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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/03/2019	.	
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	.	
	.	

The Committee on Judiciary (Brandes) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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

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

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



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

14 117.01 Appointment, application, suspension, revocation,
15 application fee, bond, and oath.—

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

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

31 117.021 Electronic notarization.—

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

- 34 (a) Unique to the notary public;
- 35 (b) Capable of independent verification;
- 36 (c) Retained under the notary public's sole control and
37 includes access protection through the use of passwords or codes
38 under control of the notary public; and

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



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41 electronic document displays evidence of the alteration.

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

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

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

57 117.05 Use of notary commission; unlawful use; notary fee;
58 seal; duties; employer liability; name change; advertising;
59 photocopies; penalties.—

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

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



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70 117.275.

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

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

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

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

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

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

90 (f) The specific type of identification the notary public
91 is relying upon in identifying the signer, either based on
92 personal knowledge or satisfactory evidence specified in
93 subsection (5).

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

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

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



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99 signature.

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

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

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

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

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

127 b. That the person whose signature is to be notarized is



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128 personally known to the witnesses;
129 c. That it is the reasonable belief of the witnesses that
130 the circumstances of the person whose signature is to be
131 notarized are such that it would be very difficult or impossible
132 for that person to obtain another acceptable form of
133 identification;
134 d. That it is the reasonable belief of the witnesses that
135 the person whose signature is to be notarized does not possess
136 any of the identification documents specified in subparagraph
137 2.; and
138 e. That the witnesses do not have a financial interest in
139 nor are parties to the underlying transaction; or
140 2. Reasonable reliance on the presentation to the notary
141 public of any one of the following forms of identification, if
142 the document is current or has been issued within the past 5
143 years and bears a serial or other identifying number:
144 a. A Florida identification card or driver license issued
145 by the public agency authorized to issue driver licenses;
146 b. A passport issued by the Department of State of the
147 United States;
148 c. A passport issued by a foreign government if the
149 document is stamped by the United States Bureau of Citizenship
150 and Immigration Services;
151 d. A driver license or an identification card issued by a
152 public agency authorized to issue driver licenses in a state
153 other than Florida or in a territory of the United States, or
154 Canada or Mexico;
155 e. An identification card issued by any branch of the armed
156 forces of the United States;



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

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

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

165 i. A sworn, written statement from a sworn law enforcement
166 officer that the forms of identification for an inmate in an
167 institution of confinement were confiscated upon confinement and
168 that the person named in the document is the person whose
169 signature is to be notarized; or

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

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

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

183
184 STATE OF FLORIDA
185 COUNTY OF



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186
187 On this day of, ...(year)..., I attest that the
188 preceding or attached document is a true, exact, complete, and
189 unaltered ...(copy of a tangible or an electronic record
190 presented to me by the document's custodian)... or a
191 ...(printout made by me from such record).... If a printout, I
192 further attest that, at the time of printing, no security
193 features, if any, present on the electronic record, indicated
194 that the record had been altered since execution.

195
196 ...(Signature of Notary Public - State of Florida)...
197 ...(Print, Type, or Stamp Commissioned Name of Notary Public)...

198
199 (13) The following notarial certificates are sufficient for
200 the purposes indicated, if completed with the information
201 required by this chapter. The specification of forms under this
202 subsection does not preclude the use of other forms.

203 (a) For an oath or affirmation:

204
205 STATE OF FLORIDA
206 COUNTY OF

207
208 Sworn to (or affirmed) and subscribed before me by means of
209 [] physical presence or [] online notarization, this day of
210, ...(year)..., by ...(name of person making
211 statement)....

212
213 ...(Signature of Notary Public - State of Florida)...
214 ...(Print, Type, or Stamp Commissioned Name of Notary Public)...



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215 Personally Known OR Produced Identification

216

217 Type of Identification Produced

218

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

220

221 STATE OF FLORIDA

222 COUNTY OF

223

224 The foregoing instrument was acknowledged before me by means of

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

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

227

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

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

230 Personally Known OR Produced Identification

231

232 Type of Identification Produced

233

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

235

236 STATE OF FLORIDA

237 COUNTY OF

238

239 The foregoing instrument was acknowledged before me by means of

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

241 , ... (year)...., by ... (name of person).... as ... (type of

242 authority, . . . e.g. officer, trustee, attorney in fact).... for

243 ... (name of party on behalf of whom instrument was executed)....



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244
245 ...(Signature of Notary Public - State of Florida)...
246 ...(Print, Type, or Stamp Commissioned Name of Notary Public)...
247 Personally Known OR Produced Identification
248

249 Type of Identification Produced

250
251 (14) A notary public must make reasonable accommodations to
252 provide notarial services to persons with disabilities.

253 (a) A notary public may notarize the signature of a person
254 who is blind after the notary public has read the entire
255 instrument to that person.

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

258 1. The document signing is witnessed by two disinterested
259 persons;

260 2. The notary public prints the person's first name at the
261 beginning of the designated signature line and the person's last
262 name at the end of the designated signature line; and

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

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

267 1. For an oath or affirmation:

268
269 ...(First Name)... ...(Last Name)...
270 ...His (or Her) Mark...
271

272 STATE OF FLORIDA



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273 COUNTY OF

274

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

279

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

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

282 Personally Known OR Produced Identification

283

284 Type of Identification Produced

285

286 2. For an acknowledgment in an individual capacity:

287

288 ... (First Name)... ... (Last Name)...

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

290

291 STATE OF FLORIDA

292 COUNTY OF

293

294 The foregoing instrument was acknowledged before me by means of
295 [] physical presence or [] online notarization, this day of
296, ...(year)..., by ...(name of person acknowledging)...,
297 who signed with a mark in the presence of these witnesses:

298

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

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

301 Personally Known OR Produced Identification



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302
303

Type of Identification Produced

304

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

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

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

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

318

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

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

325 1. For an oath or affirmation:

326

327 STATE OF FLORIDA

328 COUNTY OF

329

330 Sworn to (or affirmed) before me by means of [] physical



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331 presence or [] online notarization, this day of,
332 ... (year) ..., by ... (name of person making statement) ..., and
333 subscribed by ... (name of notary) ... at the direction of ~~and in~~
334 ~~the presence of~~ ... (name of person making statement) ... by
335 ... (written, verbal, or other means) ..., and in the presence of
336 these witnesses:

337
338 ... (Signature of Notary Public - State of Florida) ...
339 ... (Print, Type, or Stamp Commissioned Name of Notary Public) ...
340 Personally Known OR Produced Identification
341
342 Type of Identification Produced

343
344 2. For an acknowledgment in an individual capacity:

345
346 STATE OF FLORIDA
347 COUNTY OF

348
349 The foregoing instrument was acknowledged before me by means of
350 [] physical presence or [] online notarization, this day of
351, ... (year) ..., by ... (name of person acknowledging) ...
352 and subscribed by ... (name of notary) ... at the direction of ~~and~~
353 ~~in the presence of~~ ... (name of person acknowledging) ..., and in
354 the presence of these witnesses:

355
356 ... (Signature of Notary Public - State of Florida) ...
357 ... (Print, Type, or Stamp Commissioned Name of Notary Public) ...
358 Personally Known OR Produced Identification
359



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360 Type of Identification Produced

361

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

364 117.107 Prohibited acts.—

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

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



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389 Section 6. Section 117.201, Florida Statutes, is created to
390 read:

391 117.201 Definitions.—As used in this part, the term:

392 (1) "Appear before," "before," or "in the presence of"
393 mean:

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

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

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

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

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

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

414 (6) "Government-issued identification credential" means any
415 approved credential for verifying identity under s.
416 117.05(5)(b)2.

417 (7) "Identity proofing" means a process or service in



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418 compliance with applicable law in which a third party affirms
419 the identity of an individual through use of public or
420 proprietary data sources, which may include by means of
421 knowledge-based authentication or biometric verification.

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

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

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

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

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

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



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

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

461 Section 7. Section 117.209, Florida Statutes, is created to
462 read:

463 117.209 Authority to perform online notarizations.—

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

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

475 (3) An online notary public physically located in this



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

485 (4) The validity of an online notarization performed by an
486 online notary public registered in this state shall be
487 determined by applicable laws of this state regardless of the
488 physical location of the principal or any witnesses at the time
489 of the notarial act.

