public by means of audio-video
432 communication technology.

433 (10) "Online notary public" means a notary public
434 commissioned under part I of this chapter, a civil-law notary
435 appointed under chapter 118, or a commissioner of deeds
436 appointed under part IV of chapter 721, who has registered with
437 the Department of State to perform online notarizations under
438 this part.

439 (11) "Physical presence" means being in the same physical
440 location as another person and close enough to see, hear,

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441 communicate with, and exchange credentials with that person.

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

446 (13) "Record" means information that is inscribed on a
447 tangible medium or that is stored in an electronic or other
448 medium and is retrievable in perceivable form, including public
449 records as defined in s. 119.011.

450 (14) "Remote Online Notarization service provider" or "RON
451 service provider" means a person that provides audio-video
452 communication technology and related processes, services,
453 software, data storage, or other services to online notaries
454 public for the purpose of directly facilitating their
455 performance of online notarizations in compliance with this
456 chapter and any rules adopted by the Department of State
457 pursuant to s. 117.295.

458 (15) "Remote presentation" means transmission of an image
459 of a government-issued identification credential that is of
460 sufficient quality to enable the online notary public to
461 identify the individual seeking the notary's services and to
462 perform credential analysis through audio-video communication
463 technology.

464 Section 7. Section 117.209, Florida Statutes, is created
465 to read:

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466 117.209 Authority to perform online notarizations.-

467 (1) An online notary public may perform any of the
468 functions authorized under part I of this chapter as an online
469 notarization by complying with the requirements of this part and
470 any rules adopted by the Department of State pursuant to s.
471 117.295, excluding solemnizing the rites of matrimony.

472 (2) If a notarial act requires a principal to appear
473 before or in the presence of the online notary public, the
474 principal may appear before the online notary public by means of
475 audio-video communication technology that meets the requirements
476 of this part and any rules adopted by the Department of State
477 pursuant to s. 117.295.

478 (3) An online notary public physically located in this
479 state may perform an online notarization as authorized under
480 this part, regardless of whether the principal or any witnesses
481 are physically located in this state at the time of the online
482 notarization. A commissioner of deeds registered as an online
483 notary public may perform an online notarization while
484 physically located within or outside the state in accordance
485 with the territorial limits of its jurisdiction and other
486 limitations and requirements otherwise applicable to notarial
487 acts by commissioners of deeds.

488 (4) The validity of an online notarization performed by an
489 online notary public registered in this state shall be
490 determined by applicable laws of this state regardless of the

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491 physical location of the principal or any witnesses at the time
492 of the notarial act.

493 Section 8. Section 117.215, Florida Statutes, is created
494 to read:

495 117.215 Relation to other laws.-

496 (1) If a provision of law requires a notary public or
497 other authorized official of this state to notarize a signature
498 or a statement, to take an acknowledgment of an instrument, or
499 to administer an oath or affirmation so that a document may be
500 sworn, affirmed, made under oath, or subject to penalty of
501 perjury, an online notarization performed in accordance with the
502 provisions of this part and any rules adopted hereunder
503 satisfies such requirement.

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

508 Section 9. Section 117.225, Florida Statutes, is created
509 to read:

510 117.225 Registration; qualifications.-A notary public, a
511 civil-law notary appointed under chapter 118, or a commissioner
512 of deeds appointed under part IV of chapter 721 may complete
513 registration as an online notary public with the Department of
514 State by:

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

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516 part I of this chapter, an appointment as a civil-law notary
517 under chapter 118, or an appointment as a commissioner of deeds
518 under part IV of chapter 721, and submitting a copy of such
519 commission or proof of such appointment with his or her
520 registration.

521 (2) Certifying that the notary public, civil-law notary,
522 or commissioner of deeds registering as an online notary public
523 has completed a classroom or online course covering the duties,
524 obligations, and technology requirements for serving as an
525 online notary public.

526 (3) Paying a notary public registration fee as required by
527 s. 113.01.

528 (4) Submitting a registration as an online notary public
529 to the Department of State, signed and sworn to by the
530 registrant.

531 (5) Identifying the RON service provider whose audio-video
532 communication technology and processes for credential analysis
533 and identity proofing technologies the registrant intends to use
534 for online notarizations, and confirming that such technology
535 and processes satisfy the requirements of this chapter and any
536 rules adopted by the Department of State pursuant to s. 117.295.

537 (6) Providing evidence satisfactory to the Department of
538 State that the registrant has obtained a bond in the amount of
539 \$25,000, payable to any individual harmed as a result of a
540 breach of duty by the registrant acting in his or her official

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541 capacity as an online notary public, conditioned for the due
542 discharge of the office, and on such terms as are specified in
543 rule by the Department of State as reasonably necessary to
544 protect the public. The bond shall be approved and filed with
545 the Department of State and executed by a surety company duly
546 authorized to transact business in this state. Compliance by an
547 online notary public with this requirement shall satisfy the
548 requirement of obtaining a bond under s. 117.01(7).

549 (7) Providing evidence satisfactory to the Department of
550 State that the registrant acting in his or her capacity as an
551 online notary public is covered by an errors and omissions
552 insurance policy from an insurer authorized to transact business
553 in this state, in the minimum amount of \$25,000 and on such
554 terms as are specified by rule by the Department of State as
555 reasonably necessary to protect the public.

556 Section 10. Section 117.235, Florida Statutes, is created
557 to read:

558 117.235 Performance of notarial acts.-

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

563 (2) An online notary public may perform notarial acts as
564 provided by part I of this chapter in addition to performing

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565 online notarizations as authorized and pursuant to the
566 provisions of this part.

567 Section 11. Section 117.245, Florida Statutes, is created
568 to read:

569 117.245 Electronic journal of online notarizations.-

570 (1) An online notary public shall keep one or more secure
571 electronic journals of online notarizations performed by the
572 online notary public. For each online notarization, the
573 electronic journal entry must contain all of the following:

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

575 (b) The type of notarial act.

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

578 (d) The name and address of each principal involved in the
579 transaction or proceeding.

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

582 1. A statement that the person is personally known to the
583 online notary public.

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

586 (f) An indication that the principal satisfactorily passed
587 the identity proofing.

588 (g) An indication that the government-issued
589 identification credential satisfied the credential analysis.

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- 590 (h) The fee, if any, charged for the notarization.
- 591 (2) The online notary public shall retain an uninterrupted
592 and unedited copy of the recording of the audio-video
593 communication in which an online notarization is performed. The
594 recording must include all of the following:
- 595 (a) Appearance by the principal and any witness before the
596 online notary public.
- 597 (b) Confirmation of the identity of the principal and any
598 witness.
- 599 (c) A general description or identification of the records
600 to be signed.
- 601 (d) At the commencement of the recording, recitation by
602 the online notary public of information sufficient to identify
603 the notarial act.
- 604 (e) A declaration by the principal that his or her
605 signature on the record is knowingly and voluntarily made.
- 606 (f) All of the actions and spoken words of the principal,
607 notary public, and any required witness during the entire online
608 notarization, including the signing of any records before the
609 online notary public.
- 610 (3) The online notary public shall take reasonable steps
611 to:
- 612 (a) Ensure the integrity, security, and authenticity of
613 online notarizations.

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

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

619 (4) The electronic journal required under subsection (1)
620 and the recordings of audio-video communications required under
621 subsection (2) shall be maintained for at least 10 years after
622 the date of the notarial act. However, a full copy of the
623 recording of the audio-video communication required under
624 subsection (2) relating to an online notarization session that
625 involves the signing of an electronic will must be maintained by
626 a qualified custodian in accordance with chapters 731 and 732.
627 The Department of State maintains jurisdiction over the
628 electronic journal and audio-video communication recordings to
629 investigate notarial misconduct for a period of 10 years after
630 the date of the notarial act. The online notary public, a
631 guardian of an incapacitated online notary public, or the
632 personal representative of a deceased online notary public may,
633 by contract with a secure repository in accordance with any
634 rules established under this chapter, delegate to the repository
635 the online notary public's duty to retain the electronic journal
636 and the required recordings of audio-video communications,
637 provided that the Department of State is notified of such
638 delegation of retention duties to the repository within 30 days

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639 thereafter, including the address and contact information for
640 the repository. If an online notary public delegates to a secure
641 repository under this section, the online notary public shall
642 make an entry in his or her electronic journal identifying such
643 repository, and provide notice to the Department of State as
644 required in this subsection.

645 (5) An omitted or incomplete entry in the electronic
646 journal does not impair the validity of the notarial act or of
647 the electronic record which was notarized, but may be introduced
648 as evidence to establish violations of this chapter; as evidence
649 of possible fraud, forgery, impersonation, duress, incapacity,
650 undue influence, minority, illegality, unconscionability; or for
651 other evidentiary purposes. However, if the recording of the
652 audio-video communication required under subsection (2) relating
653 to the online notarization of the execution of an electronic
654 will cannot be produced by the online notary public or the
655 qualified custodian, the electronic will shall be treated as a
656 lost or destroyed will subject to s. 733.207.

