

26 | 117.225, F.S.; specifying registration and
27 | qualification requirements for online notaries public;
28 | creating s. 117.235, F.S.; authorizing the performance
29 | of certain notarial acts; creating s. 117.245, F.S.;
30 | requiring an online notary public to keep electronic
31 | journals of online notarizations and certain audio-
32 | video communication recordings; specifying the
33 | information that must be included for each online
34 | notarization; requiring that an online notary public
35 | retain a copy of the recording of an audio-video
36 | communication; requiring an online notary public to
37 | take certain steps regarding the maintenance and
38 | security of the electronic journal; specifying that
39 | the Department of State maintains jurisdiction for a
40 | specified period of time for purposes of investigating
41 | notarial misconduct; authorizing the use of specified
42 | information for evidentiary purposes; creating s.
43 | 117.255, F.S.; specifying requirements for the use of
44 | electronic journals, signatures, and seals; requiring
45 | an online notary public to provide notification of the
46 | theft, vandalism, or loss of an electronic journal,
47 | signature, or seal; authorizing an online notary
48 | public to make copies of electronic journal entries
49 | and to provide access to related recordings under
50 | certain circumstances; authorizing an online notary

51 public to charge a fee for making and delivering such
52 copies; providing an exception; creating s. 117.265,
53 F.S.; prescribing online notarization procedures;
54 specifying the manner by which an online notary public
55 must verify the identity of a principal or a witness;
56 requiring an online notary public to take certain
57 measures as to the security of technology used;
58 specifying that an electronic notarial certificate
59 must identify the performance of an online
60 notarization; specifying that noncompliance does not
61 impair the validity of a notarial act or the notarized
62 electronic record; authorizing the use of specified
63 information for evidentiary purposes; providing for
64 construction; creating s. 117.275, F.S.; providing
65 fees for online notarizations; creating s. 117.285,
66 F.S.; specifying the manner by which an online notary
67 public may supervise the witnessing of electronic
68 records of online notarizations; creating s. 117.295,
69 F.S.; authorizing the department to adopt rules and
70 standards for online notarizations; providing minimum
71 standards for online notarizations until such rules
72 are adopted; creating s. 117.305, F.S.; superseding
73 certain provisions of federal law regulating
74 electronic signatures; amending s. 28.222, F.S.;

75 requiring the clerk of the circuit court to record

76 | certain instruments; amending s. 90.803, F.S.;

77 | creating a hearsay exception for certain electronic

78 | records created and stored by a qualified custodian;

79 | amending s. 92.50, F.S.; revising requirements for

80 | oaths, affidavits, and acknowledgments; amending s.

81 | 95.231, F.S.; providing a limitation period for

82 | certain recorded instruments; amending s. 689.01,

83 | F.S.; providing for witnessing of documents in

84 | connection with real estate conveyances; providing for

85 | validation of certain recorded documents; amending s.

86 | 694.08, F.S.; providing for validation of certain

87 | recorded documents; amending s. 695.03, F.S.;

88 | providing and revising requirements for making

89 | acknowledgments, proofs, and other documents; amending

90 | s. 695.04, F.S.; conforming provisions to changes made

91 | by the act; amending s. 695.25, F.S.; revising the

92 | statutory short form of acknowledgments to include

93 | acknowledgment by online notarization; amending s.

94 | 695.28, F.S.; providing for validity of recorded

95 | documents; conforming provisions to changes made by

96 | the act; amending s. 709.2119, F.S.; authorizing the

97 | acceptance of a power of attorney based upon an

98 | electronic journal or electronic record made by a

99 | notary public; amending s. 709.2120, F.S.; prohibiting

100 | acceptance of a power of attorney if witnessed or

101 notarized remotely; amending s. 709.2202, F.S.;

102 prohibiting certain authority granted through a power

103 of attorney if witnessed or notarized remotely;

104 amending s. 731.201, F.S.; redefining the term "will"

105 to conform to changes made by the act; amending s.

106 732.506, F.S.; exempting electronic wills from

107 provisions governing the revocation of wills and

108 codicils; prescribing the manner by which an

109 electronic will or codicil may be revoked; creating s.

110 732.521, F.S.; providing definitions; creating s.

111 732.522, F.S.; prescribing the manner by which an

112 electronic will must be executed; creating s. 732.523,

113 F.S.; specifying requirements for the self-proof of an

114 electronic will; creating s. 732.524, F.S.; specifying

115 requirements necessary to serve as a qualified

116 custodian of an electronic will; creating s. 732.525,

117 F.S.; requiring a qualified custodian to post and

118 maintain a blanket surety bond of a specified amount

119 and maintain liability insurance; authorizing the

120 Attorney General to petition a court to appoint a

121 receiver to manage electronic records of a qualified

122 custodian; creating s. 732.526, F.S.; specifying

123 conditions by which an electronic will is deemed to be

124 an original will; amending s. 733.201, F.S.; requiring

125 that self-proved electronic wills meet certain

126 requirements for admission to probate; creating s.
127 740.10, F.S.; specifying that any act taken pursuant
128 to ch. 740, F.S., does not affect the requirement that
129 a will be deposited within a certain timeframe;
130 providing effective dates.

131

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

133

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

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

138 (2) Create part II of chapter 117, Florida Statutes,
139 consisting of ss. 117.201-117.305, Florida Statutes, to be
140 entitled "Online Notarizations."

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

143 117.01 Appointment, application, suspension, revocation,
144 application fee, bond, and oath.—

145 (1) The Governor may appoint as many notaries public as he
146 or she deems necessary, each of whom must ~~shall~~ be at least 18
147 years of age and a legal resident of this ~~the~~ state. A permanent
148 resident alien may apply and be appointed and shall file with
149 his or her application a recorded Declaration of Domicile. The
150 residence required for appointment must be maintained throughout

151 the term of appointment. A notary public ~~Notaries public~~ shall
152 be appointed for 4 years and may only ~~shall~~ use and exercise the
153 office of notary public if he or she is within the boundaries of
154 this state. An applicant must be able to read, write, and
155 understand the English language.

156 Section 3. Subsections (4) and (5) of section 117.021,
157 Florida Statutes, are renumbered as subsections (5) and (6),
158 respectively, subsection (2) of that section is amended, and new
159 subsections (4) and (7) are added to that section, to read:

160 117.021 Electronic notarization.—

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

163 (a) Unique to the notary public;

164 (b) Capable of independent verification;

165 (c) Retained under the notary public's sole control and
166 includes access protection through the use of passwords or codes
167 under control of the notary public; and

168 (d) Attached to or logically associated with the
169 electronic document in a manner that any subsequent alteration
170 to the electronic document displays evidence of the alteration.

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

174 (7) The Department of State, in collaboration with the
175 Agency for State Technology, shall adopt rules establishing

176 standards for tamper-evident technologies that will indicate any
 177 alteration or change to an electronic record after completion of
 178 an electronic notarial act. All electronic notarizations
 179 performed on or after January 1, 2020, must comply with the
 180 adopted standards.

181 Section 4. Subsection (1), paragraph (a) of subsection
 182 (2), subsections (4) and (5), paragraph (a) of subsection (12),
 183 and subsections (13) and (14) of section 117.05, Florida
 184 Statutes, are amended, and paragraph (c) is added to subsection
 185 (12) of that section, to read:

186 117.05 Use of notary commission; unlawful use; notary fee;
 187 seal; duties; employer liability; name change; advertising;
 188 photocopies; penalties.—

189 (1) A ~~No~~ person may not ~~shall~~ obtain or use a notary
 190 public commission in other than his or her legal name, and it is
 191 unlawful for a notary public to notarize his or her own
 192 signature. Any person applying for a notary public commission
 193 must submit proof of identity to the Department of State ~~if so~~
 194 ~~requested~~. Any person who violates ~~the provisions of~~ this
 195 subsection commits ~~is guilty of~~ a felony of the third degree,
 196 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

197 (2) (a) The fee of a notary public may not exceed \$10 for
 198 any one notarial act, except as provided in s. 117.045 or s.
 199 117.275.

200 (4) When notarizing a signature, a notary public shall

201 complete a jurat or notarial certificate in substantially the
 202 same form as those found in subsection (13). The jurat or
 203 certificate of acknowledgment shall contain the following
 204 elements:

205 (a) The venue stating the location of the notary public at
 206 the time of the notarization in the format, "State of Florida,
 207 County of"

208 (b) The type of notarial act performed, an oath or an
 209 acknowledgment, evidenced by the words "sworn" or
 210 "acknowledged."

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

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

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

219 (f) The specific type of identification the notary public
 220 is relying upon in identifying the signer, either based on
 221 personal knowledge or satisfactory evidence specified in
 222 subsection (5).

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

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

226 (i) The notary public's ~~notary's~~ official seal affixed
 227 below or to either side of the notary public's ~~notary's~~
 228 signature.

229 (5) A notary public may not notarize a signature on a
 230 document unless he or she personally knows, or has satisfactory
 231 evidence, that the person whose signature is to be notarized is
 232 the individual who is described in and who is executing the
 233 instrument. A notary public shall certify in the certificate of
 234 acknowledgment or jurat the type of identification, either based
 235 on personal knowledge or other form of identification, upon
 236 which the notary public is relying. In the case of an online
 237 notarization, the online notary public shall comply with the
 238 requirements set forth in part II of this chapter.