490 Section 8. Section 117.215, Florida Statutes, is created to
491 read:

492 117.215 Relation to other laws.-

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

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



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505 Section 9. Section 117.225, Florida Statutes, is created to
506 read:

507 117.225 Registration; qualifications.—A notary public, a
508 civil-law notary appointed under chapter 118, or a commissioner
509 of deeds appointed under part IV of chapter 721 may complete
510 registration as an online notary public with the Department of
511 State by:

512 (1) Holding a current commission as a notary public under
513 part I of this chapter, an appointment as a civil-law notary
514 under chapter 118, or an appointment as a commissioner of deeds
515 under part IV of chapter 721, and submitting a copy of such
516 commission or proof of such appointment with his or her
517 registration.

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

523 (3) Paying a notary public registration fee as required by
524 s. 113.01.

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

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

533 (6) Providing evidence satisfactory to the Department of



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534 State that the registrant has obtained a bond in the amount of
535 \$25,000, payable to any individual harmed as a result of a
536 breach of duty by the registrant acting in his or her official
537 capacity as an online notary public, conditioned for the due
538 discharge of the office, and on such terms as are specified in
539 rule by the Department of State as reasonably necessary to
540 protect the public. The bond shall be approved and filed with
541 the Department of State and executed by a surety company duly
542 authorized to transact business in this state. Compliance by an
543 online notary public with this requirement shall satisfy the
544 requirement of obtaining a bond under s. 117.01(7).

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

552 Section 10. Section 117.235, Florida Statutes, is created
553 to read:

554 117.235 Performance of notarial acts.-

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

559 (2) An online notary public may perform notarial acts as
560 provided by part I of this chapter in addition to performing
561 online notarizations as authorized and pursuant to the
562 provisions of this part.



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563 Section 11. Section 117.245, Florida Statutes, is created
564 to read:

565 117.245 Electronic journal of online notarizations.—

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

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

571 (b) The type of notarial act.

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

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

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

578 1. A statement that the person is personally known to the
579 online notary public.

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

582 (f) An indication that the principal satisfactorily passed
583 the identity proofing.

584 (g) An indication that the government-issued identification
585 credential satisfied the credential analysis.

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

587 (2) The online notary public shall retain an uninterrupted
588 and unedited copy of the recording of the audio-video
589 communication in which an online notarization is performed. The
590 recording must include all of the following:

591 (a) Appearance by the principal and any witness before the



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592 online notary public.

593 (b) Confirmation of the identity of the principal and any
594 witness.

595 (c) A general description or identification of the records
596 to be signed.

597 (d) At the commencement of the recording, recitation by the
598 online notary public of information sufficient to identify the
599 notarial act.

600 (e) A declaration by the principal that his or her
601 signature on the record is knowingly and voluntarily made.

602 (f) All of the actions and spoken words of the principal,
603 notary public, and any required witness during the entire online
604 notarization, including the signing of any records before the
605 online notary public.

606 (3) The online notary public shall take reasonable steps
607 to:

608 (a) Ensure the integrity, security, and authenticity of
609 online notarizations.

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

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

615 (4) The electronic journal required under subsection (1)
616 and the recordings of audio-video communications required under
617 subsection (2) shall be maintained for at least 10 years after
618 the date of the notarial act. However, a full copy of the
619 recording of the audio-video communication required under
620 subsection (2) relating to an online notarization session that



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621 involves the signing of an electronic will must be maintained by
622 a qualified custodian in accordance with chapters 731 and 732.
623 The Department of State maintains jurisdiction over the
624 electronic journal and audio-video communication recordings to
625 investigate notarial misconduct for a period of 10 years after
626 the date of the notarial act. The online notary public, a
627 guardian of an incapacitated online notary public, or the
628 personal representative of a deceased online notary public may,
629 by contract with a secure repository in accordance with any
630 rules established under this chapter, delegate to the repository
631 the online notary public's duty to retain the electronic journal
632 and the required recordings of audio-video communications,
633 provided that the Department of State is notified of such
634 delegation of retention duties to the repository within 30 days
635 thereafter, including the address and contact information for
636 the repository. If an online notary public delegates to a secure
637 repository under this section, the online notary public shall
638 make an entry in his or her electronic journal identifying such
639 repository, and provide notice to the Department of State as
640 required in this subsection.

641 (5) An omitted or incomplete entry in the electronic
642 journal does not impair the validity of the notarial act or of
643 the electronic record which was notarized, but may be introduced
644 as evidence to establish violations of this chapter; as evidence
645 of possible fraud, forgery, impersonation, duress, incapacity,
646 undue influence, minority, illegality, unconscionability; or for
647 other evidentiary purposes. However, if the recording of the
648 audio-video communication required under subsection (2) relating
649 to the online notarization of the execution of an electronic



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650 will cannot be produced by the online notary public or the
651 qualified custodian, the electronic will shall be treated as a
652 lost or destroyed will subject to s. 733.207.

653 Section 12. Section 117.255, Florida Statutes, is created
654 to read:

655 117.255 Use of electronic journal, signature, and seal.—An
656 online notary public shall:

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

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

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

675 (4) Notify an appropriate law enforcement agency and the
676 Department of State of any unauthorized use of or compromise to
677 the security of the electronic journal, official electronic
678 signature, or electronic seal within 7 days after discovery of



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679 such unauthorized use or compromise to security.

680 (5) Make electronic copies, upon request, of the pertinent
681 entries in the electronic journal and provide access to the
682 related audio-video communication recordings to the following
683 persons:

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

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

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

691 (d) The online notary public's RON service provider whose
692 services were used by the online notary public to notarize the
693 electronic record;

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

696 (f) The Department of State pursuant to a notary misconduct
697 investigation; and

698 (g) To other persons pursuant to a subpoena, court order,
699 law enforcement investigation, or other lawful inspection
700 demand.

701 (6) The online notary public may charge a fee not to exceed
702 \$20 per transaction record for making and delivering electronic
703 copies of a given series of related electronic records, except
704 if requested by:

705 (a) A party to the electronic record;

706 (b) In a real estate transaction, the title agent,
707 settlement agent, or title insurer who insured the electronic



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708 record or engaged the online notary public with regard to such
709 transaction; or

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

712

713 If the online notary public does charge a fee, the online notary
714 public shall disclose the amount of such fee to the requester
715 before making the electronic copies.

716 Section 13. Section 117.265, Florida Statutes, is created
717 to read:

718 117.265 Online notarization procedures.-

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

732 (2) In performing an online notarization, an online notary
733 public shall confirm the identity of a principal and any witness
734 appearing online, at the time that the signature is taken, by
735 using audio-video communication technology and processes that
736 meet the requirements of this part and of any rules adopted



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737 hereunder and record the two-way audio-video conference session
738 between the notary public and the principal and any witnesses. A
739 principal may not act in the capacity of a witness for his or
740 her own signature in an online notarization.

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

746 (4) An online notary public shall confirm the identity of
747 the principal by:

748 (a) Personal knowledge of each principal; or

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

752 1. Remote presentation of a government-issued
753 identification credential by each principal.

754 2. Credential analysis of each government-issued
755 identification credential.

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

759
760 If the online notary public is unable to satisfy subparagraphs
761 (b)1.-3., or if the databases consulted for identity proofing do
762 not contain sufficient information to permit authentication, the
763 online notary public may not perform the online notarization.

764 (5) An online notary public may change his or her RON
765 service provider or providers from time to time, but shall



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766 notify the Department of State of such change within 30 days
767 thereafter.

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

772 (7) The electronic notarial certificate for an online
773 notarization must include a notation that the notarization is an
774 online notarization which may be satisfied by placing the term
775 "online notary" in or adjacent to the online notary public's
776 seal.

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

780 (9) Any failure to comply with the online notarization
781 procedures set forth in this section does not impair the
782 validity of the notarial act or the electronic record that was
783 notarized, but may be introduced as evidence to establish
784 violations of this chapter or as an indication of possible
785 fraud, forgery, impersonation, duress, incapacity, undue
786 influence, minority, illegality, unconscionability, or for other
787 evidentiary purposes. This subsection may not be construed to
788 alter the duty of an online notary public to comply with this
789 chapter and any rules adopted hereunder.

790 Section 14. Section 117.275, Florida Statutes, is created
791 to read:

792 117.275 Fees for online notarization.—An online notary
793 public or the employer of such online notary public may charge a
794 fee, not to exceed \$25, for performing an online notarization



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795 under this part. Fees for services other than notarial acts are
796 not governed by this section.

797 Section 15. Section 117.285, Florida Statutes, is created
798 to read:

799 117.285 Supervising the witnessing of electronic records.-

800 An online notary public may supervise the witnessing of
801 electronic records by the same audio-video communication
802 technology used for online notarization, as follows:

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

806 (2) If the witness is remote from the principal and viewing
807 and communicating with the principal by means of audio-video
808 communication technology, the witness's identity must be
809 verified in accordance with the procedures for identifying a
810 principal as set forth in s. 117.265(4). If the witness is in
811 the physical presence of the principal, the witness must confirm
812 his or her identity by stating his or her name and current
813 address on the audio-video recording as part of the act of
814 witnessing.