657 Section 12. Section 117.255, Florida Statutes, is created
658 to read:

659 117.255 Use of electronic journal, signature, and seal.—An
660 online notary public shall:

661 (1) Take reasonable steps to ensure that any registered
662 device used to create an electronic seal is current and has not
663 been revoked or terminated by the issuing or registering

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664 authority of the device.

665 (2) Keep the electronic journal and electronic seal secure
666 and under his or her sole control, which includes access
667 protection using passwords or codes under control of the online
668 notary public. The online notary public may not allow another
669 person to use the online notary public's electronic journal,
670 electronic signature, or electronic seal, other than a RON
671 service provider or other authorized person providing services
672 to an online notary public to facilitate performance of online
673 notarizations.

674 (3) Attach or logically associate the electronic signature
675 and seal to the electronic notarial certificate of an electronic
676 record in a manner that is capable of independent verification
677 using tamper-evident technology that renders any subsequent
678 change or modification to the electronic record evident.

679 (4) Notify an appropriate law enforcement agency and the
680 Department of State of any unauthorized use of or compromise to
681 the security of the electronic journal, official electronic
682 signature, or electronic seal within 7 days after discovery of
683 such unauthorized use or compromise to security.

684 (5) Make electronic copies, upon request, of the pertinent
685 entries in the electronic journal and provide access to the
686 related audio-video communication recordings to the following
687 persons:

688 (a) The parties to an electronic record notarized by the

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689 online notary public;

690 (b) The qualified custodian of an electronic will
691 notarized by the online notary public;

692 (c) The title agent, settlement agent, or title insurer
693 who insured the electronic record or engaged the online notary
694 public with regard to a real estate transaction;

695 (d) The online notary public's RON service provider whose
696 services were used by the online notary public to notarize the
697 electronic record;

698 (e) Any person who is asked to accept a power of attorney
699 that was notarized by the online notary public;

700 (f) The Department of State pursuant to a notary
701 misconduct investigation; and

702 (g) To other persons pursuant to a subpoena, court order,
703 law enforcement investigation, or other lawful inspection
704 demand.

705 (6) The online notary public may charge a fee not to
706 exceed \$20 per transaction record for making and delivering
707 electronic copies of a given series of related electronic
708 records, except if requested by:

709 (a) A party to the electronic record;

710 (b) In a real estate transaction, the title agent,
711 settlement agent, or title insurer who insured the electronic
712 record or engaged the online notary public with regard to such
713 transaction; or

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714 (c) The Department of State pursuant to an investigation
715 relating to the official misconduct of an online notary public.

716
717 If the online notary public does charge a fee, the online notary
718 public shall disclose the amount of such fee to the requester
719 before making the electronic copies.

720 Section 13. Section 117.265, Florida Statutes, is created
721 to read:

722 117.265 Online notarization procedures.-

723 (1) An online notary public physically located in this
724 state may perform an online notarization that meets the
725 requirements of this part regardless of whether the principal or
726 any witnesses are physically located in this state at the time
727 of the online notarization. A commissioner of deeds registered
728 as an online notary public may perform an online notarization
729 while physically located within or outside of this state in
730 accordance with the territorial limits of its jurisdiction and
731 other limitations and requirements otherwise applicable to
732 notarial acts by commissioners of deeds. An online notarization
733 performed in accordance with this chapter is deemed to have been
734 performed within this state and is governed by the applicable
735 laws of this state.

736 (2) In performing an online notarization, an online notary
737 public shall confirm the identity of a principal and any witness
738 appearing online, at the time that the signature is taken, by

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739 using audio-video communication technology and processes that
740 meet the requirements of this part and of any rules adopted
741 hereunder and record the two-way audio-video conference session
742 between the notary public and the principal and any witnesses. A
743 principal may not act in the capacity of a witness for his or
744 her own signature in an online notarization.

745 (3) In performing an online notarization of a principal
746 not located within this state, an online notary public must
747 confirm, either verbally or through the principal's written
748 consent, that the principal desires for the notarial act to be
749 performed by a Florida notary public and under the general law
750 of this state.

751 (4) An online notary public shall confirm the identity of
752 the principal by:

753 (a) Personal knowledge of each principal; or

754 (b) All of the following, as such criteria may be modified
755 or supplemented in rules adopted by the Department of State
756 pursuant to s. 117.295:

757 1. Remote presentation of a government-issued
758 identification credential by each principal.

759 2. Credential analysis of each government-issued
760 identification credential.

761 3. Identity proofing of each principal in the form of
762 knowledge-based authentication or another method of identity
763 proofing that conforms to the standards of this chapter.

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764
765 If the online notary public is unable to satisfy subparagraphs
766 (b)1.-3., or if the databases consulted for identity proofing do
767 not contain sufficient information to permit authentication, the
768 online notary public may not perform the online notarization.

769 (5) An online notary public may change his or her RON
770 service provider or providers from time to time, but shall
771 notify the Department of State of such change within 30 days
772 thereafter.

773 (6) The online notary public or his or her RON service
774 provider shall take reasonable steps to ensure that the audio-
775 video communication technology used in an online notarization is
776 secure from unauthorized interception.

777 (7) The electronic notarial certificate for an online
778 notarization must include a notation that the notarization is an
779 online notarization which may be satisfied by placing the term
780 "online notary" in or adjacent to the online notary public's
781 seal.

782 (8) Except where otherwise expressly provided in this
783 part, the provisions of part I of this chapter apply to an
784 online notarization and an online notary public.

785 (9) Any failure to comply with the online notarization
786 procedures set forth in this section does not impair the
787 validity of the notarial act or the electronic record that was
788 notarized, but may be introduced as evidence to establish

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789 violations of this chapter or as an indication of possible
790 fraud, forgery, impersonation, duress, incapacity, undue
791 influence, minority, illegality, unconscionability, or for other
792 evidentiary purposes. This subsection may not be construed to
793 alter the duty of an online notary public to comply with this
794 chapter and any rules adopted hereunder.

795 Section 14. Section 117.275, Florida Statutes, is created
796 to read:

797 117.275 Fees for online notarization.—An online notary
798 public or the employer of such online notary public may charge a
799 fee, not to exceed \$25, for performing an online notarization
800 under this part. Fees for services other than notarial acts are
801 not governed by this section.

802 Section 15. Section 117.285, Florida Statutes, is created
803 to read:

804 117.285 Supervising the witnessing of electronic records.—
805 An online notary public may supervise the witnessing of
806 electronic records by the same audio-video communication
807 technology used for online notarization, as follows:

808 (1) The witness may be in the physical presence of the
809 principal or remote from the principal provided the witness and
810 principal are using audio-video communication technology.

811 (2) If the witness is remote from the principal and
812 viewing and communicating with the principal by means of audio-
813 video communication technology, the witness's identity must be

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814 verified in accordance with the procedures for identifying a
815 principal as set forth in s. 117.265(4). If the witness is in
816 the physical presence of the principal, the witness must confirm
817 his or her identity by stating his or her name and current
818 address on the audio-video recording as part of the act of
819 witnessing.

820 (3) The act of witnessing an electronic signature means
821 the witness is either in the physical presence of the principal
822 or present through audio-video communication technology at the
823 time the principal affixes the electronic signature and the
824 witness hears the principal make a statement to the effect that
825 the principal has signed the electronic record.

826 (4) A witness remote from the principal and appearing
827 through audio-video communication technology must verbally
828 confirm that he or she is a resident of and physically located
829 within the United States or a territory of the United States at
830 the time of witnessing.

831 (5) Notwithstanding subsections (2) and (3), if an
832 electronic record to be signed is a will under chapter 732, a
833 trust with testamentary aspects under chapter 736, an advance
834 health care directive, a waiver of spousal rights under s.
835 732.701 or s. 732.702, or a power of attorney authorizing any of
836 the transactions enumerated in s. 709.2208, then the following
837 shall apply:

838 (a) Prior to facilitating witnessing of an instrument by

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839 means of audio-video communication technology, a RON service
840 provider shall require the principal to answer the following
841 questions in substantially the following form:

842 1. Are you under the influence of any drug or alcohol
843 today that impairs your ability to make decisions?

844 2. Do you have any physical or mental condition or long-
845 term disability that impairs your ability to perform the normal
846 activities of daily living?

847 3. Do you require assistance with daily care?

848 (b) If any of the questions required under (5) (a) is
849 answered in the affirmative, the principal's signature on the
850 instrument may only be validly witnessed by witnesses physically
851 present with the principal at the time of signing.