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

243 (b) For the purposes of this subsection, the term
 244 "satisfactory evidence" means the absence of any information,
 245 evidence, or other circumstances which would lead a reasonable
 246 person to believe that the person whose signature is to be
 247 notarized is not the person he or she claims to be and any one
 248 of the following:

249 1. The sworn written statement of one credible witness
 250 personally known to the notary public or the sworn written

251 statement of two credible witnesses whose identities are proven
 252 to the notary public upon the presentation of satisfactory
 253 evidence that each of the following is true:

254 a. That the person whose signature is to be notarized is
 255 the person named in the document;

256 b. That the person whose signature is to be notarized is
 257 personally known to the witnesses;

258 c. That it is the reasonable belief of the witnesses that
 259 the circumstances of the person whose signature is to be
 260 notarized are such that it would be very difficult or impossible
 261 for that person to obtain another acceptable form of
 262 identification;

263 d. That it is the reasonable belief of the witnesses that
 264 the person whose signature is to be notarized does not possess
 265 any of the identification documents specified in subparagraph
 266 2.; and

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

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

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

275 b. A passport issued by the Department of State of the

276 United States;

277 c. A passport issued by a foreign government if the
278 document is stamped by the United States Bureau of Citizenship
279 and Immigration Services;

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

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

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

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

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

294 i. A sworn, written statement from a sworn law enforcement
295 officer that the forms of identification for an inmate in an
296 institution of confinement were confiscated upon confinement and
297 that the person named in the document is the person whose
298 signature is to be notarized; or

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

301 (12) (a) A notary public may supervise the making of a copy
 302 of a tangible or an electronic record or the printing of an
 303 electronic record, ~~photocopy of an original document~~ and attest
 304 to the trueness of the copy or of the printout, provided the
 305 document is neither a vital record in this state, another state,
 306 a territory of the United States, or another country, nor a
 307 public record, if a copy can be made by the custodian of the
 308 public record.

309 (c) A notary public must use a certificate in
 310 substantially the following form in notarizing a copy of a
 311 tangible or an electronic record or a printout of an electronic
 312 record:

313
 314 STATE OF FLORIDA
 315 COUNTY OF

316
 317 On this day of, ...(year)..., I attest that the
 318 preceding or attached document is a true, exact, complete, and
 319 unaltered ...(copy of a tangible or an electronic record
 320 presented to me by the document's custodian)... or a
 321 ...(printout made by me from such record).... If a printout, I
 322 further attest that at the time of printing, no security
 323 features, if any, present on the electronic record, indicated
 324 that the record had been altered since execution.

325

326 ...(Signature of Notary Public – State of Florida)...
327 ...(Print, Type, or Stamp Commissioned Name of Notary Public)...
328

329 (13) The following notarial certificates are sufficient
330 for the purposes indicated, if completed with the information
331 required by this chapter. The specification of forms under this
332 subsection does not preclude the use of other forms.

333 (a) For an oath or affirmation:

334
335 STATE OF FLORIDA
336 COUNTY OF

337
338 Sworn to (or affirmed) and subscribed before me by means of
339 [] physical presence or [] online notarization, this day of
340, ... (year) ..., by ... (name of person making
341 statement)....

342
343 ... (Signature of Notary Public – State of Florida) ...
344 ... (Print, Type, or Stamp Commissioned Name of Notary Public) ...
345 Personally Known OR Produced Identification
346
347 Type of Identification Produced.....

348
349 (b) For an acknowledgment in an individual capacity:
350

351 STATE OF FLORIDA
352 COUNTY OF

353
354 The foregoing instrument was acknowledged before me by means of
355 [] physical presence or [] online notarization, this day of
356, ... (year) ..., by ... (name of person acknowledging)

357
358 ... (Signature of Notary Public - State of Florida) ...
359 ... (Print, Type, or Stamp Commissioned Name of Notary Public) ...

360 Personally Known OR Produced Identification
361

362 Type of Identification Produced.....

363
364 (c) For an acknowledgment in a representative capacity:

365
366 STATE OF FLORIDA
367 COUNTY OF

368
369 The foregoing instrument was acknowledged before me by means of
370 [] physical presence or [] online notarization, this day of
371, ... (year) ..., by ... (name of person) ... as ... (type of

372 authority, . . . e.g. officer, trustee, attorney in fact) ...
373 for ... (name of party on behalf of whom instrument was

374 executed)
375

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

402

403 STATE OF FLORIDA

404 COUNTY OF

405

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

410

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

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

413 Personally Known OR Produced Identification

414

415 Type of Identification Produced.....

416

417 2. For an acknowledgment in an individual capacity:

418

419 ...(First Name)... ...(Last Name)...

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

421

422 STATE OF FLORIDA

423 COUNTY OF

424

425 The foregoing instrument was acknowledged before me by means of

426 [] physical presence or [] online notarization, this day of
 427, ...(year)...., by ...(name of person acknowledging)....,
 428 who signed with a mark in the presence of these witnesses:

429
 430 ...(Signature of Notary Public - State of Florida)...

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

432 Personally Known OR Produced Identification

433

434 Type of Identification Produced.....

435

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

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

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

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

449

450 The notary public must maintain the proof of direction and

451 authorization to sign on behalf of the person with a disability
 452 for 10 years from the date of the notarial act.

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

456 1. For an oath or affirmation:

457
 458 STATE OF FLORIDA
 459 COUNTY OF

460
 461 Sworn to (or affirmed) before me by means of [] physical
 462 presence or [] online notarization, this day of,
 463 ...(year)..., by ...(name of person making statement)..., and
 464 subscribed by ...(name of notary)... at the direction of ~~and in~~
 465 ~~the presence of~~ ...(name of person making statement)... by
 466 ...(written, verbal, or other means)..., and in the presence of
 467 these witnesses:

468
 469 ... (Signature of Notary Public - State of Florida) ...
 470 ... (Print, Type, or Stamp Commissioned Name of Notary Public) ...
 471 Personally Known OR Produced Identification
 472
 473 Type of Identification Produced.....

474
 475 2. For an acknowledgment in an individual capacity:

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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)...
and subscribed by ...(name of notary)... at the direction of ~~and~~
~~in the presence of~~ ...(name of person acknowledging)..., and 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.....

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

117.107 Prohibited acts.—
(2) A notary public may not sign notarial certificates
using a facsimile signature stamp unless the notary public has a
physical disability that limits or prohibits his or her ability
to make a written signature and unless the notary public has
first submitted written notice to the Department of State with

501 an exemplar of the facsimile signature stamp. This subsection
 502 does not apply to or prohibit the use of an electronic signature
 503 and seal by a notary public who is registered as an online
 504 notary public to perform an electronic or online notarization in
 505 accordance with this chapter.

506 (9) A notary public may not notarize a signature on a
 507 document if the person whose signature is being notarized does
 508 not appear before the notary public either by means of physical
 509 presence or by means of audio-video communication technology as
 510 authorized under part II of this chapter ~~is not in the presence~~
 511 ~~of the notary public~~ at the time the signature is notarized. Any
 512 notary public who violates this subsection is guilty of a civil
 513 infraction, punishable by penalty not exceeding \$5,000, and such
 514 violation constitutes malfeasance and misfeasance in the conduct
 515 of official duties. It is no defense to the civil infraction
 516 specified in this subsection that the notary public acted
 517 without intent to defraud. A notary public who violates this
 518 subsection with the intent to defraud is guilty of violating s.
 519 117.105.

520 Section 6. Section 117.201, Florida Statutes, is created
 521 to read:

522 117.201 Definitions.—As used in this part, the term:

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

524 mean:

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

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

529 (2) "Audio-video communication technology" means
530 technology in compliance with applicable law which enables real-
531 time, two-way communication using electronic means in which
532 participants are able to see, hear, and communicate with one
533 another.

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

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

541 (5) "Errors and omissions insurance" means a type of
542 insurance that provides coverage for potential errors or
543 omissions in or relating to the notarial act and is maintained,
544 as applicable, by the online notary public or his or her
545 employer, or a Remote Online Notarization service provider.

546 (6) "Government-issued identification credential" means
547 any approved credential for verifying identity under s.
548 117.05(5)(b)2.

549 (7) "Identity proofing" means a process or service in
550 compliance with applicable law in which a third party affirms

551 the identity of an individual through use of public or
552 proprietary data sources, which may include by means of
553 knowledge-based authentication or biometric verification.

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

558 (9) "Online notarization" means the performance of a
559 notarial act using electronic means in which the principal
560 appears before the notary public by means of audio-video
561 communication technology.

562 (10) "Online notary public" means a notary public
563 commissioned under part I of this chapter, a civil-law notary
564 appointed under chapter 118, or a commissioner of deeds
565 appointed under part IV of chapter 721, who has registered with
566 the Department of State to perform online notarizations under
567 this part.

568 (11) "Physical presence" means being in the same physical
569 location as another person and close enough to see, hear,
570 communicate with, and exchange credentials with that person.

571 (12) "Principal" means an individual whose electronic
572 signature is acknowledged, witnessed, or attested to in an
573 online notarization or who takes an oath or affirmation
574 administered by the online notary public.

575 (13) "Record" means information that is inscribed on a

576 tangible medium or that is stored in an electronic or other
577 medium and is retrievable in perceivable form, including public
578 records as defined in s. 119.011.

579 (14) "Remote Online Notarization service provider" or "RON
580 service provider" means a person that provides audio-video
581 communication technology and related processes, services,
582 software, data storage, or other services to online notaries
583 public for the purpose of directly facilitating their
584 performance of online notarizations in compliance with this
585 chapter and any rules adopted by the Department of State
586 pursuant to s. 117.295.

