

By Senator Brandes

24-00168A-19

2019548__

1 A bill to be entitled
2 An act relating to electronic legal documents;
3 providing directives to the Division of Law Revision;
4 amending s. 117.01, F.S.; revising provisions relating
5 to use of the office of notary public; amending s.
6 117.021, F.S.; requiring electronic signatures to
7 include access protection; prohibiting a person from
8 requiring a notary public to perform a notarial act
9 with certain technology; requiring the Department of
10 State, in collaboration with the Agency for State
11 Technology, to adopt rules for certain purposes;
12 amending s. 117.05, F.S.; revising limitations on
13 notary fees to conform to changes made by the act;
14 providing for the inclusion of certain information in
15 a jurat or notarial certificate; providing for
16 compliance with online notarization requirements;
17 providing for notarial certification of a printed
18 electronic record; revising statutory forms for jurats
19 and notarial certificates; amending s. 117.107, F.S.;
20 providing applicability; revising prohibited acts;
21 creating s. 117.201, F.S.; providing definitions;
22 creating s. 117.209, F.S.; authorizing online
23 notarizations; providing an exception; creating s.
24 117.215, F.S.; specifying the application of other
25 laws in relation to online notarizations; creating s.
26 117.225, F.S.; specifying registration and
27 qualification requirements for online notaries public;
28 creating s. 117.235, F.S.; authorizing the performance
29 of certain notarial acts; creating s. 117.245, F.S.;

24-00168A-19

2019548__

30 requiring a notary public to keep electronic journals
31 of online notarial acts and certain audio-video
32 communication recordings; specifying the information
33 that must be included for each online notarization;
34 requiring an online notary public to take certain
35 steps regarding the maintenance and security of the
36 electronic journal; specifying that the Department of
37 State maintains jurisdiction for a specified period of
38 time for purposes of investigating notarial
39 misconduct; authorizing the use of specified
40 information for evidentiary purposes; creating s.
41 117.255, F.S.; specifying requirements for the use of
42 electronic journals, signatures, and seals; requiring
43 an online notary public to provide notification of the
44 theft, vandalism, or loss of an electronic journal,
45 signature, or seal; authorizing an online notary
46 public to make copies of electronic journal entries
47 and to provide access to related recordings under
48 certain circumstances; authorizing an online notary
49 public to charge a fee for making and delivering such
50 copies; providing an exception; creating s. 117.265,
51 F.S.; prescribing online notarization procedures;
52 specifying the manner by which an online notary public
53 must verify the identity of a principal or a witness;
54 requiring an online notary public to take certain
55 measures as to the security of technology used;
56 specifying that an electronic notarial certificate
57 must identify the performance of an online
58 notarization; specifying that noncompliance does not

24-00168A-19

2019548__

59 impair the validity of a notarial act or the notarized
60 electronic record; authorizing the use of specified
61 information for evidentiary purposes; providing for
62 construction; creating s. 117.275, F.S.; providing
63 fees for online notarizations; creating s. 117.285,
64 F.S.; specifying the manner by which an online notary
65 public may supervise the witnessing of electronic
66 records of online notarizations; creating s. 117.295,
67 F.S.; authorizing the department to adopt rules and
68 standards for online notarizations; providing minimum
69 standards for online notarizations until such rules
70 are adopted; creating s. 117.305, F.S.; superseding
71 certain provisions of federal law regulating
72 electronic signatures; amending s. 28.222, F.S.;
73 requiring the clerk of the circuit court to record
74 certain instruments; amending s. 90.803, F.S.;
75 creating a hearsay exception for certain electronic
76 records created and stored by a qualified custodian;
77 amending s. 92.50, F.S.; revising requirements for
78 oaths, affidavits, and acknowledgements; amending s.
79 95.231, F.S.; providing a limitation period for
80 certain recorded instruments; amending s. 689.01,
81 F.S.; providing for the witnessing of documents in
82 connection with real estate conveyances; providing for
83 the validation of certain recorded documents; amending
84 s. 694.08, F.S.; providing for the validation of
85 certain recorded documents; amending s. 695.03, F.S.;
86 providing and revising requirements for making
87 acknowledgments, proofs, and other documents; amending