852 (c) Subsequent to submission of the answers required under
853 (5) (a), the RON service provider shall give the principal
854 written notice in substantially the following form:

855
856 NOTICE: If you are a vulnerable adult as defined in
857 s. 415.102 of the Florida Statutes, the documents you
858 are about to sign are not valid if witnessed by means
859 of audio video technology. If you suspect you may be
860 a vulnerable adult, you should have witnesses
861 physically present with you before signing.

862
863 (d) The act of witnessing an electronic signature through

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864 the witness's presence by audio-video communication is valid
865 only if, during the audio-video communication, the principal
866 provides verbal answers to all of the following questions, each
867 of which must be asked by the online notary public in
868 substantially the following form:

869 1. Are you currently married? If so, name your spouse.

870 2. Please state the names of anyone who assisted you in
871 accessing this video conference today.

872 3. Please state the names of anyone who assisted you in
873 preparing the documents you are signing today.

874 4. Where are you currently located?

875 5. Who is in the room with you?

876 (e) An online notary public shall consider the responses
877 to the questions specified in paragraph (d) in the carrying out
878 of the notary public's duties as set forth in s. 117.107(5).

879 (f) A principal's responses to the questions in paragraphs
880 (a) and (d) may be offered as evidence regarding the validity of
881 the instrument, but an incorrect answer may not serve as the
882 sole basis to invalidate an instrument.

883 (g) The presence of a witness with the principal at the
884 time of signing by means of audio visual communication is not
885 effective for witnessing the signature of a principal who is
886 then a vulnerable adult as defined in s. 415.102. The
887 contestant of an electronic record has the burden of proving

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888 that the principal was a vulnerable adult at the time of
889 executing the electronic record.

890 (h) Nothing in this subsection shall preclude a power of
891 attorney which includes banking or investment powers enumerated
892 in s. 709.2208 from being effective with respect to any other
893 authority granted therein or with respect to the agent's
894 authority, in connection with a real property, commercial or
895 consumer transaction or loan, to exercise any power specified
896 therein or to execute and deliver instruments obligating the
897 principal or to draw upon the proceeds of that transaction or
898 loan.

899 (i) The electronic record containing an instrument signed
900 by witnesses who were present with the principal by means of
901 audio-video communication technology shall contain a perceptible
902 indication of their presence by such means.

903 (j) Nothing in this subsection shall affect the
904 application of s. 709.2119.

905 (6) Pursuant to subpoena, court order, an authorized law
906 enforcement inquiry, or other lawful request, an online notary
907 public or RON service provider shall provide:

908 (a) The last known address of each witness who witnessed
909 the signing of an electronic record using audio-video
910 communication technology under this section.

911 (b) A principal's responses to the questions in (5) (a).

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912 (c) An uninterrupted and unedited copy of the recording of
913 the audio-video communication in which an online notarization is
914 performed.

915 (7) Except as set forth in s. 709.2202, an act of
916 witnessing performed pursuant to this section satisfies any
917 requirement that the witness be a subscribing or attesting
918 witness or be in the presence of the principal at the time of
919 signing.

920 (8) The law of this state governs the validity of
921 witnessing supervised by an online notary public pursuant to
922 this section, regardless of the physical location of the witness
923 at the time of witnessing. State courts and federal courts of
924 this state have subject matter jurisdiction over any dispute
925 arising out of an act of witnessing pursuant to this section,
926 and may issue subpoenas for records or appearance in relation
927 thereto in accordance with applicable law.

928 Section 16. Effective upon becoming a law, section
929 117.295, Florida Statutes, is created to read:

930 117.295 Standards for electronic and online notarization;
931 rulemaking authority.-

932 (1) For purposes of this part, the Department of State may
933 adopt rules necessary to implement the requirements of this
934 chapter and to set standards for online notarization which
935 include, but are not limited to:

936 (a) Improvements in technology and methods of assuring the

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937 identity of principals and the security of an electronic record,
938 including tamper-evident technologies in compliance with the
939 standards adopted pursuant to s. 117.021 which apply to online
940 notarizations.

941 (b) Education requirements for online notaries public and
942 the required terms of bonds and errors and omissions insurance,
943 but not including the amounts of such bonds and insurance
944 policies.

945 (c) Identity proofing, credential analysis, unauthorized
946 interception, remote presentation, audio-video communication
947 technology, and retention of electronic journals and copies of
948 audio-video communications recordings in a secure repository.

949 (2) By January 1, 2020, the Department of State shall
950 adopt forms, processes, and interim or emergency rules necessary
951 to accept applications from and register online notaries public
952 pursuant to s. 117.225.

953 (3) Until such time as the Department of State adopts
954 rules setting standards that are equally or more protective, the
955 following minimum standards shall apply to any online
956 notarization performed by an online notary public of this state
957 or his or her RON service provider:

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

961 1. The principal must be presented with five or more

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962 questions with a minimum of five possible answer choices per
963 question.

964 2. Each question must be drawn from a third-party provider
965 of public and proprietary data sources and be identifiable to
966 the principal's social security number or other identification
967 information, or the principal's identity and historical events
968 records.

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

971 4. The principal must answer a minimum of 80 percent of
972 the questions correctly.

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

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

977 (b) Use of credential analysis using one or more
978 commercially available automated software or hardware processes
979 that are consistent with sound commercial practices; that aid
980 the notary public in verifying the authenticity of the
981 credential by analyzing the integrity of visual, physical, or
982 cryptographic security features to indicate that the credential
983 is not fraudulent or inappropriately modified; and that use
984 information held or published by the issuing source or
985 authoritative source, as available, to confirm the validity of
986 credential details. The output of the credential analysis

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987 process must be provided to the online notary public performing
988 the notarial act.

989 (c) Use of audio-video communication technology in
990 completing online notarizations that must meet the following
991 requirements:

992 1. The signal transmission must be reasonably secure from
993 interception, access, or viewing by anyone other than the
994 participants communicating.

995 2. The technology must provide sufficient audio clarity
996 and video resolution to enable the notary to communicate with
997 the principal and any witness, and to confirm the identity of
998 the principal and any witness, as required, using the
999 identification methods described in s. 117.265.

1000 (4) A RON service provider is deemed to have satisfied
1001 tamper-evident technology requirements by use of technology that
1002 renders any subsequent change or modification to the electronic
1003 record evident.

1004 (5) In addition to any coverage it elects to provide for
1005 individual online notaries public, maintenance of errors and
1006 omissions insurance coverage by a RON service provider in a
1007 total amount of at least \$250,000 in the annual aggregate with
1008 respect to potential errors or omissions in or relating to the
1009 technology or processes provided by the RON service provider. An
1010 online notary public is not responsible for the security of the
1011 systems used by the principal or others to access the online

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1012 notarization session.

1013 (6) A 2-hour in-person or online course addressing the
1014 duties, obligations, and technology requirements for serving as
1015 an online notary public offered by the Florida Land Title
1016 Association; the Real Property, Probate and Trust Law Section of
1017 The Florida Bar; the Florida Legal Education Association; the
1018 Department of State; or a vendor approved by the Department of
1019 State shall satisfy the education requirements of s. 117.225(2).
1020 Each such provider shall make the in-person or online course
1021 generally available to all applicants. Regardless of membership
1022 in the provider's organization, the provider shall charge each
1023 attendee the same cost for the course unless the course is
1024 provided in conjunction with a regularly scheduled meeting of
1025 the provider's membership.

1026 (7) The rulemaking required under this section is exempt
1027 from s. 120.541(3).

1028 Section 17. Section 117.305, Florida Statutes, is created
1029 to read:

1030 117.305 Relation to federal law.—This part supersedes the
1031 Electronic Signatures in Global and National Commerce Act as
1032 authorized under 15 U.S.C. s. 7001 et seq., but does not modify,
1033 limit, or supersede s. 101(c) of that act, 15 U.S.C. s. 7001(c),
1034 or authorize the electronic delivery of the notices described in
1035 15 U.S.C. s. 7003(b).

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1036 Section 18. Present paragraph (h) of subsection (3) of
1037 section 28.222, Florida Statutes, is redesignated as paragraph
1038 (i), and a new paragraph (h) is added to that subsection, to
1039 read:

1040 28.222 Clerk to be county recorder.—

1041 (3) The clerk of the circuit court shall record the
1042 following kinds of instruments presented to him or her for
1043 recording, upon payment of the service charges prescribed by
1044 law:

1045 (h) Copies of any instruments originally created and
1046 executed using an electronic signature, as defined in s. 695.27,
1047 and certified to be a true and correct paper printout by a
1048 notary public in accordance with chapter 117, if the county
1049 recorder is not prepared to accept electronic documents for
1050 recording electronically.