587 (15) "Remote presentation" means transmission of an image
588 of a government-issued identification credential that is of
589 sufficient quality to enable the online notary public to
590 identify the individual seeking the notary's services and to
591 perform credential analysis through audio-video communication
592 technology.

593 Section 7. Section 117.209, Florida Statutes, is created
594 to read:

595 117.209 Authority to perform online notarizations.—

596 (1) An online notary public may perform any of the
597 functions authorized under part I of this chapter as an online
598 notarization by complying with the requirements of this part and
599 any rules adopted by the Department of State pursuant to s.
600 117.295, excluding solemnizing the rites of matrimony.

601 (2) If a notarial act requires a principal to appear
 602 before or in the presence of the online notary public, the
 603 principal may appear before the online notary public by means of
 604 audio-video communication technology that meets the requirements
 605 of this part and any rules adopted by the Department of State
 606 pursuant to s. 117.295.

607 (3) An online notary public physically located in this
 608 state may perform an online notarization as authorized under
 609 this part, regardless of whether the principal or any witnesses
 610 are physically located in this state at the time of the online
 611 notarization. A commissioner of deeds registered as an online
 612 notary public may perform an online notarization while
 613 physically located within or outside the state in accordance
 614 with the territorial limits of its jurisdiction and other
 615 limitations and requirements otherwise applicable to notarial
 616 acts by commissioners of deeds.

617 (4) The validity of an online notarization performed by an
 618 online notary public registered in this state shall be
 619 determined by applicable laws of this state regardless of the
 620 physical location of the principal or any witnesses at the time
 621 of the notarial act.

622 Section 8. Section 117.215, Florida Statutes, is created
 623 to read:

624 117.215 Relation to other laws.—

625 (1) If a provision of law requires a notary public or

626 other authorized official of this state to notarize a signature
627 or a statement, to take an acknowledgment of an instrument, or
628 to administer an oath or affirmation so that a document may be
629 sworn, affirmed, made under oath, or subject to penalty of
630 perjury, an online notarization performed in accordance with the
631 provisions of this part and any rules adopted hereunder
632 satisfies such requirement.

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

637 Section 9. Section 117.225, Florida Statutes, is created
638 to read:

639 117.225 Registration; qualifications.—A notary public, a
640 civil-law notary appointed under chapter 118, or a commissioner
641 of deeds appointed under part IV of chapter 721 may complete
642 registration as an online notary public with the Department of
643 State by:

644 (1) Holding a current commission as a notary public under
645 part I of this chapter, an appointment as a civil-law notary
646 under chapter 118, or an appointment as a commissioner of deeds
647 under part IV of chapter 721, and submitting a copy of such
648 commission or proof of such appointment with his or her
649 registration.

650 (2) Certifying that the notary public, civil-law notary,

651 or commissioner of deeds registering as an online notary public
652 has completed a classroom or online course covering the duties,
653 obligations, and technology requirements for serving as an
654 online notary public.

655 (3) Paying a notary public registration fee as required by
656 s. 113.01.

657 (4) Submitting a registration as an online notary public
658 to the Department of State, signed and sworn to by the
659 registrant.

660 (5) Identifying the RON service provider whose audio-video
661 communication technology and processes for credential analysis
662 and identity proofing technologies the registrant intends to use
663 for online notarizations, and confirming that such technology
664 and processes satisfy the requirements of this chapter and any
665 rules adopted by the Department of State pursuant to s. 117.295.

666 (6) Providing evidence satisfactory to the Department of
667 State that the registrant has obtained a bond in the amount of
668 \$25,000, payable to any individual harmed as a result of a
669 breach of duty by the registrant acting in his or her official
670 capacity as an online notary public, conditioned for the due
671 discharge of the office, and on such terms as are specified in
672 rule by the Department of State as reasonably necessary to
673 protect the public. The bond shall be approved and filed with
674 the Department of State and executed by a surety company duly
675 authorized to transact business in this state. Compliance by an

676 online notary public with this requirement shall satisfy the
677 requirement of obtaining a bond under s. 117.01(7).

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

685 Section 10. Section 117.235, Florida Statutes, is created
686 to read:

687 117.235 Performance of notarial acts.-

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

692 (2) An online notary public may perform notarial acts as
693 provided by part I of this chapter in addition to performing
694 online notarizations as authorized and pursuant to the
695 provisions of this part.

696 Section 11. Section 117.245, Florida Statutes, is created
697 to read:

698 117.245 Electronic journal of online notarizations.-

699 (1) An online notary public shall keep one or more secure
700 electronic journals of online notarizations performed by the

701 online notary public. For each online notarization, the
702 electronic journal entry must contain all of the following:
703 (a) The date and time of the notarization.
704 (b) The type of notarial act.
705 (c) The type, the title, or a description of the
706 electronic record or proceeding.
707 (d) The name and address of each principal involved in the
708 transaction or proceeding.
709 (e) Evidence of identity of each principal involved in the
710 transaction or proceeding in any of the following forms:
711 1. A statement that the person is personally known to the
712 online notary public.
713 2. A notation of the type of government-issued
714 identification credential provided to the online notary public.
715 (f) An indication that the principal satisfactorily passed
716 the identity proofing.
717 (g) An indication that the government-issued
718 identification credential satisfied the credential analysis.
719 (h) The fee, if any, charged for the notarization.
720 (2) The online notary public shall retain a copy of the
721 recording of the audio-video communication, which recording
722 shall be an uninterrupted and unedited recording of the notarial
723 act during which the principal and any witness appeared before
724 the notary public.
725 (3) The online notary public shall take reasonable steps

726 to:

727 (a) Ensure the integrity, security, and authenticity of
728 online notarizations.

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

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

734 (4) The electronic journal required under subsection (1)
735 and the recordings of audio-video communications required under
736 subsection (2) shall be maintained for at least 10 years after
737 the date of the notarial act. However, a full copy of the
738 recording of the audio-video communication required under
739 subsection (2) relating to an online notarization session that
740 involves the signing of an electronic will must be maintained by
741 a qualified custodian in accordance with chapters 731 and 732.
742 The Department of State maintains jurisdiction over the
743 electronic journal and audio-video communication recordings to
744 investigate notarial misconduct for a period of 10 years after
745 the date of the notarial act. The online notary public, a
746 guardian of an incapacitated online notary public, or the
747 personal representative of a deceased online notary public may,
748 by contract with a secure repository in accordance with any
749 rules established under this chapter, delegate to the repository
750 the online notary public's duty to retain the electronic journal

751 and the required recordings of audio-video communications,
752 provided that the Department of State is notified of such
753 delegation of retention duties to the repository within 30 days
754 thereafter, including the address and contact information for
755 the repository. If an online notary public delegates to a secure
756 repository under this section, the online notary public shall
757 make an entry in his or her electronic journal identifying such
758 repository, and provide notice to the Department of State as
759 required in this subsection.

760 (5) An omitted or incomplete entry in the electronic
761 journal does not impair the validity of the notarial act or of
762 the electronic record which was notarized, but may be introduced
763 as evidence to establish violations of this chapter; as evidence
764 of possible fraud, forgery, impersonation, duress, incapacity,
765 undue influence, minority, illegality, unconscionability; or for
766 other evidentiary purposes. However, if the recording of the
767 audio-video communication required under subsection (2) relating
768 to the online notarization of the execution of an electronic
769 will cannot be produced by the online notary public or the
770 qualified custodian, the electronic will shall be treated as a
771 lost or destroyed will subject to s. 733.207.

772 Section 12. Section 117.255, Florida Statutes, is created
773 to read:

774 117.255 Use of electronic journal, signature, and seal.—An
775 online notary public shall:

776 (1) Take reasonable steps to ensure that any registered
777 device used to create an electronic seal is current and has not
778 been revoked or terminated by the issuing or registering
779 authority of the device.

780 (2) Keep the electronic journal and electronic seal secure
781 and under his or her sole control, which includes access
782 protection using passwords or codes under control of the online
783 notary public. The online notary public may not allow another
784 person to use the online notary public's electronic journal,
785 electronic signature, or electronic seal, other than a RON
786 service provider or other authorized person providing services
787 to an online notary public to facilitate performance of online
788 notarizations.

789 (3) Attach or logically associate the electronic signature
790 and seal to the electronic notarial certificate of an electronic
791 record in a manner that is capable of independent verification
792 using tamper-evident technology that renders any subsequent
793 change or modification to the electronic record evident.

794 (4) Notify an appropriate law enforcement agency and the
795 Department of State of any unauthorized use of or compromise to
796 the security of the electronic journal, official electronic
797 signature, or electronic seal within 7 days after discovery of
798 such unauthorized use or compromise to security.

799 (5) Make electronic copies, upon request, of the pertinent
800 entries in the electronic journal and provide access to the

801 related audio-video communication recordings to the following
802 persons:

803 (a) The parties to an electronic record notarized by the
804 online notary public;

805 (b) A qualified custodian of an electronic will executed
806 in accordance with s. 731.201;

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

810 (d) The online notary public's RON service provider whose
811 services were used by the online notary public to notarize the
812 electronic record;

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

815 (f) The Department of State pursuant to a notary
816 misconduct investigation.