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

821 (4) A witness remote from the principal and appearing
822 through audio-video communication technology must verbally
823 confirm that he or she is a resident of and physically located



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824 within the United States or a territory of the United States at
825 the time of witnessing.

826 (5) Notwithstanding subsections (2) and (3), if an
827 electronic record to be signed is a will under chapter 732, a
828 trust with testamentary aspects under chapter 736, an advance
829 health care directive, a durable power of attorney defined in s.
830 709.2104 which is being executed concurrently with a will, or a
831 waiver of spousal rights under s. 732.701 or s. 732.702:

832 (a) The act of witnessing an electronic signature through
833 the witness's presence by audio-video communication is valid
834 only if, during the audio-video communication, the principal
835 provides verbal answers to all of the following questions, each
836 of which must be asked by the online notary public in
837 substantially the following form:

838 1. What is your date of birth?

839 2. Are you under the influence of any drug or alcohol that
840 impairs your ability to make decisions?

841 3. Do you have any physical or mental condition or long-
842 term disability that impairs your ability to perform the normal
843 activities of daily living?

844 4. Are you unable to provide for your own daily care?

845 5. Did anyone assist you in accessing this video conference
846 or in drafting the documents you're here to sign? If so, who?

847 6. Where are you currently located?

848 7. Name everyone you know who is with you.

849 (b) An online notary public shall consider the responses to
850 the questions specified in paragraph (a) in the carrying out of
851 the notary public's existing duties as set forth in s.
852 117.107(5).



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853 (c) A principal's responses to the questions in paragraph
854 (a) may be offered as evidence regarding the validity of the
855 instrument, but an incorrect answer may not serve as the sole
856 basis to invalidate an instrument.

857 (d) An instrument governed by this subsection which is
858 witnessed by a witness remote from the principal and present
859 through audio-video communication technology is voidable if
860 signed by a principal who is a vulnerable adult as defined in s.
861 415.102. The contestant of an electronic record has the burden
862 of proving that the principal was a vulnerable adult at the time
863 of executing the electronic record.

864 (e) A RON service provider shall provide written notice to
865 the signers, in substance, that an instrument governed by this
866 subsection which is signed by a vulnerable adult as defined in
867 s. 415.102, and is remotely witnessed in accordance with this
868 subsection, is voidable and that the signer can instead choose
869 to have such instruments signed in the physical presence of any
870 required witnesses.

871 (6) Pursuant to subpoena, court order, an authorized law
872 enforcement inquiry, or other lawful request, an online notary
873 public shall provide the last known address of any witness who
874 witnessed the signing of an electronic record using audio-video
875 communication technology pursuant to this section.

876 (7) An act of witnessing performed pursuant to this section
877 satisfies any requirement that the witness be a subscribing or
878 attesting witness or be in the presence of the principal at the
879 time of signing.

880
881 The law of this state governs the validity of an act of



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882 witnessing supervised by an online notary public pursuant to
883 this section, regardless of the physical location of the witness
884 at the time of witnessing. State courts and federal courts of
885 this state have subject matter jurisdiction over any dispute
886 arising out of an act of witnessing pursuant to this section,
887 and may issue subpoenas for records or appearance in relation
888 thereto in accordance with applicable law.

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

891 117.295 Standards for electronic and online notarization;
892 rulemaking authority.-

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

897 (a) Improvements in technology and methods of assuring the
898 identity of principals and the security of an electronic record,
899 including tamper-evident technologies in compliance with the
900 standards adopted pursuant to s. 117.021 which apply to online
901 notarizations.

902 (b) Education requirements for online notaries public and
903 the required terms of bonds and errors and omissions insurance,
904 but not including the amounts of such bonds and insurance
905 policies.

906 (c) Identity proofing, credential analysis, unauthorized
907 interception, remote presentation, audio-video communication
908 technology, and retention of electronic journals and copies of
909 audio-video communications recordings in a secure repository.

910 (2) By January 1, 2020, the Department of State shall adopt



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911 forms, processes, and interim or emergency rules necessary to
912 accept applications from and register online notaries public
913 pursuant to s. 117.225.

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

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

922 1. The principal must be presented with five or more
923 questions with a minimum of five possible answer choices per
924 question.

925 2. Each question must be drawn from a third-party provider
926 of public and proprietary data sources and be identifiable to
927 the principal's social security number or other identification
928 information, or the principal's identity and historical events
929 records.

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

932 4. The principal must answer a minimum of 80 percent of the
933 questions correctly.

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

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

938 (b) Use of credential analysis using one or more
939 commercially available automated software or hardware processes



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940 that are consistent with sound commercial practices; that aid
941 the notary public in verifying the authenticity of the
942 credential by analyzing the integrity of visual, physical, or
943 cryptographic security features to indicate that the credential
944 is not fraudulent or inappropriately modified; and that use
945 information held or published by the issuing source or
946 authoritative source, as available, to confirm the validity of
947 credential details. The output of the credential analysis
948 process must be provided to the online notary public performing
949 the notarial act.

950 (c) Use of audio-video communication technology in
951 completing online notarizations that must meet the following
952 requirements:

953 1. The signal transmission must be reasonably secure from
954 interception, access, or viewing by anyone other than the
955 participants communicating.

956 2. The technology must provide sufficient audio clarity and
957 video resolution to enable the notary to communicate with the
958 principal and any witness, and to confirm the identity of the
959 principal and any witness, as required, using the identification
960 methods described in s. 117.265.

961 (4) A RON service provider is deemed to have satisfied
962 tamper-evident technology requirements by use of technology that
963 renders any subsequent change or modification to the electronic
964 record evident.

965 (5) In addition to any coverage it elects to provide for
966 individual online notaries public, maintenance of errors and
967 omissions insurance coverage by a RON service provider in a
968 total amount of at least \$250,000 in the annual aggregate with



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969 respect to potential errors or omissions in or relating to the
970 technology or processes provided by the RON service provider. An
971 online notary public is not responsible for the security of the
972 systems used by the principal or others to access the online
973 notarization session.

974 (6) A 2-hour in-person or online course addressing the
975 duties, obligations, and technology requirements for serving as
976 an online notary public offered by the Florida Land Title
977 Association; the Real Property, Probate and Trust Law Section of
978 The Florida Bar; the Florida Legal Education Association; the
979 Department of State; or a vendor approved by the Department of
980 State shall satisfy the education requirements of s. 117.225(2).
981 Each such provider shall make the in-person or online course
982 generally available to all applicants, at the same cost,
983 regardless of membership in the provider's organization.

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

986 Section 17. Section 117.305, Florida Statutes, is created
987 to read:

988 117.305 Relation to federal law.—This part supersedes the
989 Electronic Signatures in Global and National Commerce Act as
990 authorized under 15 U.S.C. s. 7001 et seq., but does not modify,
991 limit, or supersede s. 101(c) of that act, 15 U.S.C. s. 7001(c),
992 or authorize the electronic delivery of the notices described in
993 15 U.S.C. s. 7003(b).

994 Section 18. Present paragraph (h) of subsection (3) of
995 section 28.222, Florida Statutes, is redesignated as paragraph
996 (i), and a new paragraph (h) is added to that subsection, to
997 read:



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998 28.222 Clerk to be county recorder.-

999 (3) The clerk of the circuit court shall record the
1000 following kinds of instruments presented to him or her for
1001 recording, upon payment of the service charges prescribed by
1002 law:

1003 (h) Copies of any instruments originally created and
1004 executed using an electronic signature, as defined in s. 695.27,
1005 and certified to be a true and correct paper printout by a
1006 notary public in accordance with chapter 117, if the county
1007 recorder is not prepared to accept electronic documents for
1008 recording electronically.

1009 Section 19. Subsections (1) and (2) of section 92.50,
1010 Florida Statutes, are amended to read:

1011 92.50 Oaths, affidavits, and acknowledgments; who may take
1012 or administer; requirements.-

1013 (1) IN THIS STATE.-Oaths, affidavits, and acknowledgments
1014 required or authorized under the laws of this state (except
1015 oaths to jurors and witnesses in court and such other oaths,
1016 affidavits and acknowledgments as are required by law to be
1017 taken or administered by or before particular officers) may be
1018 taken or administered by or before any judge, clerk, or deputy
1019 clerk of any court of record within this state, including
1020 federal courts, or by or before any United States commissioner
1021 or any notary public within this state. The jurat, or
1022 certificate of proof or acknowledgment, shall be authenticated
1023 by the signature and official seal of such officer or person
1024 taking or administering the same; however, when taken or
1025 administered by or before any judge, clerk, or deputy clerk of a
1026 court of record, the seal of such court may be affixed as the



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1027 seal of such officer or person.