1051 Section 19. Subsections (1) and (2) of section 92.50,
1052 Florida Statutes, are amended to read:

1053 92.50 Oaths, affidavits, and acknowledgments; who may take
1054 or administer; requirements.—

1055 (1) IN THIS STATE.—Oaths, affidavits, and acknowledgments
1056 required or authorized under the laws of this state (except
1057 oaths to jurors and witnesses in court and such other oaths,
1058 affidavits and acknowledgments as are required by law to be
1059 taken or administered by or before particular officers) may be
1060 taken or administered by or before any judge, clerk, or deputy

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1061 clerk of any court of record within this state, including
1062 federal courts, or by or before any United States commissioner
1063 or any notary public within this state. The jurat, or
1064 certificate of proof or acknowledgment, shall be authenticated
1065 by the signature and official seal of such officer or person
1066 taking or administering the same; however, when taken or
1067 administered by or before any judge, clerk, or deputy clerk of a
1068 court of record, the seal of such court may be affixed as the
1069 seal of such officer or person.

1070 (2) IN OTHER STATES, TERRITORIES, AND DISTRICTS OF THE
1071 UNITED STATES.—Oaths, affidavits, and acknowledgments required
1072 or authorized under the laws of this state, may be taken or
1073 administered in any other state, territory, or district of the
1074 United States, by or before any judge, clerk or deputy clerk of
1075 any court of record, within such state, territory, or district,
1076 having a seal, or by or before any notary public or justice of
1077 the peace, having a seal, in such state, territory, or district;
1078 provided, however, such officer or person is authorized under
1079 the laws of such state, territory, or district to take or
1080 administer oaths, affidavits and acknowledgments. The jurat, or
1081 certificate of proof or acknowledgment, shall be authenticated
1082 by the signature and official seal of such officer or person
1083 taking or administering the same; provided, however, when taken
1084 or administered by or before any judge, clerk, or deputy clerk

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1085 of a court of record, the seal of such court may be affixed as
1086 the seal of such officer or person.

1087 Section 20. Subsection (1) of section 95.231, Florida
1088 Statutes, is amended to read:

1089 95.231 Limitations where deed or will on record.—

1090 (1) Five years after the recording of an instrument
1091 required to be executed in accordance with s. 689.01; 5 years
1092 after the recording of a power of attorney accompanying and used
1093 for an instrument required to be executed in accordance with s.
1094 689.01; or 5 years after the probate of a will purporting to
1095 convey real property, from which it appears that the person
1096 owning the property attempted to convey, affect, or devise it,
1097 the instrument, power of attorney, or will shall be held to have
1098 its purported effect to convey, affect, or devise, the title to
1099 the real property of the person signing the instrument, as if
1100 there had been no lack of seal or seals, witness or witnesses,
1101 defect in, failure of, or absence of acknowledgment or
1102 relinquishment of dower, in the absence of fraud, adverse
1103 possession, or pending litigation. The instrument is admissible
1104 in evidence. A power of attorney validated under this subsection
1105 shall be valid only for the purpose of effectuating the
1106 instrument with which it was recorded.

1107 Section 21. Section 689.01, Florida Statutes, is amended
1108 to read:

1109 689.01 How real estate conveyed.—

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1110 (1) No estate or interest of freehold, or for a term of
1111 more than 1 year, or any uncertain interest of, in or out of any
1112 messuages, lands, tenements or hereditaments shall be created,
1113 made, granted, transferred or released in any other manner than
1114 by instrument in writing, signed in the presence of two
1115 subscribing witnesses by the party creating, making, granting,
1116 conveying, transferring or releasing such estate, interest, or
1117 term of more than 1 year, or by the party's lawfully authorized
1118 agent, unless by will and testament, or other testamentary
1119 appointment, duly made according to law; and no estate or
1120 interest, either of freehold, or of term of more than 1 year, or
1121 any uncertain interest of, in, to, or out of any messuages,
1122 lands, tenements or hereditaments, shall be assigned or
1123 surrendered unless it be by instrument signed in the presence of
1124 two subscribing witnesses by the party so assigning or
1125 surrendering, or by the party's lawfully authorized agent, or by
1126 the act and operation of law. No seal shall be necessary to give
1127 validity to any instrument executed in conformity with this
1128 section. Corporations may execute any and all conveyances in
1129 accordance with the provisions of this section or ss. 692.01 and
1130 692.02.

1131 (2) For purposes of this chapter:

1132 (a) Any requirement that an instrument be signed in the
1133 presence of two subscribing witnesses may be satisfied by
1134 witnesses being present and electronically signing by means of

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1135 audio-video communication technology, as defined in s. 117.201.

1136 (b) The act of witnessing an electronic signature is
1137 satisfied if a witness is in the physical presence of the
1138 principal or present through audio-video communication
1139 technology at the time the principal affixes his or her
1140 electronic signature and the witness hears the principal make a
1141 statement acknowledging that the principal has signed the
1142 electronic record.

1143 (c) The terms used in this subsection have the same
1144 meanings as the terms defined in s. 117.201.

1145 (3) All acts of witnessing made or taken in the manner
1146 described in subsection (2) are validated and, upon recording,
1147 may not be denied to have provided constructive notice based on
1148 any alleged failure to have strictly complied with this section
1149 or the laws governing notarization of instruments, including
1150 online notarization. This subsection does not preclude a
1151 challenge to the validity or enforceability of an instrument or
1152 electronic record based upon fraud, forgery, impersonation,
1153 duress, incapacity, undue influence, minority, illegality,
1154 unconscionability, or any other basis not related to the act of
1155 witnessing.

1156 Section 22. Section 694.08, Florida Statutes, is amended
1157 to read:

1158 694.08 Certain instruments validated, notwithstanding lack
1159 of seals or witnesses, or defect in acknowledgment, ~~etc.-~~

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1160 (1) Whenever any power of attorney has been executed and
1161 delivered, or any conveyance has been executed and delivered to
1162 any grantee by the person owning the land therein described, or
1163 conveying the same in an official or representative capacity,
1164 and has, for a period of 7 years or more been spread upon the
1165 records of the county wherein the land therein described has
1166 been or was at the time situated, and one or more subsequent
1167 conveyances of said land or parts thereof have been made,
1168 executed, delivered and recorded by parties claiming under such
1169 instrument or instruments, and such power of attorney or
1170 conveyance, or the public record thereof, shows upon its face a
1171 clear purpose and intent of the person executing the same to
1172 authorize the conveyance of said land or to convey the said
1173 land, the same shall be taken and held by all the courts of this
1174 state, in the absence of any showing of fraud, adverse
1175 possession, or pending litigation, to have authorized the
1176 conveyance of, or to have conveyed, the fee simple title, or any
1177 interest therein, of the person signing such instruments, or the
1178 person in behalf of whom the same was conveyed by a person in an
1179 official or representative capacity, to the land therein
1180 described as effectively as if there had been no defect in,
1181 failure of, or absence of the acknowledgment or the certificate
1182 of acknowledgment, if acknowledged, or the relinquishment of
1183 dower, and as if there had been no lack of the word "as"
1184 preceding the title of the person conveying in an official or

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1185 representative capacity, of any seal or seals, or of any witness
1186 or witnesses, and shall likewise be taken and held by all the
1187 courts of this state to have been duly recorded so as to be
1188 admissible in evidence;

1189 (2) Provided, however, that this section shall not apply
1190 to any conveyance the validity of which shall be contested or
1191 have been contested by suit commenced heretofore or within 1
1192 year of the effective date of this law.

1193 Section 23. Section 23. Section 695.03, Florida
1194 Statutes, is amended to read:

1195 695.03 Acknowledgment and proof; validation of certain
1196 acknowledgments; legalization or authentication before foreign
1197 officials.—To entitle any instrument concerning real property to
1198 be recorded, the execution must be acknowledged by the party
1199 executing it, proved by a subscribing witness to it, or
1200 legalized or authenticated in one of the following forms ~~by a~~
1201 ~~civil-law notary or notary public who affixes her or his~~
1202 ~~official seal, before the officers and in the form and manner~~
1203 ~~following:~~

1204 (1) WITHIN THIS STATE.—An acknowledgment or a proof may be
1205 taken, administered, or made within this state by or ~~may be made~~
1206 before a judge, clerk, or deputy clerk of any court; a United
1207 States commissioner or magistrate; or any ~~a~~ notary public or
1208 civil-law notary of this state, and the certificate of
1209 acknowledgment or proof must be under the seal of the court or

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1210 officer, as the case may be. ~~All affidavits and acknowledgments~~
1211 ~~heretofore made or taken in this manner are hereby validated.~~

1212 (2) OUTSIDE WITHOUT THIS STATE BUT WITHIN THE UNITED
1213 STATES.—An acknowledgment or a proof taken, administered, or
1214 made outside ~~out~~ of this state but within the United States may
1215 be taken, administered, or made by or before a civil-law notary
1216 of this state or a commissioner of deeds appointed by the
1217 Governor of this state; a judge or clerk of any court of the
1218 United States or of any state, territory, or district; by or
1219 before a United States commissioner or magistrate; or by or
1220 before any a notary public, justice of the peace, master in
1221 chancery, or registrar or recorder of deeds of any state,
1222 territory, or district having a seal, and the certificate of
1223 acknowledgment or proof must be under the seal of the court or
1224 officer, as the case may be. If the acknowledgment or proof is
1225 taken, administered, or made by or before a notary public who
1226 does not affix a seal, it is sufficient for the notary public to
1227 type, print, or write by hand on the instrument, "I am a Notary
1228 Public of the State of ...(state)..., and my commission expires
1229 on ...(date)...."