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

821 (a) A party to the electronic record;

822 (b) In a real estate transaction, the title agent,
823 settlement agent, or title insurer who insured the electronic
824 record or engaged the online notary public with regard to such
825 transaction; or

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

828
829 If the online notary public does charge a fee, the online notary
830 public shall disclose the amount of such fee to the requester
831 before making the electronic copies.

832 Section 13. Section 117.265, Florida Statutes, is created
833 to read:

834 117.265 Online notarization procedures.—

835 (1) An online notary public physically located in this
836 state may perform an online notarization that meets the
837 requirements of this part regardless of whether the principal or
838 any witnesses are physically located in this state at the time
839 of the online notarization. A commissioner of deeds registered
840 as an online notary public may perform an online notarization
841 while physically located within or outside of this state in
842 accordance with the territorial limits of its jurisdiction and
843 other limitations and requirements otherwise applicable to
844 notarial acts by commissioners of deeds. An online notarization
845 performed in accordance with this chapter is deemed to have been
846 performed within this state and is governed by the applicable
847 laws of this state.

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

851 using audio-video communication technology and processes that
852 meet the requirements of this part and of any rules adopted
853 hereunder and record the two-way audio-video conference session
854 between the notary public and the principal and any witnesses. A
855 principal may not act in the capacity of a witness for his or
856 her own signature in an online notarization.

857 (3) In performing an online notarization of a principal
858 not located within this state, an online notary public must
859 confirm, either verbally or through the principal's written
860 consent, that the principal desires for the notarial act to be
861 performed by a Florida notary public and under the general law
862 of this state.

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

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

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

869 1. Remote presentation of a government-issued
870 identification credential by each individual.

871 2. Credential analysis of each government-issued
872 identification credential.

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

876
877 If the online notary public is unable to satisfy subparagraphs
878 (b)1.-3., or if the databases consulted for identity proofing do
879 not contain sufficient information to permit authentication, the
880 online notary public may not perform the online notarization.

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

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

889 (7) The electronic notarial certificate for an online
890 notarization must include a notation that the notarization is an
891 online notarization which may be satisfied by placing the term
892 "online notary" in or adjacent to the online notary public's
893 seal.

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

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

901 violations of this chapter or as an indication of possible
902 fraud, forgery, impersonation, duress, incapacity, undue
903 influence, minority, illegality, unconscionability, or for other
904 evidentiary purposes. This subsection may not be construed to
905 alter the duty of an online notary public to comply with this
906 chapter and any rules adopted hereunder.

907 Section 14. Section 117.275, Florida Statutes, is created
908 to read:

909 117.275 Fees for online notarization.—An online notary
910 public or the employer of such online notary public may charge a
911 fee, not to exceed \$25, for performing an online notarization
912 under this part. Fees for services other than notarial acts are
913 not governed by this section.

914 Section 15. Section 117.285, Florida Statutes, is created
915 to read:

916 117.285 Supervising the witnessing of electronic records.—
917 An online notary public may supervise the witnessing of
918 electronic records by the same audio-video communication
919 technology used for online notarization, as follows:

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

922 (2) The witness may be in the physical presence of the
923 principal or remote from the principal provided the witness and
924 principal are using audio-video communication technology.

925 (3) The act of witnessing an electronic signature means

926 the witness is either in the physical presence of the principal
927 or present through audio-video communication technology at the
928 time the principal affixes the electronic signature and the
929 witness hears the principal make a statement to the effect that
930 the principal has signed the electronic record.

931 (4) The law of this state governs the validity of an act
932 of witnessing supervised by an online notary public pursuant to
933 this section, regardless of the physical location of the witness
934 at the time of witnessing.

935 Section 16. Effective upon becoming a law, section
936 117.295, Florida Statutes, is created to read:

937 117.295 Standards for electronic and online notarization;
938 rulemaking authority.-

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

943 (a) Improvements in technology and methods of assuring the
944 identity of principals and the security of an electronic record,
945 including tamper-evident technologies in compliance with the
946 standards adopted pursuant to s. 117.021 which apply to online
947 notarizations.

948 (b) Education requirements for online notaries public and
949 the required terms of bonds and errors and omissions insurance,
950 but not including the amounts of such bonds and insurance

951 policies.

952 (c) Identity proofing, credential analysis, unauthorized
953 interception, remote presentation, audio-video communication
954 technology, and retention of electronic journals and copies of
955 audio-video communications recordings in a secure repository.

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

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

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

968 1. The principal must be presented with five or more
969 questions with a minimum of five possible answer choices per
970 question.

971 2. Each question must be drawn from a third-party provider
972 of public and proprietary data sources and be identifiable to
973 the principal's social security number or other identification
974 information, or the principal's identity and historical events
975 records.

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

978 4. The principal must answer a minimum of 80 percent of
979 the questions correctly.

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

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

984 (b) Use of credential analysis using one or more
985 commercially available automated software or hardware processes
986 that are consistent with sound commercial practices; that aid
987 the notary public in verifying the authenticity of the
988 credential by analyzing the integrity of visual, physical, or
989 cryptographic security features to indicate that the credential
990 is not fraudulent or inappropriately modified; and that use
991 information held or published by the issuing source or
992 authoritative source, as available, to confirm the validity of
993 credential details. The output of the credential analysis
994 process must be provided to the online notary public performing
995 the notarial act.

996 (c) Use of audio-video communication technology in
997 completing online notarizations that must meet the following
998 requirements:

999 1. The signal transmission must be reasonably secure from
1000 interception, access, or viewing by anyone other than the

1001 participants communicating.

1002 2. The technology must provide sufficient audio clarity
1003 and video resolution to enable the notary to communicate with
1004 the principal and any witness, and to confirm the identity of
1005 the principal and any witness, as required, using the
1006 identification methods described in s. 117.265.

1007 (4) A RON service provider is deemed to have satisfied
1008 tamper-evident technology requirements by use of technology that
1009 renders any subsequent change or modification to the electronic
1010 record evident.

1011 (5) In addition to any coverage it elects to provide for
1012 individual online notaries public, maintenance of errors and
1013 omissions insurance coverage by a RON service provider in a
1014 total amount of at least \$250,000 in the annual aggregate with
1015 respect to potential errors or omissions in or relating to the
1016 technology or processes provided by the RON service provider. An
1017 online notary public is not responsible for the security of the
1018 systems used by the principal or others to access the online
1019 notarization session.

1020 (6) A 2-hour in-person or online course addressing the
1021 duties, obligations, and technology requirements for serving as
1022 an online notary public offered by the Florida Land Title
1023 Association; the Real Property, Probate and Trust Law Section of
1024 the Florida Bar; the Department of State; or a vendor approved
1025 by the Department of State shall satisfy the education

1026 requirements of s. 117.225(2). Each such provider shall make the
1027 in-person or online course generally available to all
1028 applicants, regardless of membership in the provider's
1029 organization.

1030 (7) The rulemaking required under this section is exempt
1031 from s. 120.541(3).

1032 Section 17. Section 117.305, Florida Statutes, is created
1033 to read:

1034 117.305 Relation to federal law.—This part supersedes the
1035 Electronic Signatures in Global and National Commerce Act as
1036 authorized under 15 U.S.C. s. 7001 et seq., but does not modify,
1037 limit, or supersede s. 101(c) of that act, 15 U.S.C. s. 7001(c),
1038 or authorize the electronic delivery of the notices described in
1039 15 U.S.C. s. 7003(b).

1040 Section 18. Present paragraph (h) of subsection (3) of
1041 section 28.222, Florida Statutes, is redesignated as paragraph
1042 (i), and a new paragraph (h) is added to that subsection to
1043 read:

1044 28.222 Clerk to be county recorder.—

1045 (3) The clerk of the circuit court shall record the
1046 following kinds of instruments presented to him or her for
1047 recording, upon payment of the service charges prescribed by
1048 law:

1049 (h) Copies of any instruments originally created and
1050 executed using an electronic signature, as defined in s. 695.27,

1051 and certified to be a true and correct paper printout by a
1052 notary public in accordance with chapter 117, if the county
1053 recorder is not prepared to accept electronic documents for
1054 recording electronically.

1055 Section 19. Subsection (25) is added to section 90.803,
1056 Florida Statutes, to read:

1057 90.803 Hearsay exceptions; availability of declarant
1058 immaterial.—The provision of s. 90.802 to the contrary
1059 notwithstanding, the following are not inadmissible as evidence,
1060 even though the declarant is available as a witness:

1061 (25) ELECTRONIC RECORDS OF QUALIFIED CUSTODIANS.—The
1062 electronic records, including, but not limited to, electronic
1063 wills and the audio-video recordings of the execution of such
1064 wills, which are created and stored by a qualified custodian in
1065 the course of the qualified custodian's regularly conducted
1066 business activity as certified or declared by the qualified
1067 custodian in accordance with s. 90.902(11).

1068 Section 20. Subsections (1) and (2) of section 92.50,
1069 Florida Statutes, are amended to read:

1070 92.50 Oaths, affidavits, and acknowledgments; who may take
1071 or administer; requirements.—

1072 (1) IN THIS STATE.—Oaths, affidavits, and acknowledgments
1073 required or authorized under the laws of this state (except
1074 oaths to jurors and witnesses in court and such other oaths,
1075 affidavits and acknowledgments as are required by law to be

1076 taken or administered by or before particular officers) may be
1077 taken or administered by or before any judge, clerk, or deputy
1078 clerk of any court of record within this state, including
1079 federal courts, or by or before any United States commissioner
1080 or any notary public within this state. 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; however, when taken or
1084 administered by or before any judge, clerk, or deputy clerk of a
1085 court of record, the seal of such court may be affixed as the
1086 seal of such officer or person.