1028 (2) IN OTHER STATES, TERRITORIES, AND DISTRICTS OF THE
1029 UNITED STATES.—Oaths, affidavits, and acknowledgments required
1030 or authorized under the laws of this state, may be taken or
1031 administered in any other state, territory, or district of the
1032 United States, by or before any judge, clerk or deputy clerk of
1033 any court of record, within such state, territory, or district,
1034 having a seal, or by or before any notary public or justice of
1035 the peace, having a seal, in such state, territory, or district;
1036 provided, however, such officer or person is authorized under
1037 the laws of such state, territory, or district to take or
1038 administer oaths, affidavits and acknowledgments. The jurat, or
1039 certificate of proof or acknowledgment, shall be authenticated
1040 by the signature and official seal of such officer or person
1041 taking or administering the same; provided, however, when taken
1042 or administered by or before any judge, clerk, or deputy clerk
1043 of a court of record, the seal of such court may be affixed as
1044 the seal of such officer or person.

1045 Section 20. Subsection (1) of section 95.231, Florida
1046 Statutes, is amended to read:

1047 95.231 Limitations where deed or will on record.—

1048 (1) Five years after the recording of an instrument
1049 required to be executed in accordance with s. 689.01; 5 years
1050 after the recording of a power of attorney accompanying and used
1051 for an instrument required to be executed in accordance with s.
1052 689.01; or 5 years after the probate of a will purporting to
1053 convey real property, from which it appears that the person
1054 owning the property attempted to convey, affect, or devise it,
1055 the instrument, power of attorney, or will shall be held to have



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1056 its purported effect to convey, affect, or devise, the title to
1057 the real property of the person signing the instrument, as if
1058 there had been no lack of seal or seals, witness or witnesses,
1059 defect in, failure of, or absence of acknowledgment or
1060 relinquishment of dower, in the absence of fraud, adverse
1061 possession, or pending litigation. The instrument is admissible
1062 in evidence. A power of attorney validated under this subsection
1063 shall be valid only for the purpose of effectuating the
1064 instrument with which it was recorded.

1065 Section 21. Section 689.01, Florida Statutes, is amended to
1066 read:

1067 689.01 How real estate conveyed.—

1068 (1) No estate or interest of freehold, or for a term of
1069 more than 1 year, or any uncertain interest of, in or out of any
1070 messuages, lands, tenements or hereditaments shall be created,
1071 made, granted, transferred or released in any other manner than
1072 by instrument in writing, signed in the presence of two
1073 subscribing witnesses by the party creating, making, granting,
1074 conveying, transferring or releasing such estate, interest, or
1075 term of more than 1 year, or by the party's lawfully authorized
1076 agent, unless by will and testament, or other testamentary
1077 appointment, duly made according to law; and no estate or
1078 interest, either of freehold, or of term of more than 1 year, or
1079 any uncertain interest of, in, to, or out of any messuages,
1080 lands, tenements or hereditaments, shall be assigned or
1081 surrendered unless it be by instrument signed in the presence of
1082 two subscribing witnesses by the party so assigning or
1083 surrendering, or by the party's lawfully authorized agent, or by
1084 the act and operation of law. No seal shall be necessary to give



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1085 validity to any instrument executed in conformity with this
1086 section. Corporations may execute any and all conveyances in
1087 accordance with the provisions of this section or ss. 692.01 and
1088 692.02.

1089 (2) For purposes of this chapter:

1090 (a) Any requirement that an instrument be signed in the
1091 presence of two subscribing witnesses may be satisfied by
1092 witnesses being present and electronically signing by means of
1093 audio-video communication technology, as defined in s. 117.201.

1094 (b) The act of witnessing an electronic signature is
1095 satisfied if a witness is in the physical presence of the
1096 principal or present through audio-video communication
1097 technology at the time the principal affixes his or her
1098 electronic signature and the witness hears the principal make a
1099 statement acknowledging that the principal has signed the
1100 electronic record.

1101 (c) The terms used in this subsection have the same
1102 meanings as the terms defined in s. 117.201.

1103 (3) All acts of witnessing made or taken in the manner
1104 described in subsection (2) are validated and, upon recording,
1105 may not be denied to have provided constructive notice based on
1106 any alleged failure to have strictly complied with this section
1107 or the laws governing notarization of instruments, including
1108 online notarization. This subsection does not preclude a
1109 challenge to the validity or enforceability of an instrument or
1110 electronic record based upon fraud, forgery, impersonation,
1111 duress, incapacity, undue influence, minority, illegality,
1112 unconscionability, or any other basis not related to the act of
1113 witnessing.



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1114 Section 22. Section 694.08, Florida Statutes, is amended to
1115 read:

1116 694.08 Certain instruments validated, notwithstanding lack
1117 of seals or witnesses, or defect in acknowledgment,~~—ete.~~—

1118 (1) Whenever any power of attorney has been executed and
1119 delivered, or any conveyance has been executed and delivered to
1120 any grantee by the person owning the land therein described, or
1121 conveying the same in an official or representative capacity,
1122 and has, for a period of 7 years or more been spread upon the
1123 records of the county wherein the land therein described has
1124 been or was at the time situated, and one or more subsequent
1125 conveyances of said land or parts thereof have been made,
1126 executed, delivered and recorded by parties claiming under such
1127 instrument or instruments, and such power of attorney or
1128 conveyance, or the public record thereof, shows upon its face a
1129 clear purpose and intent of the person executing the same to
1130 authorize the conveyance of said land or to convey the said
1131 land, the same shall be taken and held by all the courts of this
1132 state, in the absence of any showing of fraud, adverse
1133 possession, or pending litigation, to have authorized the
1134 conveyance of, or to have conveyed, the fee simple title, or any
1135 interest therein, of the person signing such instruments, or the
1136 person in behalf of whom the same was conveyed by a person in an
1137 official or representative capacity, to the land therein
1138 described as effectively as if there had been no defect in,
1139 failure of, or absence of the acknowledgment or the certificate
1140 of acknowledgment, if acknowledged, or the relinquishment of
1141 dower, and as if there had been no lack of the word "as"
1142 preceding the title of the person conveying in an official or



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1143 representative capacity, of any seal or seals, or of any witness
1144 or witnesses, and shall likewise be taken and held by all the
1145 courts of this state to have been duly recorded so as to be
1146 admissible in evidence;

1147 (2) Provided, however, that this section shall not apply to
1148 any conveyance the validity of which shall be contested or have
1149 been contested by suit commenced heretofore or within 1 year of
1150 the effective date of this law.

1151 Section 23. Section 695.03, Florida Statutes, is amended to
1152 read:

1153 695.03 Acknowledgment and proof; validation of certain
1154 acknowledgments; legalization or authentication before foreign
1155 officials.—To entitle any instrument concerning real property to
1156 be recorded, the execution must be acknowledged by the party
1157 executing it, proved by a subscribing witness to it, or
1158 legalized or authenticated in one of the following forms ~~by a~~
1159 ~~civil-law notary or notary public who affixes her or his~~
1160 ~~official seal, before the officers and in the form and manner~~
1161 ~~following:~~

1162 (1) WITHIN THIS STATE.—An acknowledgment or a proof may be
1163 taken, administered, or made within this state by or ~~may be made~~
1164 before a judge, clerk, or deputy clerk of any court; a United
1165 States commissioner or magistrate; or any ~~a~~ notary public or
1166 civil-law notary of this state, and the certificate of
1167 acknowledgment or proof must be under the seal of the court or
1168 officer, as the case may be. ~~All affidavits and acknowledgments~~
1169 ~~heretofore made or taken in this manner are hereby validated.~~

1170 (2) OUTSIDE ~~WITHOUT~~ THIS STATE BUT WITHIN THE UNITED
1171 STATES.—An acknowledgment or a proof taken, administered, or



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1172 made outside ~~out~~ of this state but within the United States may
1173 be taken, administered, or made by or before a civil-law notary
1174 of this state or a commissioner of deeds appointed by the
1175 Governor of this state; a judge or clerk of any court of the
1176 United States or of any state, territory, or district; by or
1177 before a United States commissioner or magistrate; or by or
1178 before any a notary public, justice of the peace, master in
1179 chancery, or registrar or recorder of deeds of any state,
1180 territory, or district having a seal, and the certificate of
1181 acknowledgment or proof must be under the seal of the court or
1182 officer, as the case may be. If the acknowledgment or proof is
1183 taken, administered, or made by or before a notary public who
1184 does not affix a seal, it is sufficient for the notary public to
1185 type, print, or write by hand on the instrument, "I am a Notary
1186 Public of the State of ...(state)..., and my commission expires
1187 on ...(date)...."