1230 (3) OUTSIDE OF THE UNITED STATES OR WITHIN FOREIGN
1231 COUNTRIES.—~~An~~ If the acknowledgment, an affidavit, an oath, a
1232 legalization, an authentication, or a proof taken, administered,
1233 or made outside the United States or ~~is made~~ in a foreign
1234 country, ~~it~~ may be taken, administered, or made by or before a

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1235 commissioner of deeds appointed by the Governor of this state to
1236 act in such country; before a notary public of such foreign
1237 country or a civil-law notary of this state or of such foreign
1238 country who has an official seal; before an ambassador, envoy
1239 extraordinary, minister plenipotentiary, minister, commissioner,
1240 charge d'affaires, consul general, consul, vice consul, consular
1241 agent, or other diplomatic or consular officer of the United
1242 States appointed to reside in such country; or before a military
1243 or naval officer authorized by 10 U.S.C. s. 1044a ~~the Laws or~~
1244 ~~Articles of War of the United States~~ to perform the duties of
1245 notary public, and the certificate of acknowledgment,
1246 legalization, authentication, or proof must be under the seal of
1247 the officer. A certificate legalizing or authenticating the
1248 signature of a person executing an instrument concerning real
1249 property and to which a civil-law notary or notary public of
1250 that country has affixed her or his official seal is sufficient
1251 as an acknowledgment. For the purposes of this section, the term
1252 "civil-law notary" means a civil-law notary as defined in
1253 chapter 118 or an official of a foreign country who has an
1254 official seal and who is authorized to make legal or lawful the
1255 execution of any document in that jurisdiction, in which
1256 jurisdiction the affixing of her or his official seal is deemed
1257 proof of the execution of the document or deed in full
1258 compliance with the laws of that jurisdiction.

1259 (4) COMPLIANCE AND VALIDATION.—The affixing of the

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1260 official seal or the electronic equivalent thereof under s.
1261 117.021 or other applicable law, including part II of chapter
1262 117, conclusively establishes that the acknowledgment or proof
1263 was taken, administered, or made in full compliance with the
1264 laws of this state or, as applicable, the laws of the other
1265 state, or of the foreign country governing notarial acts. All
1266 affidavits, oaths, acknowledgments, legalizations,
1267 authentications, or proofs taken, administered, or made in any
1268 manner as set forth in subsections (1), (2), and (3) are
1269 validated and upon recording may not be denied to have provided
1270 constructive notice based on any alleged failure to have
1271 strictly complied with this section, as currently or previously
1272 in effect, or the laws governing notarization of instruments.
1273 This subsection does not preclude a challenge to the validity or
1274 enforceability of an instrument or electronic record based upon
1275 fraud, forgery, impersonation, duress, incapacity, undue
1276 influence, minority, illegality, unconscionability, or any other
1277 basis not related to the notarial act or constructive notice
1278 provided by recording.

1279
1280 ~~All affidavits, legalizations, authentications, and~~
1281 ~~acknowledgments heretofore made or taken in the manner set forth~~
1282 ~~above are hereby validated.~~

1283 Section 24. Section 695.04, Florida Statutes, is amended
1284 to read:

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1285 695.04 Requirements of certificate.—The certificate of the
1286 officer before whom the acknowledgment or proof is taken, except
1287 for a certificate legalizing or authenticating the signature of
1288 a person executing an instrument concerning real property
1289 pursuant to s. 695.03(3), shall contain and set forth
1290 substantially the matter required to be done or proved to make
1291 such acknowledgment or proof effectual as set forth in s.
1292 117.05.

1293 Section 25. Section 695.25, Florida Statutes, is amended
1294 to read:

1295 695.25 Short form of acknowledgment.—The forms of
1296 acknowledgment set forth in this section may be used, and are
1297 sufficient for their respective purposes, under any law of this
1298 state. The forms shall be known as "Statutory Short Forms of
1299 Acknowledgment" and may be referred to by that name. The
1300 authorization of the forms in this section does not preclude the
1301 use of other forms.

1302 (1) For an individual acting in his or her own right:
1303 STATE OF
1304 COUNTY OF

1305 The foregoing instrument was acknowledged before me by
1306 means of [] physical presence or [] online notarization, this
1307 ... (date) ... by ... (name of person acknowledging) ..., who is
1308 personally known to me or who has produced ... (type of
1309 identification) ... as identification.

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COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 409 (2019)

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1310 ...(Signature of person taking acknowledgment)...
1311 ...(Name typed, printed or stamped)...
1312 ...(Title or rank)...
1313 ...(Serial number, if any)...

1314 (2) For a corporation:

1315 STATE OF

1316 COUNTY OF

1317 The foregoing instrument was acknowledged before me by
1318 means of [] physical presence or [] online notarization, this
1319 ... (date)... by ... (name of officer or agent, title of officer
1320 or agent)... of ... (name of corporation acknowledging)..., a
1321 ... (state or place of incorporation)... corporation, on behalf
1322 of the corporation. He/she is personally known to me or has
1323 produced ... (type of identification)... as identification.

1324 ...(Signature of person taking acknowledgment)...
1325 ...(Name typed, printed or stamped)...
1326 ...(Title or rank)...
1327 ...(Serial number, if any)...

1328 (3) For a limited liability company:

1329 STATE OF

1330 COUNTY OF

1331 The foregoing instrument was acknowledged before me by
1332 means of [] physical presence or [] online notarization, this
1333 ... (date)... by ... (name of member, manager, officer or agent,
1334 title of member, manager, officer or agent)...., of ... (name of

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1335 company acknowledging)..., a ...(state or place of formation)...
1336 limited liability company, on behalf of the company, who is
1337 personally known to me or has produced ...(type of
1338 identification)... as identification.

1339
1340 ...(Signature of person taking acknowledgment)...
1341 ...(Name typed, printed or stamped)...
1342 ...(Title or rank)...
1343 ...(Serial number, if any)...

1344 (4)~~(3)~~ For a partnership:

1345 STATE OF

1346 COUNTY OF

1347 The foregoing instrument was acknowledged before me by
1348 means of [] physical presence or [] online notarization, this
1349 ...(date)... by ...(name of acknowledging partner or agent)...,
1350 partner (or agent) on behalf of ...(name of partnership)..., a
1351 partnership. He/she is personally known to me or has produced
1352 ...(type of identification)... as identification.

1353 ...(Signature of person taking acknowledgment)...
1354 ...(Name typed, printed or stamped)...
1355 ...(Title or rank)...
1356 ...(Serial number, if any)...

1357 (5)~~(4)~~ For an individual acting as principal by an

1358 attorney in fact:

1359 STATE OF

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 409 (2019)

Amendment No.

1360 COUNTY OF

1361 The foregoing instrument was acknowledged before me by
1362 means of [] physical presence or [] online notarization, this
1363 ... (date)... by ... (name of attorney in fact)... as attorney in
1364 fact, who is personally known to me or who has produced ... (type
1365 of identification)... as identification on behalf of ... (name of
1366 principal)....

1367 ... (Signature of person taking acknowledgment)...
1368 ... (Name typed, printed or stamped)...
1369 ... (Title or rank)...
1370 ... (Serial number, if any)...

1371 ~~(6)~~(5) By any public officer, trustee, or personal
1372 representative:

1373 STATE OF

1374 COUNTY OF

1375 The foregoing instrument was acknowledged before me by
1376 means of [] physical presence or [] online notarization, this
1377 ... (date)... by ... (name and title of position)..., who is
1378 personally known to me or who has produced ... (type of
1379 identification)... as identification.

1380 ... (Signature of person taking acknowledgment)...
1381 ... (Name typed, printed or stamped)...
1382 ... (Title or rank)...
1383 ... (Serial number, if any)....