1087 (2) IN OTHER STATES, TERRITORIES, AND DISTRICTS OF THE
1088 UNITED STATES.—Oaths, affidavits, and acknowledgments required
1089 or authorized under the laws of this state, may be taken or
1090 administered in any other state, territory, or district of the
1091 United States, by or before any judge, clerk or deputy clerk of
1092 any court of record, within such state, territory, or district,
1093 having a seal, or by or before any notary public or justice of
1094 the peace, having a seal, in such state, territory, or district;
1095 provided, however, such officer or person is authorized under
1096 the laws of such state, territory, or district to take or
1097 administer oaths, affidavits and acknowledgments. The jurat, or
1098 certificate of proof or acknowledgment, shall be authenticated
1099 by the signature and official seal of such officer or person
1100 taking or administering the same; provided, however, when taken

1101 or administered by or before any judge, clerk, or deputy clerk
 1102 of a court of record, the seal of such court may be affixed as
 1103 the seal of such officer or person.

1104 Section 21. Subsection (1) of section 95.231, Florida
 1105 Statutes, is amended to read:

1106 95.231 Limitations where deed or will on record.—

1107 (1) Five years after the recording of an instrument
 1108 required to be executed in accordance with s. 689.01; 5 years
 1109 after the recording of a power of attorney accompanying and used
 1110 for an instrument required to be executed in accordance with s.
 1111 689.01; or 5 years after the probate of a will purporting to
 1112 convey real property, from which it appears that the person
 1113 owning the property attempted to convey, affect, or devise it,
 1114 the instrument, power of attorney, or will shall be held to have
 1115 its purported effect to convey, affect, or devise, the title to
 1116 the real property of the person signing the instrument, as if
 1117 there had been no lack of seal or seals, witness or witnesses,
 1118 defect in, failure of, or absence of acknowledgment or
 1119 relinquishment of dower, in the absence of fraud, adverse
 1120 possession, or pending litigation. The instrument is admissible
 1121 in evidence. A power of attorney validated under this subsection
 1122 shall be valid only for the purpose of effectuating the
 1123 instrument with which it was recorded.

1124 Section 22. Section 689.01, Florida Statutes, is amended
 1125 to read:

1126 689.01 How real estate conveyed.—
 1127 (1) No estate or interest of freehold, or for a term of
 1128 more than 1 year, or any uncertain interest of, in or out of any
 1129 messuages, lands, tenements or hereditaments shall be created,
 1130 made, granted, transferred or released in any other manner than
 1131 by instrument in writing, signed in the presence of two
 1132 subscribing witnesses by the party creating, making, granting,
 1133 conveying, transferring or releasing such estate, interest, or
 1134 term of more than 1 year, or by the party's lawfully authorized
 1135 agent, unless by will and testament, or other testamentary
 1136 appointment, duly made according to law; and no estate or
 1137 interest, either of freehold, or of term of more than 1 year, or
 1138 any uncertain interest of, in, to, or out of any messuages,
 1139 lands, tenements or hereditaments, shall be assigned or
 1140 surrendered unless it be by instrument signed in the presence of
 1141 two subscribing witnesses by the party so assigning or
 1142 surrendering, or by the party's lawfully authorized agent, or by
 1143 the act and operation of law. No seal shall be necessary to give
 1144 validity to any instrument executed in conformity with this
 1145 section. Corporations may execute any and all conveyances in
 1146 accordance with the provisions of this section or ss. 692.01 and
 1147 692.02.
 1148 (2) For purposes of this chapter:
 1149 (a) Any requirement that an instrument be signed in the
 1150 presence of two subscribing witnesses may be satisfied by

1151 witnesses being present and electronically signing by means of
1152 audio-video communication technology, as defined in s. 117.201.

1153 (b) The act of witnessing an electronic signature is
1154 satisfied if a witness is in the physical presence of the
1155 principal or present through audio-video communication
1156 technology at the time the principal affixes his or her
1157 electronic signature and the witness hears the principal make a
1158 statement acknowledging that the principal has signed the
1159 electronic record.

1160 (c) The terms used in this subsection have the same
1161 meanings as the terms defined in s. 117.201.

1162 (3) All acts of witnessing made or taken in the manner
1163 described in subsection (2) are validated and, upon recording,
1164 may not be denied to have provided constructive notice based on
1165 any alleged failure to have strictly complied with this section
1166 or the laws governing notarization of instruments, including
1167 online notarization. This subsection does not preclude a
1168 challenge to the validity or enforceability of an instrument or
1169 electronic record based upon fraud, forgery, impersonation,
1170 duress, incapacity, undue influence, minority, illegality,
1171 unconscionability, or any other basis not related to the act of
1172 witnessing.

1173 Section 23. Section 694.08, Florida Statutes, is amended
1174 to read:

1175 694.08 Certain instruments validated, notwithstanding lack

1176 of seals or witnesses, or defect in acknowledgment, ~~etc.~~-
1177 (1) Whenever any power of attorney has been executed and
1178 delivered, or any conveyance has been executed and delivered to
1179 any grantee by the person owning the land therein described, or
1180 conveying the same in an official or representative capacity,
1181 and has, for a period of 7 years or more been spread upon the
1182 records of the county wherein the land therein described has
1183 been or was at the time situated, and one or more subsequent
1184 conveyances of said land or parts thereof have been made,
1185 executed, delivered and recorded by parties claiming under such
1186 instrument or instruments, and such power of attorney or
1187 conveyance, or the public record thereof, shows upon its face a
1188 clear purpose and intent of the person executing the same to
1189 authorize the conveyance of said land or to convey the said
1190 land, the same shall be taken and held by all the courts of this
1191 state, in the absence of any showing of fraud, adverse
1192 possession, or pending litigation, to have authorized the
1193 conveyance of, or to have conveyed, the fee simple title, or any
1194 interest therein, of the person signing such instruments, or the
1195 person in behalf of whom the same was conveyed by a person in an
1196 official or representative capacity, to the land therein
1197 described as effectively as if there had been no defect in,
1198 failure of, or absence of the acknowledgment or the certificate
1199 of acknowledgment, if acknowledged, or the relinquishment of
1200 dower, and as if there had been no lack of the word "as"

1201 preceding the title of the person conveying in an official or
 1202 representative capacity, of any seal or seals, or of any witness
 1203 or witnesses, and shall likewise be taken and held by all the
 1204 courts of this state to have been duly recorded so as to be
 1205 admissible in evidence;

1206 (2) Provided, however, that this section shall not apply
 1207 to any conveyance the validity of which shall be contested or
 1208 have been contested by suit commenced heretofore or within 1
 1209 year of the effective date of this law.

1210 Section 24. Section 695.03, Florida Statutes, is amended
 1211 to read:

1212 695.03 Acknowledgment and proof; validation of certain
 1213 acknowledgments; legalization or authentication before foreign
 1214 officials.—To entitle any instrument concerning real property to
 1215 be recorded, the execution must be acknowledged by the party
 1216 executing it, proved by a subscribing witness to it, or
 1217 legalized or authenticated in one of the following forms ~~by a~~
 1218 ~~civil-law notary or notary public who affixes her or his~~
 1219 ~~official seal, before the officers and in the form and manner~~
 1220 ~~following:~~

1221 (1) WITHIN THIS STATE.—An acknowledgment or a proof may be
 1222 taken, administered, or made within this state by or ~~may be made~~
 1223 before a judge, clerk, or deputy clerk of any court; a United
 1224 States commissioner or magistrate; or any ~~a~~ notary public or
 1225 civil-law notary of this state, and the certificate of

1226 acknowledgment or proof must be under the seal of the court or
 1227 officer, as the case may be. ~~All affidavits and acknowledgments~~
 1228 ~~heretofore made or taken in this manner are hereby validated.~~

1229 (2) OUTSIDE WITHOUT THIS STATE BUT WITHIN THE UNITED
 1230 STATES.—An acknowledgment or a proof taken, administered, or
 1231 made outside ~~out~~ of this state but within the United States may
 1232 be taken, administered, or made by or before a civil-law notary
 1233 of this state or a commissioner of deeds appointed by the
 1234 Governor of this state; a judge or clerk of any court of the
 1235 United States or of any state, territory, or district; by or
 1236 before a United States commissioner or magistrate; or by or
 1237 before any a notary public, justice of the peace, master in
 1238 chancery, or registrar or recorder of deeds of any state,
 1239 territory, or district having a seal, and the certificate of
 1240 acknowledgment or proof must be under the seal of the court or
 1241 officer, as the case may be. If the acknowledgment or proof is
 1242 taken, administered, or made by or before a notary public who
 1243 does not affix a seal, it is sufficient for the notary public to
 1244 type, print, or write by hand on the instrument, "I am a Notary
 1245 Public of the State of ...(state)..., and my commission expires
 1246 on ...(date)...."