1188 (3) OUTSIDE OF THE UNITED STATES OR WITHIN FOREIGN
1189 COUNTRIES.~~An If the~~ acknowledgment, an affidavit, an oath, a
1190 legalization, an authentication, or a proof taken, administered,
1191 or made outside the United States or is made in a foreign
1192 country,~~it~~ may be taken, administered, or made by or before a
1193 commissioner of deeds appointed by the Governor of this state to
1194 act in such country; before a notary public of such foreign
1195 country or a civil-law notary of this state or of such foreign
1196 country who has an official seal; before an ambassador, envoy
1197 extraordinary, minister plenipotentiary, minister, commissioner,
1198 charge d'affaires, consul general, consul, vice consul, consular
1199 agent, or other diplomatic or consular officer of the United
1200 States appointed to reside in such country; or before a military



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1201 or naval officer authorized by 10 U.S.C. s. 1044a ~~the Laws or~~
1202 ~~Articles of War of the United States~~ to perform the duties of
1203 notary public, and the certificate of acknowledgment,
1204 legalization, authentication, or proof must be under the seal of
1205 the officer. A certificate legalizing or authenticating the
1206 signature of a person executing an instrument concerning real
1207 property and to which a civil-law notary or notary public of
1208 that country has affixed her or his official seal is sufficient
1209 as an acknowledgment. For the purposes of this section, the term
1210 "civil-law notary" means a civil-law notary as defined in
1211 chapter 118 or an official of a foreign country who has an
1212 official seal and who is authorized to make legal or lawful the
1213 execution of any document in that jurisdiction, in which
1214 jurisdiction the affixing of her or his official seal is deemed
1215 proof of the execution of the document or deed in full
1216 compliance with the laws of that jurisdiction.

1217 (4) COMPLIANCE AND VALIDATION.—The affixing of the official
1218 seal or the electronic equivalent thereof under s. 117.021 or
1219 other applicable law, including part II of chapter 117,
1220 conclusively establishes that the acknowledgment or proof was
1221 taken, administered, or made in full compliance with the laws of
1222 this state or, as applicable, the laws of the other state, or of
1223 the foreign country governing notarial acts. All affidavits,
1224 oaths, acknowledgments, legalizations, authentications, or
1225 proofs taken, administered, or made in any manner as set forth
1226 in subsections (1), (2), and (3) are validated and upon
1227 recording may not be denied to have provided constructive notice
1228 based on any alleged failure to have strictly complied with this
1229 section, as currently or previously in effect, or the laws



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1230 governing notarization of instruments. This subsection does not
1231 preclude a challenge to the validity or enforceability of an
1232 instrument or electronic record based upon fraud, forgery,
1233 impersonation, duress, incapacity, undue influence, minority,
1234 illegality, unconscionability, or any other basis not related to
1235 the notarial act or constructive notice provided by recording.

1236
1237 ~~All affidavits, legalizations, authentications, and~~
1238 ~~acknowledgments heretofore made or taken in the manner set forth~~
1239 ~~above are hereby validated.~~

1240 Section 24. Section 695.04, Florida Statutes, is amended to
1241 read:

1242 695.04 Requirements of certificate.—The certificate of the
1243 officer before whom the acknowledgment or proof is taken, except
1244 for a certificate legalizing or authenticating the signature of
1245 a person executing an instrument concerning real property
1246 pursuant to s. 695.03(3), shall contain and set forth
1247 substantially the matter required to be done or proved to make
1248 such acknowledgment or proof effectual as set forth in s.
1249 117.05.

1250 Section 25. Section 695.25, Florida Statutes, is amended to
1251 read:

1252 695.25 Short form of acknowledgment.—The forms of
1253 acknowledgment set forth in this section may be used, and are
1254 sufficient for their respective purposes, under any law of this
1255 state. The forms shall be known as "Statutory Short Forms of
1256 Acknowledgment" and may be referred to by that name. The
1257 authorization of the forms in this section does not preclude the
1258 use of other forms.



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1259 (1) For an individual acting in his or her own right:

1260 STATE OF

1261 COUNTY OF

1262 The foregoing instrument was acknowledged before me by
1263 means of [] physical presence or [] online notarization, this
1264 ... (date)... by ... (name of person acknowledging)..., who is
1265 personally known to me or who has produced ... (type of
1266 identification)... as identification.

1267 ... (Signature of person taking acknowledgment)...

1268 ... (Name typed, printed or stamped)...

1269 ... (Title or rank)...

1270 ... (Serial number, if any)...

1271 (2) For a corporation:

1272 STATE OF

1273 COUNTY OF

1274 The foregoing instrument was acknowledged before me by
1275 means of [] physical presence or [] online notarization, this
1276 ... (date)... by ... (name of officer or agent, title of officer
1277 or agent)... of ... (name of corporation acknowledging)..., a
1278 ... (state or place of incorporation)... corporation, on behalf
1279 of the corporation. He/she is personally known to me or has
1280 produced ... (type of identification)... as identification.

1281 ... (Signature of person taking acknowledgment)...

1282 ... (Name typed, printed or stamped)...

1283 ... (Title or rank)...

1284 ... (Serial number, if any)...

1285 (3) For a limited liability company:

1286 STATE OF

1287 COUNTY OF



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1288 The foregoing instrument was acknowledged before me by
1289 means of [] physical presence or [] online notarization, this
1290 ...(date)... by ...(name of member, manager, officer or agent,
1291 title of member, manager, officer or agent)..., of ...(name of
1292 company acknowledging)..., a ...(state or place of formation)...
1293 limited liability company, on behalf of the company, who is
1294 personally known to me or has produced ...(type of
1295 identification)... as identification.

1296
1297 ...(Signature of person taking acknowledgment)...
1298 ...(Name typed, printed or stamped)...
1299 ...(Title or rank)...
1300 ...(Serial number, if any)...

1301 ~~(4)~~~~(3)~~ For a partnership:
1302 STATE OF
1303 COUNTY OF

1304 The foregoing instrument was acknowledged before me by
1305 means of [] physical presence or [] online notarization, this
1306 ...(date)... by ...(name of acknowledging partner or agent)...,
1307 partner (or agent) on behalf of ...(name of partnership)..., a
1308 partnership. He/she is personally known to me or has produced
1309 ...(type of identification)... as identification.

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

1314 ~~(5)~~~~(4)~~ For an individual acting as principal by an attorney
1315 in fact:
1316 STATE OF



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1317 COUNTY OF

1318 The foregoing instrument was acknowledged before me by
1319 means of [] physical presence or [] online notarization, this
1320 ... (date)... by ... (name of attorney in fact)... as attorney in
1321 fact, who is personally known to me or who has produced ... (type
1322 of identification)... as identification on behalf of ... (name of
1323 principal)....

1324 ...(Signature of person taking acknowledgment)...

1325 ...(Name typed, printed or stamped)...

1326 ...(Title or rank)...

1327 ...(Serial number, if any)...

1328 (6) (5) By any public officer, trustee, or personal
1329 representative:

1330 STATE OF

1331 COUNTY OF

1332 The foregoing instrument was acknowledged before me by
1333 means of [] physical presence or [] online notarization, this
1334 ... (date)... by ... (name and title of position)..., who is
1335 personally known to me or who has produced ... (type of
1336 identification)... as identification.

1337 ...(Signature of person taking acknowledgment)...

1338 ...(Name typed, printed or stamped)...

1339 ...(Title or rank)...

1340 ...(Serial number, if any)....

1341

1342 Section 26. Section 695.28, Florida Statutes, is amended to
1343 read:

1344 695.28 Validity of recorded electronic documents.—

1345 (1) A document that is otherwise entitled to be recorded



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1346 and that was or is submitted to the clerk of the court or county
1347 recorder by electronic or other means and accepted for
1348 recordation is deemed validly recorded and provides notice to
1349 all persons notwithstanding:

1350 (a) That the document was received and accepted for
1351 recordation before the Department of State adopted standards
1352 implementing s. 695.27; ~~or~~

1353 (b) Any defects in, deviations from, or the inability to
1354 demonstrate strict compliance with any statute, rule, or
1355 procedure relating to electronic signatures, electronic
1356 witnesses, electronic notarization, or online notarization, or
1357 for submitting or recording to submit or record an electronic
1358 document in effect at the time the electronic document was
1359 executed or was submitted for recording;

1360 (c) That the document was signed, witnessed, or notarized
1361 electronically, and that the document was notarized by an online
1362 notary public outside the physical presence of the signer
1363 through audio-video communication technology, as defined in s.
1364 117.201, or that witnessing may have been done outside the
1365 physical presence of the notary public or principal through such
1366 audio-visual communication; or

1367 (d) That the document recorded was a certified printout of
1368 a document to which one or more electronic signatures have been
1369 affixed.