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1384 Section 26. Section 695.28, Florida Statutes, is amended
1385 to read:

1386 695.28 Validity of recorded electronic documents.—

1387 (1) A document that is otherwise entitled to be recorded
1388 and that was or is submitted to the clerk of the court or county
1389 recorder by electronic or other means and accepted for
1390 recordation is deemed validly recorded and provides notice to
1391 all persons notwithstanding:

1392 (a) That the document was received and accepted for
1393 recordation before the Department of State adopted standards
1394 implementing s. 695.27; ~~or~~

1395 (b) Any defects in, deviations from, or the inability to
1396 demonstrate strict compliance with any statute, rule, or
1397 procedure relating to electronic signatures, electronic
1398 witnesses, electronic notarization, or online notarization, or
1399 for submitting or recording to submit or record an electronic
1400 document in effect at the time the electronic document was
1401 executed or was submitted for recording;

1402 (c) That the document was signed, witnessed, or notarized
1403 electronically, and that the document was notarized by an online
1404 notary public outside the physical presence of the signer
1405 through audio-video communication technology, as defined in s.
1406 117.201, or that witnessing may have been done outside the
1407 physical presence of the notary public or principal through such
1408 audio-visual communication; or

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1409 (d) That the document recorded was a certified printout of
1410 a document to which one or more electronic signatures have been
1411 affixed.

1412 (2) This section does not alter the duty of the clerk or
1413 recorder to comply with s. 28.222, s. 695.27, or any rules
1414 adopted pursuant to those sections ~~that section.~~

1415 (3) This section does not preclude a challenge to the
1416 validity or enforceability of an instrument or electronic record
1417 based upon fraud, forgery, impersonation, duress, incapacity,
1418 undue influence, minority, illegality, unconscionability, or any
1419 other basis not in the nature of those matters described in
1420 subsection (1).

1421 Section 27. Subsections (3) and (4) of section 709.2119,
1422 Florida Statutes, are amended to read:

1423 709.2119 Acceptance of and reliance upon power of
1424 attorney.—

1425 (3) A third person who is asked to accept a power of
1426 attorney that appears to be executed in accordance with s.
1427 709.2105 may in good faith request, and rely upon, without
1428 further investigation:

1429 (a) A certified English translation of the power of
1430 attorney if the power of attorney contains, in whole or in part,
1431 language other than English;

1432 (b) An opinion of counsel as to any matter of law
1433 concerning the power of attorney if the third person making the

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1434 request provides in a writing or other record the reason for the
1435 request; ~~or~~

1436 (c) The affidavit described in subsection (2); or

1437 (d) The electronic journal or record made by the notary
1438 public pursuant to the laws of the state in which the notary
1439 public is appointed if the power of attorney is witnessed or
1440 notarized remotely through the use of online witnesses or
1441 notarization.

1442 (4) An English translation, ~~or~~ an opinion of counsel, or
1443 an electronic journal or record requested under this section
1444 must be provided at the principal's expense unless the request
1445 is made after the time specified in s. 709.2120(1) for
1446 acceptance or rejection of the power of attorney.

1447 Section 28. Subsection (4) of section 709.2120, Florida
1448 Statutes, is amended to read:

1449 709.2120 Rejecting power of attorney.—

1450 (4) A third person is not required to accept a power of
1451 attorney if:

1452 (a) The third person is not otherwise required to engage
1453 in a transaction with the principal in the same circumstances;

1454 (b) The third person has knowledge of the termination or
1455 suspension of the agent's authority or of the power of attorney
1456 before exercising the power;

1457 (c) A timely request by the third person for an affidavit,
1458 English translation, ~~or~~ opinion of counsel, or electronic

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1459 journal or record under s. 709.2119 ~~s. 709.2119(4)~~ is refused by
1460 the agent;

1461 (d) The power of attorney is witnessed or notarized
1462 remotely through the use of online witnesses or notarization,
1463 and either the agent is unable to produce the electronic journal
1464 or record, or the notary public did not maintain an electronic
1465 journal or record of the notarization;

1466 ~~(e)-(d)~~ Except as provided in paragraph (b), the third
1467 person believes in good faith that the power is not valid or
1468 that the agent does not have authority to perform the act
1469 requested; or

1470 ~~(f)-(e)~~ The third person makes, or has knowledge that
1471 another person has made, a report to the local adult protective
1472 services office stating a good faith belief that the principal
1473 may be subject to physical or financial abuse, neglect,
1474 exploitation, or abandonment by the agent or a person acting for
1475 or with the agent.

1476 Section 29. Present subsection (6) of section 709.2202,
1477 Florida Statutes, is renumbered as subsection (7), and a new
1478 subsection (6) is added to that section, to read:

1479 709.2202 Authority that requires separate signed
1480 enumeration.—

1481 (6) Notwithstanding subsection (1) and s. 709.2106(3), a
1482 power of attorney, executed by a principal domiciled in this
1483 state at the time of execution, that is witnessed remotely

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1484 pursuant to s. 117.285 or other applicable law by a witness who
1485 is not in the physical presence of the principal is not
1486 effective to grant authority to an agent to take any of the
1487 actions enumerated in subsection (1).

1488 Section 30. Subsection (40) of section 731.201, Florida
1489 Statutes, is amended to read:

1490 731.201 General definitions.—Subject to additional
1491 definitions in subsequent chapters that are applicable to
1492 specific chapters or parts, and unless the context otherwise
1493 requires, in this code, in s. 409.9101, and in chapters 736,
1494 738, 739, and 744, the term:

1495 (40) "Will" means ~~an~~ testamentary instrument, including a
1496 codicil, executed by a person in the manner prescribed by this
1497 code, which disposes of the person's property on or after his or
1498 her death and includes an instrument which merely appoints a
1499 personal representative or guardian or revokes or revises
1500 another will. The term includes an electronic will as defined in
1501 s. 732.521.

1502 Section 31. Section 732.506, Florida Statutes, is amended
1503 to read:

1504 732.506 Revocation by act.—A will or codicil, other than
1505 an electronic will, is revoked by the testator, or some other
1506 person in the testator's presence and at the testator's
1507 direction, by burning, tearing, canceling, defacing,
1508 obliterating, or destroying it with the intent, and for the

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1509 purpose, of revocation. An electronic will or codicil is revoked
1510 by the testator, or some other person in the testator's presence
1511 and at the testator's direction, by deleting, canceling,
1512 rendering unreadable, or obliterating the electronic will or
1513 codicil, with the intent, and for the purpose, of revocation, as
1514 proved by clear and convincing evidence.

1515 Section 32. Section 732.521, Florida Statutes, is created
1516 to read:

1517 732.521 Definitions.—As used in ss. 732.521-732.525, the
1518 term:

1519 (1) "Audio-video communication technology" has the same
1520 meaning as provided in s. 117.201.

1521 (2) "Electronic record" has the same meaning as provided
1522 in s. 668.50.

1523 (3) "Electronic signature" means an electronic mark
1524 visibly manifested in a record as a signature and executed or
1525 adopted by a person with the intent to sign the record.

1526 (4) "Electronic will" means a testamentary instrument,
1527 including a codicil, executed with an electronic signature by a
1528 person in the manner prescribed by this code, which disposes of
1529 the person's property on or after his or her death and includes
1530 an instrument which merely appoints a personal representative or
1531 guardian or revokes or revises another will.

1532 (5) "Online notarization" has the same meaning as provided
1533 in s. 117.201.

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1534 (6) "Online notary public" has the same meaning as
1535 provided in s. 117.201.

1536 (7) "Qualified custodian" means a person who meets the
1537 requirements of s. 732.525(1).

1538 (8) "Secure system" means a system that satisfies the
1539 requirements of a secure repository qualified to retain
1540 electronic journals of online notaries public in accordance with
1541 s. 117.245 and any rules established under part II of chapter
1542 117.

1543 Section 33. Effective July 1, 2020, section 732.522,
1544 Florida Statutes, is created to read:

1545 732.522 Method and place of execution.—For purposes of the
1546 execution or filing of an electronic will, the acknowledgment of
1547 an electronic will by the testator and the affidavits of
1548 witnesses under s. 732.503, or any other instrument under the
1549 Florida Probate Code:

1550 (1) Any requirement that an instrument be signed may be
1551 satisfied by an electronic signature.

1552 (2) Any requirement that individuals sign an instrument in
1553 the presence of one another may be satisfied by witnesses being
1554 present and electronically signing by means of audio-video
1555 communication technology that meets the requirements of part II
1556 of chapter 117 and any rules adopted thereunder, if:

1557 (a) The individuals are supervised by a notary public in
1558 accordance with s. 117.285;

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1559 (b) The individuals are authenticated and signing as part
1560 of an online notarization session in accordance with s. 117.265;

1561 (c) The witness hears the signer make a statement
1562 acknowledging that the signer has signed the electronic record;
1563 and

1564 (d) The signing and witnessing of the instrument complies
1565 with the requirements of s. 117.285.