1247 (3) OUTSIDE OF THE UNITED STATES OR WITHIN FOREIGN
 1248 COUNTRIES.—~~An If the~~ acknowledgment, an affidavit, an oath, a
 1249 legalization, an authentication, or a proof taken, administered,
 1250 or made outside the United States or ~~is made~~ in a foreign

1251 country, ~~it~~ may be taken, administered, or made by or before a
1252 commissioner of deeds appointed by the Governor of this state to
1253 act in such country; before a notary public of such foreign
1254 country or a civil-law notary of this state or of such foreign
1255 country who has an official seal; before an ambassador, envoy
1256 extraordinary, minister plenipotentiary, minister, commissioner,
1257 charge d'affaires, consul general, consul, vice consul, consular
1258 agent, or other diplomatic or consular officer of the United
1259 States appointed to reside in such country; or before a military
1260 or naval officer authorized by 10 U.S.C. s. 1044a ~~the Laws or~~
1261 ~~Articles of War of the United States~~ to perform the duties of
1262 notary public, and the certificate of acknowledgment,
1263 legalization, authentication, or proof must be under the seal of
1264 the officer. A certificate legalizing or authenticating the
1265 signature of a person executing an instrument concerning real
1266 property and to which a civil-law notary or notary public of
1267 that country has affixed her or his official seal is sufficient
1268 as an acknowledgment. For the purposes of this section, the term
1269 "civil-law notary" means a civil-law notary as defined in
1270 chapter 118 or an official of a foreign country who has an
1271 official seal and who is authorized to make legal or lawful the
1272 execution of any document in that jurisdiction, in which
1273 jurisdiction the affixing of her or his official seal is deemed
1274 proof of the execution of the document or deed in full
1275 compliance with the laws of that jurisdiction.

1276 (4) COMPLIANCE AND VALIDATION.—The affixing of the
1277 official seal or the electronic equivalent thereof under s.
1278 117.021 or other applicable law, including part II of chapter
1279 117, conclusively establishes that the acknowledgment or proof
1280 was taken, administered, or made in full compliance with the
1281 laws of this state or, as applicable, the laws of the other
1282 state, or of the foreign country governing notarial acts. All
1283 affidavits, oaths, acknowledgments, legalizations,
1284 authentications, or proofs taken, administered, or made in any
1285 manner as set forth in subsections (1), (2), and (3) are
1286 validated and upon recording may not be denied to have provided
1287 constructive notice based on any alleged failure to have
1288 strictly complied with this section, as currently or previously
1289 in effect, or the laws governing notarization of instruments.
1290 This subsection does not preclude a challenge to the validity or
1291 enforceability of an instrument or electronic record based upon
1292 fraud, forgery, impersonation, duress, incapacity, undue
1293 influence, minority, illegality, unconscionability, or any other
1294 basis not related to the notarial act or constructive notice
1295 provided by recording.

1296
1297 ~~All affidavits, legalizations, authentications, and~~
1298 ~~acknowledgments heretofore made or taken in the manner set forth~~
1299 ~~above are hereby validated.~~

1300 Section 25. Section 695.04, Florida Statutes, is amended

1301 to read:

1302 695.04 Requirements of certificate.—The certificate of the
 1303 officer before whom the acknowledgment or proof is taken, except
 1304 for a certificate legalizing or authenticating the signature of
 1305 a person executing an instrument concerning real property
 1306 pursuant to s. 695.03(3), shall contain and set forth
 1307 substantially the matter required to be done or proved to make
 1308 such acknowledgment or proof effectual as set forth in s.
 1309 117.05.

1310 Section 26. Section 695.25, Florida Statutes, is amended
 1311 to read:

1312 695.25 Short form of acknowledgment.—The forms of
 1313 acknowledgment set forth in this section may be used, and are
 1314 sufficient for their respective purposes, under any law of this
 1315 state. The forms shall be known as "Statutory Short Forms of
 1316 Acknowledgment" and may be referred to by that name. The
 1317 authorization of the forms in this section does not preclude the
 1318 use of other forms.

1319 (1) For an individual acting in his or her own right:

1320 STATE OF

1321 COUNTY OF

1322 The foregoing instrument was acknowledged before me by
 1323 means of [] physical presence or [] online notarization, this
 1324 ... (date) ... by ... (name of person acknowledging) ..., who is
 1325 personally known to me or who has produced ... (type of

1326 | identification)... as identification.
 1327 | ...(Signature of person taking acknowledgment)...
 1328 | ...(Name typed, printed or stamped)...
 1329 | ...(Title or rank)...
 1330 | ...(Serial number, if any)...
 1331 | (2) For a corporation:
 1332 | STATE OF
 1333 | COUNTY OF
 1334 | The foregoing instrument was acknowledged before me by
 1335 | means of [] physical presence or [] online notarization, this
 1336 | ... (date)... by ... (name of officer or agent, title of officer
 1337 | or agent)... of ... (name of corporation acknowledging)..., a
 1338 | ... (state or place of incorporation)... corporation, on behalf
 1339 | of the corporation. He/she is personally known to me or has
 1340 | produced ... (type of identification)... as identification.
 1341 | ...(Signature of person taking acknowledgment)...
 1342 | ...(Name typed, printed or stamped)...
 1343 | ...(Title or rank)...
 1344 | ...(Serial number, if any)...
 1345 | (3) For a limited liability company:
 1346 | STATE OF
 1347 | COUNTY OF
 1348 | The foregoing instrument was acknowledged before me by
 1349 | means of [] physical presence or [] online notarization, this
 1350 | ... (date)... by ... (name of member, manager, officer or agent,

1351 title of member, manager, officer or agent)..., of ...(name of
 1352 company acknowledging)..., a ...(state or place of formation)...
 1353 limited liability company, on behalf of the company, who is
 1354 personally known to me or has produced ...(type of
 1355 identification)... as identification.

1356
 1357 ...(Signature of person taking acknowledgment)...
 1358 ...(Name typed, printed or stamped)...
 1359 ...(Title or rank)...
 1360 ...(Serial number, if any)...

1361 (4)-(3) For a partnership:

1362 STATE OF

1363 COUNTY OF

1364 The foregoing instrument was acknowledged before me by
 1365 means of [] physical presence or [] online notarization, this
 1366 ...(date)... by ...(name of acknowledging partner or agent)...,
 1367 partner (or agent) on behalf of ...(name of partnership)..., a
 1368 partnership. He/she is personally known to me or has produced
 1369 ...(type of identification)... as identification.

1370 ...(Signature of person taking acknowledgment)...
 1371 ...(Name typed, printed or stamped)...
 1372 ...(Title or rank)...
 1373 ...(Serial number, if any)...

1374 (5)-(4) For an individual acting as principal by an
 1375 attorney in fact:

1376 STATE OF

1377 COUNTY OF

1378 The foregoing instrument was acknowledged before me by
 1379 means of [] physical presence or [] online notarization, this
 1380 ... (date)... by ... (name of attorney in fact)... as attorney in
 1381 fact, who is personally known to me or who has produced ... (type
 1382 of identification)... as identification on behalf of ... (name of
 1383 principal)....

1384 ...(Signature of person taking acknowledgment)...

1385 ...(Name typed, printed or stamped)...

1386 ...(Title or rank)...

1387 ...(Serial number, if any)...

1388 ~~(6)~~~~(5)~~ By any public officer, trustee, or personal
 1389 representative:

1390 STATE OF

1391 COUNTY OF

1392 The foregoing instrument was acknowledged before me by
 1393 means of [] physical presence or [] online notarization, this
 1394 ... (date)... by ... (name and title of position)..., who is
 1395 personally known to me or who has produced ... (type of
 1396 identification)... as identification.

1397 ...(Signature of person taking acknowledgment)...

1398 ...(Name typed, printed or stamped)...

1399 ...(Title or rank)...

1400 ...(Serial number, if any)....

1401
 1402 Section 27. Section 695.28, Florida Statutes, is amended
 1403 to read:

1404 695.28 Validity of recorded electronic documents.—

1405 (1) A document that is otherwise entitled to be recorded
 1406 and that was or is submitted to the clerk of the court or county
 1407 recorder by electronic or other means and accepted for
 1408 recordation is deemed validly recorded and provides notice to
 1409 all persons notwithstanding:

1410 (a) That the document was received and accepted for
 1411 recordation before the Department of State adopted standards
 1412 implementing s. 695.27; ~~or~~

1413 (b) Any defects in, deviations from, or the inability to
 1414 demonstrate strict compliance with any statute, rule, or
 1415 procedure relating to electronic signatures, electronic
 1416 witnesses, electronic notarization, or online notarization, or
 1417 for submitting or recording ~~to submit or record~~ an electronic
 1418 document in effect at the time the electronic document was
 1419 executed or was submitted for recording;

1420 (c) That the document was signed, witnessed, or notarized
 1421 electronically, and that the document was notarized by an online
 1422 notary public outside the physical presence of the signer
 1423 through audio-video communication technology, as defined in s.
 1424 117.201, or that witnessing may have been done outside the
 1425 physical presence of the notary public or principal through such

1426 audio-visual communication; or

1427 (d) That the document recorded was a certified printout of
 1428 a document to which one or more electronic signatures have been
 1429 affixed.

1430 (2) This section does not alter the duty of the clerk or
 1431 recorder to comply with s. 28.222, s. 695.27, or any rules
 1432 adopted pursuant to those sections ~~that section.~~

1433 (3) This section does not preclude a challenge to the
 1434 validity or enforceability of an instrument or electronic record
 1435 based upon fraud, forgery, impersonation, duress, incapacity,
 1436 undue influence, minority, illegality, unconscionability, or any
 1437 other basis not in the nature of those matters described in
 1438 subsection (1).