1370 (2) This section does not alter the duty of the clerk or
1371 recorder to comply with s. 28.222, s. 695.27, or any rules
1372 adopted pursuant to those sections ~~that section~~.

1373 (3) This section does not preclude a challenge to the
1374 validity or enforceability of an instrument or electronic record



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1375 based upon fraud, forgery, impersonation, duress, incapacity,
1376 undue influence, minority, illegality, unconscionability, or any
1377 other basis not in the nature of those matters described in
1378 subsection (1).

1379 Section 27. Subsections (3) and (4) of section 709.2119,
1380 Florida Statutes, are amended to read:

1381 709.2119 Acceptance of and reliance upon power of
1382 attorney.—

1383 (3) A third person who is asked to accept a power of
1384 attorney that appears to be executed in accordance with s.
1385 709.2105 may in good faith request, and rely upon, without
1386 further investigation:

1387 (a) A certified English translation of the power of
1388 attorney if the power of attorney contains, in whole or in part,
1389 language other than English;

1390 (b) An opinion of counsel as to any matter of law
1391 concerning the power of attorney if the third person making the
1392 request provides in a writing or other record the reason for the
1393 request; ~~or~~

1394 (c) The affidavit described in subsection (2); or

1395 (d) The electronic journal or record made by the notary
1396 public pursuant to the laws of the state in which the notary
1397 public is appointed if the power of attorney is witnessed or
1398 notarized remotely through the use of online witnesses or
1399 notarization.

1400 (4) An English translation, ~~or~~ an opinion of counsel, or an
1401 electronic journal or record requested under this section must
1402 be provided at the principal's expense unless the request is
1403 made after the time specified in s. 709.2120(1) for acceptance



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1404 or rejection of the power of attorney.

1405 Section 28. Subsection (4) of section 709.2120, Florida
1406 Statutes, is amended to read:

1407 709.2120 Rejecting power of attorney.—

1408 (4) A third person is not required to accept a power of
1409 attorney if:

1410 (a) The third person is not otherwise required to engage in
1411 a transaction with the principal in the same circumstances;

1412 (b) The third person has knowledge of the termination or
1413 suspension of the agent's authority or of the power of attorney
1414 before exercising the power;

1415 (c) A timely request by the third person for an affidavit,
1416 English translation, ~~or~~ opinion of counsel, or electronic
1417 journal or record under s. 709.2119 ~~s. 709.2119(4)~~ is refused by
1418 the agent;

1419 (d) The power of attorney is witnessed or notarized
1420 remotely through the use of online witnesses or notarization,
1421 and either the agent is unable to produce the electronic journal
1422 or record, or the notary public did not maintain an electronic
1423 journal or record of the notarization;

1424 (e) ~~(d)~~ Except as provided in paragraph (b), the third
1425 person believes in good faith that the power is not valid or
1426 that the agent does not have authority to perform the act
1427 requested; or

1428 (f) ~~(e)~~ The third person makes, or has knowledge that
1429 another person has made, a report to the local adult protective
1430 services office stating a good faith belief that the principal
1431 may be subject to physical or financial abuse, neglect,
1432 exploitation, or abandonment by the agent or a person acting for



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1433 or with the agent.

1434 Section 29. Present subsection (6) of section 709.2202,
1435 Florida Statutes, is renumbered as subsection (7), and a new
1436 subsection (6) is added to that section, to read:

1437 709.2202 Authority that requires separate signed
1438 enumeration.—

1439 (6) Notwithstanding subsection (1) and s. 709.2106(3), a
1440 power of attorney, executed by a principal domiciled in this
1441 state at the time of execution, that is witnessed remotely
1442 pursuant to s. 117.285 or other applicable law by a witness who
1443 is not in the physical presence of the principal is not
1444 effective to grant authority to an agent to take any of the
1445 actions enumerated in subsection (1).

1446 Section 30. Subsection (40) of section 731.201, Florida
1447 Statutes, is amended to read:

1448 731.201 General definitions.—Subject to additional
1449 definitions in subsequent chapters that are applicable to
1450 specific chapters or parts, and unless the context otherwise
1451 requires, in this code, in s. 409.9101, and in chapters 736,
1452 738, 739, and 744, the term:

1453 (40) "Will" means an instrument, including a codicil,
1454 executed by a person in the manner prescribed by this code,
1455 which disposes of the person's property on or after his or her
1456 death and includes an instrument which merely appoints a
1457 personal representative or revokes or revises another will. The
1458 term includes an electronic will as defined in s. 732.521.

1459 Section 31. Section 732.506, Florida Statutes, is amended
1460 to read:

1461 732.506 Revocation by act.—A will or codicil, other than an



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1462 electronic will, is revoked by the testator, or some other
1463 person in the testator's presence and at the testator's
1464 direction, by burning, tearing, canceling, defacing,
1465 obliterating, or destroying it with the intent, and for the
1466 purpose, of revocation. An electronic will or codicil is revoked
1467 by the testator, or some other person in the testator's presence
1468 and at the testator's direction, by deleting, canceling,
1469 rendering unreadable, or obliterating the electronic will or
1470 codicil, with the intent, and for the purpose, of revocation, as
1471 proved by clear and convincing evidence.

1472 Section 32. Section 732.521, Florida Statutes, is created
1473 to read:

1474 732.521 Definitions.—As used in ss. 732.521-732.525, the
1475 term:

1476 (1) "Audio-video communication technology" has the same
1477 meaning as provided in s. 117.201.

1478 (2) "Electronic record" has the same meaning as provided in
1479 s. 668.50.

1480 (3) "Electronic signature" means an electronic mark visibly
1481 manifested in a record as a signature and executed or adopted by
1482 a person with the intent to sign the record.

1483 (4) "Electronic will" means an instrument, including a
1484 codicil, executed with an electronic signature by a person in
1485 the manner prescribed by this code, which disposes of the
1486 person's property on or after his or her death and includes an
1487 instrument which merely appoints a personal representative or
1488 revokes or revises another will.

1489 (5) "Online notarization" has the same meaning as provided
1490 in s. 117.201.



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1491 (6) "Online notary public" has the same meaning as provided
1492 in s. 117.201.

1493 (7) "Qualified custodian" means a person who meets the
1494 requirements of s. 732.525(1).

1495 (8) "Secure system" means a system that satisfies the
1496 requirements of a secure repository qualified to retain
1497 electronic journals of online notaries public in accordance with
1498 s. 117.245 and any rules established under part II of chapter
1499 117.

1500 Section 33. Effective July 1, 2020, section 732.522,
1501 Florida Statutes, is created to read:

1502 732.522 Method and place of execution.—For purposes of the
1503 execution or filing of an electronic will, the acknowledgment of
1504 an electronic will by the testator and the affidavits of
1505 witnesses under s. 732.503, or any other instrument under the
1506 Florida Probate Code:

1507 (1) Any requirement that an instrument be signed may be
1508 satisfied by an electronic signature.

1509 (2) Any requirement that individuals sign an instrument in
1510 the presence of one another may be satisfied by witnesses being
1511 present and electronically signing by means of audio-video
1512 communication technology that meets the requirements of part II
1513 of chapter 117 and any rules adopted thereunder, if:

1514 (a) The individuals are supervised by a notary public in
1515 accordance with s. 117.285;

1516 (b) The individuals are authenticated and signing as part
1517 of an online notarization session in accordance with s. 117.265;

1518 (c) The witness hears the signer make a statement
1519 acknowledging that the signer has signed the electronic record;



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1520 and

1521 (d) The signing and witnessing of the instrument complies
1522 with the requirements of s. 117.285.

1523 (3) Except as otherwise provided in this part, all
1524 questions as to the force, effect, validity, and interpretation
1525 of an electronic will which comply with this section must be
1526 determined in the same manner as in the case of a will executed
1527 in accordance with s. 732.502.

1528 (4) An instrument that is signed electronically is deemed
1529 to be executed in this state if the instrument states that the
1530 person creating the instrument intends to execute and
1531 understands that he or she is executing the instrument in, and
1532 pursuant to the laws of, this state.