1566 (3) Except as otherwise provided in this part, all
1567 questions as to the force, effect, validity, and interpretation
1568 of an electronic will which comply with this section must be
1569 determined in the same manner as in the case of a will executed
1570 in accordance with s. 732.502.

1571 (4) An instrument that is signed electronically is deemed
1572 to be executed in this state if the instrument states that the
1573 person creating the instrument intends to execute and
1574 understands that he or she is executing the instrument in, and
1575 pursuant to the laws of, this state.

1576 Section 34. Section 732.523, Florida Statutes, is created
1577 to read:

1578 732.523 Self-proof of electronic will.—An electronic will
1579 is self-proved if:

1580 (1) The acknowledgment of the electronic will by the
1581 testator and the affidavits of the witnesses are made in
1582 accordance with s. 732.503 and are part of the electronic record
1583 containing the electronic will, or are attached to, or are

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1584 logically associated with, the electronic will;
1585 (2) The electronic will designates a qualified custodian;
1586 (3) The electronic record that contains the electronic
1587 will is held in the custody of a qualified custodian at all
1588 times before being offered to the court for probate; and
1589 (4) The qualified custodian who has custody of the
1590 electronic will at the time of the testator's death certifies
1591 under oath that, to the best knowledge of the qualified
1592 custodian, the electronic record that contains the electronic
1593 will was at all times before being offered to the court in the
1594 custody of a qualified custodian in compliance with s. 732.524
1595 and that the electronic will has not been altered in any way
1596 since the date of its execution.

1597 Section 35. Section 732.524, Florida Statutes, is created
1598 to read:

1599 732.524 Qualified custodians.—

1600 (1) To serve as a qualified custodian of an electronic
1601 will, a person must be:

1602 (a) Domiciled in and a resident of this state; or

1603 (b) Incorporated, organized, or have its principal place
1604 of business in this state.

1605 (2) A qualified custodian shall:

1606 (a) In the course of maintaining custody of electronic
1607 wills, regularly employ a secure system and store in such secure
1608 system electronic records containing:

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- 1609 1. Electronic wills;
1610 2. Records attached to or logically associated with
1611 electronic wills; and
1612 3. Acknowledgments of the electronic wills by testators,
1613 affidavits of the witnesses, and the records described in s.
1614 117.245(1) and (2) which pertain to the online notarization; and
1615 (b) Furnish for any court hearing involving an electronic
1616 will that is currently or was previously stored by the qualified
1617 custodian any information requested by the court pertaining to
1618 the qualified custodian's qualifications, policies, and
1619 practices related to the creation, sending, communication,
1620 receipt, maintenance, storage, and production of electronic
1621 wills.
1622 (c) Provide access to or information concerning the
1623 electronic will, or the electronic record containing the
1624 electronic will, only:
1625 1. To the testator;
1626 2. To persons authorized by the testator in the electronic
1627 will or in written instructions signed by the testator with the
1628 formalities required for the execution of a will in this state;
1629 3. After the death of the testator, to the testator's
1630 nominated personal representative; or
1631 4. At any time, as directed by a court of competent
1632 jurisdiction.
1633 (3) The qualified custodian of the electronic record of an

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1634 electronic will may elect to destroy such record, including any
1635 of the documentation required to be created and stored under
1636 paragraph (1)(b), at any time after the earlier of the fifth
1637 anniversary of the conclusion of the administration of the
1638 estate of the testator or 20 years after the death of the
1639 testator.

1640 (4) A qualified custodian who at any time maintains
1641 custody of the electronic record of an electronic will may elect
1642 to cease serving in such capacity by:

1643 (a) Delivering the electronic will or the electronic
1644 record containing the electronic will to the testator, if then
1645 living, or, after the death of the testator, by filing the will
1646 with the court in accordance with s. 732.901; and

1647 (b) If the outgoing qualified custodian intends to
1648 designate a successor qualified custodian, by doing the
1649 following:

1650 1. Providing written notice to the testator of the name,
1651 address, and qualifications of the proposed successor qualified
1652 custodian. The testator must provide written consent before the
1653 electronic record, including the electronic will, is delivered
1654 to a successor qualified custodian;

1655 2. Delivering the electronic record containing the
1656 electronic will to the successor qualified custodian; and

1657 3. Delivering to the successor qualified custodian an
1658 affidavit of the outgoing qualified custodian stating that:

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1659 a. The outgoing qualified custodian is eligible to act as
1660 a qualified custodian in this state;

1661 b. The outgoing qualified custodian is the qualified
1662 custodian designated by the testator in the electronic will or
1663 appointed to act in such capacity under this paragraph;

1664 c. The electronic will has at all times been in the
1665 custody of one or more qualified custodians in compliance with
1666 this section since the time the electronic record was created,
1667 and identifying such qualified custodians; and

1668 d. To the best of the outgoing qualified custodian's
1669 knowledge, the electronic will has not been altered since the
1670 time it was created.

1671
1672 For purposes of making this affidavit, the outgoing qualified
1673 custodian may rely conclusively on any affidavits delivered by a
1674 predecessor qualified custodian in connection with its
1675 designation or appointment as qualified custodian; however, all
1676 such affidavits must be delivered to the successor qualified
1677 custodian.

1678 (5) Upon the request of the testator which is made in a
1679 writing signed with the formalities required for the execution
1680 of a will in this state, a qualified custodian who at any time
1681 maintains custody of the electronic record of the testator's
1682 electronic will must cease serving in such capacity and must
1683 deliver to a successor qualified custodian designated in writing

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1684 by the testator the electronic record containing the electronic
1685 will and the affidavit required in subparagraph (4)(b)3.

1686 (6) A qualified custodian may not succeed to office as a
1687 qualified custodian of an electronic will unless he or she
1688 agrees in writing to serve in such capacity.

1689 (7) If a qualified custodian is an entity, an affidavit,
1690 or an appearance by the testator in the presence of a duly
1691 authorized officer or agent of such entity, acting in his or her
1692 own capacity as such, shall constitute an affidavit, or an
1693 appearance by the testator in the presence of the qualified
1694 custodian.

1695 (8) A qualified custodian must provide a paper copy of an
1696 electronic will and the electronic record containing the
1697 electronic will to the testator immediately upon request. For
1698 the first request, the testator may not be charged a fee for
1699 being provided with these documents.

1700 (9) The qualified custodian shall be liable for any
1701 damages caused by the negligent loss or destruction of the
1702 electronic record, including the electronic will, while it is in
1703 the possession of the qualified custodian. A qualified custodian
1704 may not limit liability for such damages.

1705 (10) A qualified custodian may not terminate or suspend
1706 access to, or downloads of, the electronic will by the testator,
1707 provided that a qualified custodian may charge a fee for
1708 providing such access and downloads.

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1709 (11) Upon receiving information that the testator is dead,
1710 a qualified custodian must deposit the electronic will with the
1711 court in accordance with s. 732.901. A qualified custodian may
1712 not charge a fee for depositing the electronic will with the
1713 clerk, provided the affidavit is made in accordance with s.
1714 732.503, or furnishing in writing any information requested by a
1715 court under paragraph (1) (c).

1716 (12) Except as provided in this act, a qualified custodian
1717 must at all times keep information provided by the testator
1718 confidential and may not disclose such information to any third
1719 party.

1720 (13) A contractual venue provision between a qualified
1721 custodian and a testator is not valid or enforceable to the
1722 extent that it requires a specific jurisdiction or venue for any
1723 proceeding relating to the probate of an estate or the contest
1724 of a will.

1725 Section 36. Section 732.525, Florida Statutes, is created
1726 to read:

1727 732.525 Liability coverage; receivership of qualified
1728 custodians.—

1729 (1) A qualified custodian shall:

1730 (a) Post and maintain a blanket surety bond of at least
1731 \$250,000 to secure the faithful performance of all duties and
1732 obligations required under this part. The bond must be made
1733 payable to the Governor and his or her successors in office for

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1734 the benefit of all persons who store electronic records with a
1735 qualified custodian and their estates, beneficiaries,
1736 successors, and heirs, and be conditioned on the faithful
1737 performance of all duties and obligations under this chapter.
1738 The terms of the bond must cover the acts or omissions of the
1739 qualified custodian and each agent or employee of the qualified
1740 custodian; or

1741 (b) Maintain a liability insurance policy that covers any
1742 losses sustained by any person who stores electronic records
1743 with a qualified custodian and their estates, beneficiaries,
1744 successors, and heirs which are caused by errors or omissions by
1745 the qualified custodian and each agent or employee of the
1746 qualified custodian. The policy must cover losses of at least
1747 \$250,000 in the aggregate.