1439 Section 28. Subsections (3) and (4) of section 709.2119,
 1440 Florida Statutes, are amended to read:

1441 709.2119 Acceptance of and reliance upon power of
 1442 attorney.—

1443 (3) A third person who is asked to accept a power of
 1444 attorney that appears to be executed in accordance with s.
 1445 709.2105 may in good faith request, and rely upon, without
 1446 further investigation:

1447 (a) A certified English translation of the power of
 1448 attorney if the power of attorney contains, in whole or in part,
 1449 language other than English;

1450 (b) An opinion of counsel as to any matter of law

1451 concerning the power of attorney if the third person making the
 1452 request provides in a writing or other record the reason for the
 1453 request; ~~or~~

1454 (c) The affidavit described in subsection (2); or

1455 (d) The electronic journal or record made by the notary
 1456 public pursuant to the laws of the state in which the notary
 1457 public is appointed if the power of attorney is witnessed or
 1458 notarized remotely through the use of online witnesses or
 1459 notarization.

1460 (4) An English translation, ~~or~~ an opinion of counsel, or
 1461 an electronic journal or record requested under this section
 1462 must be provided at the principal's expense unless the request
 1463 is made after the time specified in s. 709.2120(1) for
 1464 acceptance or rejection of the power of attorney.

1465 Section 29. Subsection (4) of section 709.2120, Florida
 1466 Statutes, is amended to read:

1467 709.2120 Rejecting power of attorney.—

1468 (4) A third person is not required to accept a power of
 1469 attorney if:

1470 (a) The third person is not otherwise required to engage
 1471 in a transaction with the principal in the same circumstances;

1472 (b) The third person has knowledge of the termination or
 1473 suspension of the agent's authority or of the power of attorney
 1474 before exercising the power;

1475 (c) A timely request by the third person for an affidavit,

1476 English translation, ~~or~~ opinion of counsel, or electronic
1477 journal or record under s. 709.2119 ~~s. 709.2119(4)~~ is refused by
1478 the agent;

1479 (d) The power of attorney is witnessed or notarized
1480 remotely through the use of online witnesses or notarization,
1481 and either the agent is unable to produce the electronic journal
1482 or record, or the notary public did not maintain an electronic
1483 journal or record of the notarization;

1484 (e) ~~(d)~~ Except as provided in paragraph (b), the third
1485 person believes in good faith that the power is not valid or
1486 that the agent does not have authority to perform the act
1487 requested; or

1488 (f) ~~(e)~~ The third person makes, or has knowledge that
1489 another person has made, a report to the local adult protective
1490 services office stating a good faith belief that the principal
1491 may be subject to physical or financial abuse, neglect,
1492 exploitation, or abandonment by the agent or a person acting for
1493 or with the agent.

1494 Section 30. Subsection (6) of section 709.2202, Florida
1495 Statutes, is renumbered as subsection (7), and a new subsection
1496 (6) is added to that section to read:

1497 709.2202 Authority that requires separate signed
1498 enumeration.—

1499 (6) Notwithstanding subsection (1) and s. 709.2106(3), a
1500 power of attorney, executed by a principal domiciled in this

1501 state at the time of execution, that is witnessed remotely
 1502 pursuant to s. 117.285 or other applicable law by a witness who
 1503 is not in the physical presence of the principal is not
 1504 effective to grant authority to an agent to take any of the
 1505 actions enumerated in subsection (1).

1506 Section 31. Subsection (40) of section 731.201, Florida
 1507 Statutes, is amended to read:

1508 731.201 General definitions.—Subject to additional
 1509 definitions in subsequent chapters that are applicable to
 1510 specific chapters or parts, and unless the context otherwise
 1511 requires, in this code, in s. 409.9101, and in chapters 736,
 1512 738, 739, and 744, the term:

1513 (40) "Will" means an instrument, including a codicil,
 1514 executed by a person in the manner prescribed by this code,
 1515 which disposes of the person's property on or after his or her
 1516 death and includes an instrument which merely appoints a
 1517 personal representative or revokes or revises another will. The
 1518 term includes an electronic will as defined in s. 732.521.

1519 Section 32. Section 732.506, Florida Statutes, is amended
 1520 to read:

1521 732.506 Revocation by act.—A will or codicil, other than
 1522 an electronic will, is revoked by the testator, or some other
 1523 person in the testator's presence and at the testator's
 1524 direction, by burning, tearing, canceling, defacing,
 1525 obliterating, or destroying it with the intent, and for the

1526 | purpose, of revocation. An electronic will or codicil is revoked
 1527 | by the testator, or some other person in the testator's presence
 1528 | and at the testator's direction, by deleting, canceling,
 1529 | rendering unreadable, or obliterating the electronic will or
 1530 | codicil, with the intent, and for the purpose, of revocation, as
 1531 | proved by clear and convincing evidence.

1532 | Section 33. Section 732.521, Florida Statutes, is created
 1533 | to read:

1534 | 732.521 Definitions.—As used in ss. 732.521-732.525, the
 1535 | term:

1536 | (1) "Audio-video communication technology" has the same
 1537 | meaning as provided in s. 117.201.

1538 | (2) "Electronic record" has the same meaning as provided
 1539 | in s. 668.50.

1540 | (3) "Electronic signature" means an electronic mark
 1541 | visibly manifested in a record as a signature and executed or
 1542 | adopted by a person with the intent to sign the record.

1543 | (4) "Electronic will" means an instrument, including a
 1544 | codicil, executed with an electronic signature by a person in
 1545 | the manner prescribed by this code, which disposes of the
 1546 | person's property on or after his or her death and includes an
 1547 | instrument which merely appoints a personal representative or
 1548 | revokes or revises another will.

1549 | (5) "Online notarization" has the same meaning as provided
 1550 | in s. 117.201.

1551 (6) "Online notary public" has the same meaning as
1552 provided in s. 117.201.

1553 (7) "Qualified custodian" means a person who meets the
1554 requirements of s. 732.525(1).

1555 (8) "Secure system" means a system that satisfies the
1556 requirements of a secure repository qualified to retain
1557 electronic journals of online notaries public in accordance with
1558 s. 117.245 and any rules established under part II of chapter
1559 117.

1560 Section 34. Effective July 1, 2020, section 732.522,
1561 Florida Statutes, is created to read:

1562 732.522 Method and place of execution.—For purposes of the
1563 execution or filing of an electronic will, the acknowledgment of
1564 an electronic will by the testator and the affidavits of
1565 witnesses under s. 732.503, or any other instrument under the
1566 Florida Probate Code:

1567 (1) Any requirement that an instrument be signed may be
1568 satisfied by an electronic signature.

1569 (2) Any requirement that individuals sign an instrument in
1570 the presence of one another may be satisfied by witnesses being
1571 present and electronically signing by means of audio-video
1572 communication technology that meets the requirements of part II
1573 of chapter 117 and any rules adopted thereunder, if:

1574 (a) The individuals are supervised by a notary public in
1575 accordance with s. 117.285;

1576 (b) The individuals are authenticated and signing as part
1577 of an online notarization session in accordance with s. 117.265;

1578 (c) The witness hears the signer make a statement
1579 acknowledging that the signer has signed the electronic record;
1580 and

1581 (d) In the case of an electronic will, the testator
1582 provides, to the satisfaction of the online notary public during
1583 the online notarization, verbal answers to all of the following
1584 questions:

1585 1. Are you 18 years of age or older?

1586 2. Are you of sound mind?

1587 3. Are you signing this will voluntarily?

1588 4. Are you under the influence of any drugs or alcohol
1589 that impairs your ability to make decisions?

1590 5. Has anyone forced or influenced you to include anything
1591 in this will which you do not wish to include?

1592 6. Did anyone assist you in accessing this video
1593 conference? If so, who?

1594 7. Where are you? Name everyone you know in the room with
1595 you.

1596 (3) The execution of an electronic will of a testator who
1597 is a vulnerable adult, as defined in s. 415.102, may not be
1598 witnessed by means of audio-video communication technology. The
1599 contestant of the electronic will has the burden of proving that
1600 the testator was a vulnerable adult at the time of executing the

1601 electronic will.

1602 (4) Except as otherwise provided in this part, all
 1603 questions as to the force, effect, validity, and interpretation
 1604 of an electronic will which comply with this section must be
 1605 determined in the same manner as in the case of a will executed
 1606 in accordance with s. 732.502.

1607 (5) An instrument that is signed electronically is deemed
 1608 to be executed in this state if the instrument states that the
 1609 person creating the instrument intends to execute and
 1610 understands that he or she is executing the instrument in, and
 1611 pursuant to the laws of, this state.

1612 Section 35. Section 732.523, Florida Statutes, is created
 1613 to read:

1614 732.523 Self-proof of electronic will.—An electronic will
 1615 is self-proved if:

1616 (1) The acknowledgment of the electronic will by the
 1617 testator and the affidavits of the witnesses are made in
 1618 accordance with s. 732.503 and are part of the electronic record
 1619 containing the electronic will, or are attached to, or are
 1620 logically associated with, the electronic will;

1621 (2) The electronic will designates a qualified custodian;

1622 (3) The electronic record that contains the electronic
 1623 will is held in the custody of a qualified custodian at all
 1624 times before being offered to the court for probate; and

1625 (4) The qualified custodian who has custody of the

1626 electronic will at the time of the testator's death certifies
 1627 under oath that, to the best knowledge of the qualified
 1628 custodian, the electronic record that contains the electronic
 1629 will was at all times before being offered to the court in the
 1630 custody of a qualified custodian in compliance with s. 732.524
 1631 and that the electronic will has not been altered in any way
 1632 since the date of its execution.