1533 Section 34. Section 732.523, Florida Statutes, is created
1534 to read:

1535 732.523 Self-proof of electronic will.—An electronic will
1536 is self-proved if:

1537 (1) The acknowledgment of the electronic will by the
1538 testator and the affidavits of the witnesses are made in
1539 accordance with s. 732.503 and are part of the electronic record
1540 containing the electronic will, or are attached to, or are
1541 logically associated with, the electronic will;

1542 (2) The electronic will designates a qualified custodian;

1543 (3) The electronic record that contains the electronic will
1544 is held in the custody of a qualified custodian at all times
1545 before being offered to the court for probate; and

1546 (4) The qualified custodian who has custody of the
1547 electronic will at the time of the testator's death certifies
1548 under oath that, to the best knowledge of the qualified



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1549 custodian, the electronic record that contains the electronic
1550 will was at all times before being offered to the court in the
1551 custody of a qualified custodian in compliance with s. 732.524
1552 and that the electronic will has not been altered in any way
1553 since the date of its execution.

1554 Section 35. Section 732.524, Florida Statutes, is created
1555 to read:

1556 732.524 Qualified custodians.—

1557 (1) To serve as a qualified custodian of an electronic
1558 will, a person must be:

1559 (a) Domiciled in and a resident of this state; or

1560 (b) Incorporated, organized, or have its principal place of
1561 business in this state.

1562 (2) A qualified custodian shall:

1563 (a) In the course of maintaining custody of electronic
1564 wills, regularly employ a secure system and store in such secure
1565 system electronic records containing:

1566 1. Electronic wills;

1567 2. Records attached to or logically associated with
1568 electronic wills; and

1569 3. Acknowledgments of the electronic wills by testators,
1570 affidavits of the witnesses, and the records described in s.
1571 117.245(1) and (2) which pertain to the online notarization; and

1572 (b) Furnish for any court hearing involving an electronic
1573 will that is currently or was previously stored by the qualified
1574 custodian any information requested by the court pertaining to
1575 the qualified custodian's qualifications, policies, and
1576 practices related to the creation, sending, communication,
1577 receipt, maintenance, storage, and production of electronic



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1578 wills.

1579 (c) Provide access to or information concerning the
1580 electronic will, or the electronic record containing the
1581 electronic will, only:

1582 1. To the testator;

1583 2. To persons authorized by the testator in the electronic
1584 will or in written instructions signed by the testator with the
1585 formalities required for the execution of a will in this state;

1586 3. After the death of the testator, to the testator's
1587 nominated personal representative; or

1588 4. At any time, as directed by a court of competent
1589 jurisdiction.

1590 (3) The qualified custodian of the electronic record of an
1591 electronic will may elect to destroy such record, including any
1592 of the documentation required to be created and stored under
1593 paragraph (1)(b), at any time after the earlier of the fifth
1594 anniversary of the conclusion of the administration of the
1595 estate of the testator or 20 years after the death of the
1596 testator.

1597 (4) A qualified custodian who at any time maintains custody
1598 of the electronic record of an electronic will may elect to
1599 cease serving in such capacity by:

1600 (a) Delivering the electronic will or the electronic record
1601 containing the electronic will to the testator, if then living,
1602 or, after the death of the testator, by filing the will with the
1603 court in accordance with s. 732.901; and

1604 (b) If the outgoing qualified custodian intends to
1605 designate a successor qualified custodian, by doing the
1606 following:



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1607 1. Providing written notice to the testator of the name,
1608 address, and qualifications of the proposed successor qualified
1609 custodian. The testator must provide written consent before the
1610 electronic record, including the electronic will, is delivered
1611 to a successor qualified custodian;

1612 2. Delivering the electronic record containing the
1613 electronic will to the successor qualified custodian; and

1614 3. Delivering to the successor qualified custodian an
1615 affidavit of the outgoing qualified custodian stating that:

1616 a. The outgoing qualified custodian is eligible to act as a
1617 qualified custodian in this state;

1618 b. The outgoing qualified custodian is the qualified
1619 custodian designated by the testator in the electronic will or
1620 appointed to act in such capacity under this paragraph;

1621 c. The electronic will has at all times been in the custody
1622 of one or more qualified custodians in compliance with this
1623 section since the time the electronic record was created, and
1624 identifying such qualified custodians; and

1625 d. To the best of the outgoing qualified custodian's
1626 knowledge, the electronic will has not been altered since the
1627 time it was created.

1628

1629 For purposes of making this affidavit, the outgoing qualified
1630 custodian may rely conclusively on any affidavits delivered by a
1631 predecessor qualified custodian in connection with its
1632 designation or appointment as qualified custodian; however, all
1633 such affidavits must be delivered to the successor qualified
1634 custodian.

1635 (5) Upon the request of the testator which is made in a



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1636 writing signed with the formalities required for the execution
1637 of a will in this state, a qualified custodian who at any time
1638 maintains custody of the electronic record of the testator's
1639 electronic will must cease serving in such capacity and must
1640 deliver to a successor qualified custodian designated in writing
1641 by the testator the electronic record containing the electronic
1642 will and the affidavit required in subparagraph (4) (b) 3.

1643 (6) A qualified custodian may not succeed to office as a
1644 qualified custodian of an electronic will unless he or she
1645 agrees in writing to serve in such capacity.

1646 (7) If a qualified custodian is an entity, an affidavit, or
1647 an appearance by the testator in the presence of a duly
1648 authorized officer or agent of such entity, acting in his or her
1649 own capacity as such, shall constitute an affidavit, or an
1650 appearance by the testator in the presence of the qualified
1651 custodian.

1652 (8) A qualified custodian must provide a paper copy of an
1653 electronic will and the electronic record containing the
1654 electronic will to the testator immediately upon request. For
1655 the first request, the testator may not be charged a fee for
1656 being provided with these documents.

1657 (9) The qualified custodian shall be liable for any damages
1658 caused by the negligent loss or destruction of the electronic
1659 record, including the electronic will, while it is in the
1660 possession of the qualified custodian. A qualified custodian may
1661 not limit liability for such damages.

1662 (10) A qualified custodian may not terminate or suspend
1663 access to, or downloads of, the electronic will by the testator,
1664 provided that a qualified custodian may charge a fee for



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1665 providing such access and downloads.

1666 (11) Upon receiving information that the testator is dead,
1667 a qualified custodian must deposit the electronic will with the
1668 court in accordance with s. 732.901. A qualified custodian may
1669 not charge a fee for depositing the electronic will with the
1670 clerk, provided the affidavit is made in accordance with s.
1671 732.503, or furnishing in writing any information requested by a
1672 court under paragraph (1) (c).

1673 (12) Except as provided in this act, a qualified custodian
1674 must at all times keep information provided by the testator
1675 confidential and may not disclose such information to any third
1676 party.

1677 (13) A contractual venue provision between a qualified
1678 custodian and a testator is not valid or enforceable to the
1679 extent that it requires a specific jurisdiction or venue for any
1680 proceeding relating to the probate of an estate or the contest
1681 of a will.

1682 Section 36. Section 732.525, Florida Statutes, is created
1683 to read:

1684 732.525 Liability coverage; receivership of qualified
1685 custodians.—

1686 (1) A qualified custodian shall:

1687 (a) Post and maintain a blanket surety bond of at least
1688 \$250,000 to secure the faithful performance of all duties and
1689 obligations required under this part. The bond must be made
1690 payable to the Governor and his or her successors in office for
1691 the benefit of all persons who store electronic records with a
1692 qualified custodian and their estates, beneficiaries,
1693 successors, and heirs, and be conditioned on the faithful



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1694 performance of all duties and obligations under this chapter.
1695 The terms of the bond must cover the acts or omissions of the
1696 qualified custodian and each agent or employee of the qualified
1697 custodian; or

1698 (b) Maintain a liability insurance policy that covers any
1699 losses sustained by any person who stores electronic records
1700 with a qualified custodian and their estates, beneficiaries,
1701 successors, and heirs which are caused by errors or omissions by
1702 the qualified custodian and each agent or employee of the
1703 qualified custodian. The policy must cover losses of at least
1704 \$250,000 in the aggregate.

1705 (2) The Attorney General may petition a court of competent
1706 jurisdiction for the appointment of a receiver to manage the
1707 electronic records of a qualified custodian for proper delivery
1708 and safekeeping if any of the following conditions exist:

1709 (a) The qualified custodian is ceasing operation;

1710 (b) The qualified custodian intends to close the facility
1711 and adequate arrangements have not been made for proper delivery
1712 of the electronic records in accordance with this part;

1713 (c) The Attorney General determines that conditions exist
1714 which present a danger that electronic records will be lost or
1715 misappropriated; or

1716 (d) The qualified custodian fails to maintain and post a
1717 surety bond or maintain insurance as required in this section.