1748 (2) The Attorney General may petition a court of competent
1749 jurisdiction for the appointment of a receiver to manage the
1750 electronic records of a qualified custodian for proper delivery
1751 and safekeeping if any of the following conditions exist:

1752 (a) The qualified custodian is ceasing operation;

1753 (b) The qualified custodian intends to close the facility
1754 and adequate arrangements have not been made for proper delivery
1755 of the electronic records in accordance with this part;

1756 (c) The Attorney General determines that conditions exist
1757 which present a danger that electronic records will be lost or
1758 misappropriated; or

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1759 (d) The qualified custodian fails to maintain and post a
1760 surety bond or maintain insurance as required in this section.

1761 Section 37. Section 732.526, Florida Statutes, is created
1762 to read:

1763 732.526 Probate.-

1764 (1) An electronic will that is filed electronically with
1765 the clerk of the court through the Florida Courts E-Filing
1766 Portal is deemed to have been deposited with the clerk as an
1767 original of the electronic will.

1768 (2) A paper copy of an electronic will which is certified
1769 by a notary public to be a true and correct copy of the
1770 electronic will may be offered for and admitted to probate and
1771 shall constitute an original of the electronic will.

1772 Section 38. Subsection (1) of section 733.201, Florida
1773 Statutes, is amended to read:

1774 733.201 Proof of wills.-

1775 (1) Self-proved wills executed in accordance with this
1776 code may be admitted to probate without further proof. However,
1777 a purportedly self-proved electronic will may be admitted to
1778 probate only in the manners prescribed in subsections (2) and
1779 (3) if the execution of such electronic will, or the
1780 acknowledgment by the testator and the affidavits of the
1781 witnesses, involves an online notarization in which there was a
1782 substantial failure to comply with the procedures set forth in
1783 s. 117.265.

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1784 Section 39. Section 740.10, Florida Statutes, is created
1785 to read:

1786 740.10 Relation to wills.—No act taken pursuant to this
1787 chapter is valid to affect the obligation of a person to deposit
1788 a will of a decedent as required under s. 732.901.

1789 Section 40. Except as otherwise expressly provided in this
1790 act, and except for this section, which shall take effect upon
1791 becoming a law, this act shall take effect January 1, 2020.

1792

1793 -----

1794 **T I T L E A M E N D M E N T**

1795 Remove everything before the enacting clause and insert:

1796 A bill to be entitled

1797 An act relating to electronic legal documents; providing
1798 directives to the Division of Law Revision; amending s. 117.01,
1799 F.S.; revising provisions relating to use of the office of
1800 notary public; amending s. 117.021, F.S.; requiring electronic
1801 signatures to include access protection; prohibiting a person
1802 from requiring a notary public to perform a notarial act with
1803 certain technology; requiring the Department of State, in
1804 collaboration with the Agency for State Technology, to adopt
1805 rules for certain purposes; amending s. 117.05, F.S.; revising
1806 limitations on notary fees to conform to changes made by the
1807 act; providing for inclusion of certain information in a jurat
1808 or notarial certificate; providing for compliance with online

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1809 | notarization requirements; providing for notarial certification
1810 | of a printed electronic record; revising statutory forms for
1811 | jurats and notarial certificates; amending s. 117.107, F.S.;
1812 | providing applicability; revising prohibited acts; creating s.
1813 | 117.201, F.S.; providing definitions; creating s. 117.209, F.S.;
1814 | authorizing online notarizations; providing an exception;
1815 | creating s. 117.215, F.S.; specifying the application of other
1816 | laws in relation to online notarizations; creating s. 117.225,
1817 | F.S.; specifying registration and qualification requirements for
1818 | online notaries public; creating s. 117.235, F.S.; authorizing
1819 | the performance of certain notarial acts; creating s. 117.245,
1820 | F.S.; requiring an online notary public to keep electronic
1821 | journals of online notarizations and certain audio-video
1822 | communication recordings; specifying the information that must
1823 | be included for each online notarization; requiring that an
1824 | online notary public retain a copy of the recording of an audio-
1825 | video communication; specifying requirements for the recording;
1826 | requiring an online notary public to take certain steps
1827 | regarding the maintenance and security of the electronic
1828 | journal; specifying that the Department of State maintains
1829 | jurisdiction for a specified period of time for purposes of
1830 | investigating notarial misconduct; authorizing the use of
1831 | specified information for evidentiary purposes; creating s.
1832 | 117.255, F.S.; specifying requirements for the use of electronic
1833 | journals, signatures, and seals; requiring an online notary

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COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 409 (2019)

Amendment No.

1834 public to provide notification of the theft, vandalism, or loss
1835 of an electronic journal, signature, or seal; authorizing an
1836 online notary public to make copies of electronic journal
1837 entries and to provide access to related recordings under
1838 certain circumstances; authorizing an online notary public to
1839 charge a fee for making and delivering such copies; providing an
1840 exception; creating s. 117.265, F.S.; prescribing online
1841 notarization procedures; specifying the manner by which an
1842 online notary public must verify the identity of a principal or
1843 a witness; requiring an online notary public to take certain
1844 measures as to the security of technology used; specifying that
1845 an electronic notarial certificate must identify the performance
1846 of an online notarization; specifying that noncompliance does
1847 not impair the validity of a notarial act or the notarized
1848 electronic record; authorizing the use of specified information
1849 for evidentiary purposes; providing for construction; creating
1850 s. 117.275, F.S.; providing fees for online notarizations;
1851 creating s. 117.285, F.S.; specifying the manner by which an
1852 online notary public may supervise the witnessing of electronic
1853 records of online notarizations; specifying circumstances under
1854 which an instrument is voidable; specifying duties of remote
1855 online notarization service providers and online notaries
1856 public; specifying applicable law and jurisdiction regarding
1857 witnessing; creating s. 117.295, F.S.; authorizing the
1858 department to adopt rules and standards for online

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COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 409 (2019)

Amendment No.

1859 | notarizations; providing minimum standards for online
1860 | notarizations until such rules are adopted; creating s. 117.305,
1861 | F.S.; superseding certain provisions of federal law regulating
1862 | electronic signatures; amending s. 28.222, F.S.; requiring the
1863 | clerk of the circuit court to record certain instruments;
1864 | amending s. 92.50, F.S.; revising requirements for oaths,
1865 | affidavits, and acknowledgments; amending s. 95.231, F.S.;
1866 | providing a limitation period for certain recorded instruments;
1867 | amending s. 689.01, F.S.; providing for witnessing of documents
1868 | in connection with real estate conveyances; providing for
1869 | validation of certain recorded documents; amending s. 694.08,
1870 | F.S.; providing for validation of certain recorded documents;
1871 | amending s. 695.03, F.S.; providing and revising requirements
1872 | for making acknowledgments, proofs, and other documents;
1873 | amending s. 695.04, F.S.; conforming provisions to changes made
1874 | by the act; amending s. 695.25, F.S.; revising the statutory
1875 | short form of acknowledgments to include acknowledgment by
1876 | online notarization; amending s. 695.28, F.S.; providing for
1877 | validity of recorded documents; conforming provisions to changes
1878 | made by the act; amending s. 709.2119, F.S.; authorizing the
1879 | acceptance of a power of attorney based upon an electronic
1880 | journal or electronic record made by a notary public; amending
1881 | s. 709.2120, F.S.; prohibiting acceptance of a power of attorney
1882 | if witnessed or notarized remotely; amending s. 709.2202, F.S.;
1883 | prohibiting certain authority granted through a power of

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COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 409 (2019)

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1884 attorney if witnessed or notarized remotely; amending s.
1885 731.201, F.S.; redefining the term "will" to conform to changes
1886 made by the act; amending s. 732.506, F.S.; exempting electronic
1887 wills from provisions governing the revocation of wills and
1888 codicils; prescribing the manner by which an electronic will or
1889 codicil may be revoked; creating s. 732.521, F.S.; providing
1890 definitions; creating s. 732.522, F.S.; prescribing the manner
1891 by which an electronic will must be executed; creating s.
1892 732.523, F.S.; specifying requirements for the self-proof of an
1893 electronic will; creating s. 732.524, F.S.; specifying
1894 requirements necessary to serve as a qualified custodian of an
1895 electronic will; creating s. 732.525, F.S.; requiring a
1896 qualified custodian to post and maintain a blanket surety bond
1897 of a specified amount and maintain liability insurance;
1898 authorizing the Attorney General to petition a court to appoint
1899 a receiver to manage electronic records of a qualified
1900 custodian; creating s. 732.526, F.S.; specifying conditions by
1901 which an electronic will is deemed to be an original will;
1902 amending s. 733.201, F.S.; requiring that self-proved electronic
1903 wills meet certain requirements for admission to probate;
1904 creating s. 740.10, F.S.; specifying that any act taken pursuant
1905 to ch. 740, F.S., does not affect the requirement that a will be
1906 deposited within a certain timeframe; providing effective dates.

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