1633 Section 36. Section 732.524, Florida Statutes, is created
 1634 to read:

1635 732.524 Qualified custodians.—

1636 (1) To serve as a qualified custodian of an electronic
 1637 will, a person must:

1638 (a) Be domiciled in and a resident of this state or be
 1639 incorporated or organized in this state;

1640 (b) In the course of maintaining custody of electronic
 1641 wills, regularly employ a secure system and store in such secure
 1642 system electronic records containing:

1643 1. Electronic wills;

1644 2. Records attached to or logically associated with
 1645 electronic wills; and

1646 3. Acknowledgments of the electronic wills by testators,
 1647 affidavits of the witnesses, and the records described in s.
 1648 117.245(1) and (2) which pertain to the online notarization; and

1649 (c) Furnish for any court hearing involving an electronic
 1650 will that is currently or was previously stored by the qualified

1651 custodian any information requested by the court pertaining to
1652 the qualified custodian's qualifications, policies, and
1653 practices related to the creation, sending, communication,
1654 receipt, maintenance, storage, and production of electronic
1655 wills.

1656 (2) The qualified custodian of an electronic will shall
1657 provide access to or information concerning the electronic will,
1658 or the electronic record containing the electronic will, only:

1659 (a) To the testator;

1660 (b) To persons authorized by the testator in the
1661 electronic will or in written instructions signed by the
1662 testator with the formalities required for the execution of a
1663 will in this state;

1664 (c) After the death of the testator, to the testator's
1665 nominated personal representative; or

1666 (d) At any time, as directed by a court of competent
1667 jurisdiction.

1668 (3) The qualified custodian of the electronic record of an
1669 electronic will may elect to destroy such record, including any
1670 of the documentation required to be created and stored under
1671 paragraph (1) (b), at any time after the earlier of the fifth
1672 anniversary of the conclusion of the administration of the
1673 estate of the testator or 20 years after the death of the
1674 testator.

1675 (4) A qualified custodian who at any time maintains

1676 custody of the electronic record of an electronic will may elect
 1677 to cease serving in such capacity by:

1678 (a) Delivering the electronic will or the electronic
 1679 record containing the electronic will to the testator, if then
 1680 living, or, after the death of the testator, by filing the will
 1681 with the court in accordance with s. 732.901; and

1682 (b) If the outgoing qualified custodian intends to
 1683 designate a successor qualified custodian, by doing the
 1684 following:

1685 1. Providing written notice to the testator of the name,
 1686 address, and qualifications of the proposed successor qualified
 1687 custodian. The testator must provide written consent before the
 1688 electronic record, including the electronic will, is delivered
 1689 to a successor qualified custodian;

1690 2. Delivering the electronic record containing the
 1691 electronic will to the successor qualified custodian; and

1692 3. Delivering to the successor qualified custodian an
 1693 affidavit of the outgoing qualified custodian stating that:

1694 a. The outgoing qualified custodian is eligible to act as
 1695 a qualified custodian in this state;

1696 b. The outgoing qualified custodian is the qualified
 1697 custodian designated by the testator in the electronic will or
 1698 appointed to act in such capacity under this paragraph;

1699 c. The electronic will has at all times been in the
 1700 custody of one or more qualified custodians in compliance with

1701 this section since the time the electronic record was created,
1702 and identifying such qualified custodians; and

1703 d. To the best of the outgoing qualified custodian's
1704 knowledge, the electronic will has not been altered since the
1705 time it was created.

1706
1707 For purposes of making this affidavit, the outgoing qualified
1708 custodian may rely conclusively on any affidavits delivered by a
1709 predecessor qualified custodian in connection with its
1710 designation or appointment as qualified custodian; however, all
1711 such affidavits must be delivered to the successor qualified
1712 custodian.

1713 (5) Upon the request of the testator which is made in a
1714 writing signed with the formalities required for the execution
1715 of a will in this state, a qualified custodian who at any time
1716 maintains custody of the electronic record of the testator's
1717 electronic will must cease serving in such capacity and must
1718 deliver to a successor qualified custodian designated in writing
1719 by the testator the electronic record containing the electronic
1720 will and the affidavit required in subparagraph (4) (b) 3.

1721 (6) A qualified custodian may not succeed to office as a
1722 qualified custodian of an electronic will unless he or she
1723 agrees in writing to serve in such capacity.

1724 (7) If a qualified custodian is an entity, an affidavit,
1725 or an appearance by the testator in the presence of a duly

1726 authorized officer or agent of such entity, acting in his or her
1727 own capacity as such, shall constitute an affidavit, or an
1728 appearance by the testator in the presence of the qualified
1729 custodian.

1730 (8) A qualified custodian must provide a paper copy of an
1731 electronic will and the electronic record containing the
1732 electronic will to the testator immediately upon request. For
1733 the first request, the testator may not be charged a fee for
1734 being provided with these documents.

1735 (9) The qualified custodian shall be liable for any
1736 damages caused by the negligent loss or destruction of the
1737 electronic record, including the electronic will, while it is in
1738 the possession of the qualified custodian. A qualified custodian
1739 may not limit liability for such damages.

1740 (10) A qualified custodian may not terminate or suspend
1741 access to, or downloads of, the electronic will by the testator,
1742 provided that a qualified custodian may charge a fee for
1743 providing such access and downloads.

1744 (11) Upon receiving information that the testator is dead,
1745 a qualified custodian must deposit the electronic will with the
1746 court in accordance with s. 732.901. A qualified custodian may
1747 not charge a fee for depositing the electronic will with the
1748 clerk, provided the affidavit is made in accordance with s.
1749 732.503, or furnishing in writing any information requested by a
1750 court under paragraph (1) (c).

1751 (12) Except as provided in this act, a qualified custodian
 1752 must at all times keep information provided by the testator
 1753 confidential and may not disclose such information to any third
 1754 party.

1755 (13) A contractual venue provision between a qualified
 1756 custodian and a testator is not valid or enforceable to the
 1757 extent that it requires a specific jurisdiction or venue for any
 1758 proceeding relating to the probate of an estate or the contest
 1759 of a will.

1760 Section 37. Section 732.525, Florida Statutes, is created
 1761 to read:

1762 732.525 Liability coverage; receivership of qualified
 1763 custodians.—

1764 (1) A qualified custodian shall:

1765 (a) Post and maintain a blanket surety bond of at least
 1766 \$250,000 to secure the faithful performance of all duties and
 1767 obligations required under this part. The bond must be made
 1768 payable to the Governor and his or her successors in office for
 1769 the benefit of all persons who store electronic records with a
 1770 qualified custodian and their estates, beneficiaries,
 1771 successors, and heirs, and be conditioned on the faithful
 1772 performance of all duties and obligations under this chapter.
 1773 The terms of the bond must cover the acts or omissions of the
 1774 qualified custodian and each agent or employee of the qualified
 1775 custodian; or

1776 (b) Maintain a liability insurance policy that covers any
 1777 losses sustained by any person who stores electronic records
 1778 with a qualified custodian and their estates, beneficiaries,
 1779 successors, and heirs which are caused by errors or omissions by
 1780 the qualified custodian and each agent or employee of the
 1781 qualified custodian. The policy must cover losses of at least
 1782 \$250,000 in the aggregate.

1783 (2) The Attorney General may petition a court of competent
 1784 jurisdiction for the appointment of a receiver to manage the
 1785 electronic records of a qualified custodian for proper delivery
 1786 and safekeeping if any of the following conditions exist:

1787 (a) The qualified custodian is ceasing operation;

1788 (b) The qualified custodian intends to close the facility
 1789 and adequate arrangements have not been made for proper delivery
 1790 of the electronic records in accordance with this part;

1791 (c) The Attorney General determines that conditions exist
 1792 which present a danger that electronic records will be lost or
 1793 misappropriated; or

1794 (d) The qualified custodian fails to maintain and post a
 1795 surety bond or maintain insurance as required in this section.

1796 Section 38. Section 732.526, Florida Statutes, is created
 1797 to read:

1798 732.526 Probate.—

1799 (1) An electronic will that is filed electronically with
 1800 the clerk of the court through the Florida Courts E-Filing

1801 Portal is deemed to have been deposited with the clerk as an
 1802 original of the electronic will.

1803 (2) A paper copy of an electronic will which is certified
 1804 by a notary public to be a true and correct copy of the
 1805 electronic will may be offered for and admitted to probate and
 1806 shall constitute an original of the electronic will.

1807 Section 39. Subsection (1) of section 733.201, Florida
 1808 Statutes, is amended to read:

1809 733.201 Proof of wills.—

1810 (1) Self-proved wills executed in accordance with this
 1811 code may be admitted to probate without further proof. However,
 1812 a purportedly self-proved electronic will may be admitted to
 1813 probate only in the manners prescribed in subsections (2) and
 1814 (3) if the execution of such electronic will, or the
 1815 acknowledgment by the testator and the affidavits of the
 1816 witnesses, involves an online notarization in which there was a
 1817 substantial failure to comply with the procedures set forth in
 1818 s. 117.265.

1819 Section 40. Section 740.10, Florida Statutes, is created
 1820 to read:

1821 740.10 Relation to wills.—No act taken pursuant to this
 1822 chapter is valid to affect the obligation of a person to deposit
 1823 a will of a decedent as required under s. 732.901.

1824 Section 41. Except as otherwise expressly provided in this
 1825 act, and except for this section, which shall take effect upon

1826 | becoming a law, this act shall take effect January 1, 2020. |