1718 Section 37. Section 732.526, Florida Statutes, is created
1719 to read:

1720 732.526 Probate.—

1721 (1) An electronic will that is filed electronically with
1722 the clerk of the court through the Florida Courts E-Filing



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1723 Portal is deemed to have been deposited with the clerk as an
1724 original of the electronic will.

1725 (2) A paper copy of an electronic will which is certified
1726 by a notary public to be a true and correct copy of the
1727 electronic will may be offered for and admitted to probate and
1728 shall constitute an original of the electronic will.

1729 Section 38. Subsection (1) of section 733.201, Florida
1730 Statutes, is amended to read:

1731 733.201 Proof of wills.—

1732 (1) Self-proved wills executed in accordance with this code
1733 may be admitted to probate without further proof. However, a
1734 purportedly self-proved electronic will may be admitted to
1735 probate only in the manners prescribed in subsections (2) and
1736 (3) if the execution of such electronic will, or the
1737 acknowledgment by the testator and the affidavits of the
1738 witnesses, involves an online notarization in which there was a
1739 substantial failure to comply with the procedures set forth in
1740 s. 117.265.

1741 Section 39. Section 740.10, Florida Statutes, is created to
1742 read:

1743 740.10 Relation to wills.—No act taken pursuant to this
1744 chapter is valid to affect the obligation of a person to deposit
1745 a will of a decedent as required under s. 732.901.

1746 Section 40. Except as otherwise expressly provided in this
1747 act, and except for this section, which shall take effect upon
1748 becoming a law, this act shall take effect January 1, 2020.

1749
1750 ===== T I T L E A M E N D M E N T =====

1751 And the title is amended as follows:



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1752 Delete everything before the enacting clause
1753 and insert:

1754 A bill to be entitled
1755 An act relating to electronic legal documents;
1756 providing directives to the Division of Law Revision;
1757 amending s. 117.01, F.S.; revising provisions relating
1758 to use of the office of notary public; amending s.
1759 117.021, F.S.; requiring electronic signatures to
1760 include access protection; prohibiting a person from
1761 requiring a notary public to perform a notarial act
1762 with certain technology; requiring the Department of
1763 State, in collaboration with the Agency for State
1764 Technology, to adopt rules for certain purposes;
1765 amending s. 117.05, F.S.; revising limitations on
1766 notary fees to conform to changes made by the act;
1767 providing for inclusion of certain information in a
1768 jurat or notarial certificate; providing for
1769 compliance with online notarization requirements;
1770 providing for notarial certification of a printed
1771 electronic record; revising statutory forms for jurats
1772 and notarial certificates; amending s. 117.107, F.S.;
1773 providing applicability; revising prohibited acts;
1774 creating s. 117.201, F.S.; providing definitions;
1775 creating s. 117.209, F.S.; authorizing online
1776 notarizations; providing an exception; creating s.
1777 117.215, F.S.; specifying the application of other
1778 laws in relation to online notarizations; creating s.
1779 117.225, F.S.; specifying registration and
1780 qualification requirements for online notaries public;



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1781 creating s. 117.235, F.S.; authorizing the performance
1782 of certain notarial acts; creating s. 117.245, F.S.;
1783 requiring an online notary public to keep electronic
1784 journals of online notarizations and certain audio-
1785 video communication recordings; specifying the
1786 information that must be included for each online
1787 notarization; requiring that an online notary public
1788 retain a copy of the recording of an audio-video
1789 communication; specifying requirements for the
1790 recording; requiring an online notary public to take
1791 certain steps regarding the maintenance and security
1792 of the electronic journal; specifying that the
1793 Department of State maintains jurisdiction for a
1794 specified period of time for purposes of investigating
1795 notarial misconduct; authorizing the use of specified
1796 information for evidentiary purposes; creating s.
1797 117.255, F.S.; specifying requirements for the use of
1798 electronic journals, signatures, and seals; requiring
1799 an online notary public to provide notification of the
1800 theft, vandalism, or loss of an electronic journal,
1801 signature, or seal; authorizing an online notary
1802 public to make copies of electronic journal entries
1803 and to provide access to related recordings under
1804 certain circumstances; authorizing an online notary
1805 public to charge a fee for making and delivering such
1806 copies; providing an exception; creating s. 117.265,
1807 F.S.; prescribing online notarization procedures;
1808 specifying the manner by which an online notary public
1809 must verify the identity of a principal or a witness;



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1810 requiring an online notary public to take certain
1811 measures as to the security of technology used;
1812 specifying that an electronic notarial certificate
1813 must identify the performance of an online
1814 notarization; specifying that noncompliance does not
1815 impair the validity of a notarial act or the notarized
1816 electronic record; authorizing the use of specified
1817 information for evidentiary purposes; providing for
1818 construction; creating s. 117.275, F.S.; providing
1819 fees for online notarizations; creating s. 117.285,
1820 F.S.; specifying the manner by which an online notary
1821 public may supervise the witnessing of electronic
1822 records of online notarizations; specifying
1823 circumstances under which an instrument is voidable;
1824 specifying duties of remote online notarization
1825 service providers and online notaries public;
1826 specifying applicable law and jurisdiction regarding
1827 witnessing; creating s. 117.295, F.S.; authorizing the
1828 department to adopt rules and standards for online
1829 notarizations; providing minimum standards for online
1830 notarizations until such rules are adopted; creating
1831 s. 117.305, F.S.; superseding certain provisions of
1832 federal law regulating electronic signatures; amending
1833 s. 28.222, F.S.; requiring the clerk of the circuit
1834 court to record certain instruments; amending s.
1835 92.50, F.S.; revising requirements for oaths,
1836 affidavits, and acknowledgments; amending s. 95.231,
1837 F.S.; providing a limitation period for certain
1838 recorded instruments; amending s. 689.01, F.S.;



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1839 providing for witnessing of documents in connection
1840 with real estate conveyances; providing for validation
1841 of certain recorded documents; amending s. 694.08,
1842 F.S.; providing for validation of certain recorded
1843 documents; amending s. 695.03, F.S.; providing and
1844 revising requirements for making acknowledgments,
1845 proofs, and other documents; amending s. 695.04, F.S.;
1846 conforming provisions to changes made by the act;
1847 amending s. 695.25, F.S.; revising the statutory short
1848 form of acknowledgments to include acknowledgment by
1849 online notarization; amending s. 695.28, F.S.;
1850 providing for validity of recorded documents;
1851 conforming provisions to changes made by the act;
1852 amending s. 709.2119, F.S.; authorizing the acceptance
1853 of a power of attorney based upon an electronic
1854 journal or electronic record made by a notary public;
1855 amending s. 709.2120, F.S.; prohibiting acceptance of
1856 a power of attorney if witnessed or notarized
1857 remotely; amending s. 709.2202, F.S.; prohibiting
1858 certain authority granted through a power of attorney
1859 if witnessed or notarized remotely; amending s.
1860 731.201, F.S.; redefining the term "will" to conform
1861 to changes made by the act; amending s. 732.506, F.S.;
1862 exempting electronic wills from provisions governing
1863 the revocation of wills and codicils; prescribing the
1864 manner by which an electronic will or codicil may be
1865 revoked; creating s. 732.521, F.S.; providing
1866 definitions; creating s. 732.522, F.S.; prescribing
1867 the manner by which an electronic will must be



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1868 executed; creating s. 732.523, F.S.; specifying
1869 requirements for the self-proof of an electronic will;
1870 creating s. 732.524, F.S.; specifying requirements
1871 necessary to serve as a qualified custodian of an
1872 electronic will; creating s. 732.525, F.S.; requiring
1873 a qualified custodian to post and maintain a blanket
1874 surety bond of a specified amount and maintain
1875 liability insurance; authorizing the Attorney General
1876 to petition a court to appoint a receiver to manage
1877 electronic records of a qualified custodian; creating
1878 s. 732.526, F.S.; specifying conditions by which an
1879 electronic will is deemed to be an original will;
1880 amending s. 733.201, F.S.; requiring that self-proved
1881 electronic wills meet certain requirements for
1882 admission to probate; creating s. 740.10, F.S.;
1883 specifying that any act taken pursuant to ch. 740,
1884 F.S., does not affect the requirement that a will be
1885 deposited within a certain timeframe; providing
1886 effective dates.