24-00168A-19

2019548__

88 s. 695.04, F.S.; conforming provisions to changes made
89 by the act; amending s. 695.25, F.S.; revising the
90 statutory short form of acknowledgements to include
91 acknowledgement by online notarization; amending s.
92 695.28, F.S.; revising the criteria under which an
93 electronic document is deemed to be validly recorded;
94 conforming provisions to changes made by the act;
95 amending s. 709.2119, F.S.; authorizing the acceptance
96 of a power of attorney based upon an electronic
97 journal or electronic record made by a notary public;
98 amending s. 709.2120, F.S.; prohibiting acceptance of
99 a power of attorney if witnessed or notarized
100 remotely; amending s. 709.2202, F.S.; prohibiting the
101 granting of certain authority through a power of
102 attorney that is witnessed or notarized remotely;
103 amending s. 731.201, F.S.; redefining the term "will"
104 to conform to changes made by the act; amending s.
105 732.506, F.S.; exempting electronic wills from
106 provisions governing the revocation of wills and
107 codicils; prescribing the manner by which an
108 electronic will or codicil may be revoked; creating s.
109 732.521, F.S.; providing definitions; creating s.
110 732.522, F.S.; prescribing the manner by which an
111 electronic will must be executed; creating s. 732.523,
112 F.S.; specifying requirements for the self-proof of an
113 electronic will; creating s. 732.524, F.S.; specifying
114 requirements necessary to serve as a qualified
115 custodian of an electronic will; creating s. 732.525,
116 F.S.; requiring a qualified custodian to post and

24-00168A-19

2019548__

117 maintain a blanket surety bond of a specified amount
 118 and maintain liability insurance; authorizing the
 119 Attorney General to petition a court to appoint a
 120 receiver to manage electronic records of a qualified
 121 custodian; creating s. 732.526, F.S.; specifying
 122 conditions by which an electronic will is deemed to be
 123 an original will; amending s. 733.201, F.S.; requiring
 124 that self-proved electronic wills meet certain
 125 requirements for admission to probate; creating s.
 126 740.10, F.S.; specifying that any act taken pursuant
 127 to ch. 740, F.S., does not affect the requirement that
 128 a will be deposited within a certain timeframe;
 129 providing effective dates.

130

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

132

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

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

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

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

142 117.01 Appointment, application, suspension, revocation,
 143 application fee, bond, and oath.—

144 (1) The Governor may appoint as many notaries public as he
 145 or she deems necessary, each of whom must ~~shall~~ be at least 18

24-00168A-19

2019548__

146 years of age and a legal resident of this ~~the~~ state. A permanent
147 resident alien may apply and be appointed and shall file with
148 his or her application a recorded Declaration of Domicile. The
149 residence required for appointment must be maintained throughout
150 the term of appointment. A notary public ~~Notaries public~~ shall
151 be appointed for 4 years and may only ~~shall~~ use and exercise the
152 office of notary public when he or she is within the boundaries
153 of this state. An applicant must be able to read, write, and
154 understand the English language.

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

160 117.021 Electronic notarization.—

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

163 (a) Unique to the notary public;

164 (b) Capable of independent verification;

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

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

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

174 (7) The Department of State, in collaboration with the

24-00168A-19

2019548__

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

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

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

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

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

200 (4) When notarizing a signature, a notary public shall
201 complete a jurat or notarial certificate in substantially the
202 same form as those found in subsection (13). The jurat or
203 certificate of acknowledgment shall contain the following

24-00168A-19

2019548__

204 elements:

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

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

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

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

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

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

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

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

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

229 (5) A notary public may not notarize a signature on a
230 document unless he or she personally knows, or has satisfactory
231 evidence, that the person whose signature is to be notarized is
232 the individual who is described in and who is executing the

24-00168A-19

2019548__

233 instrument. A notary public shall certify in the certificate of
234 acknowledgment or jurat the type of identification, either based
235 on personal knowledge or other form of identification, upon
236 which the notary public is relying. In the case of an online
237 notarization, the online notary public shall comply with the
238 requirements set forth in part II of this chapter.

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

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

249 1. The sworn written statement of one credible witness
250 personally known to the notary public or the sworn written
251 statement of two credible witnesses whose identities are proven
252 to the notary public upon the presentation of satisfactory
253 evidence that each of the following is true:

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

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

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

24-00168A-19

2019548__

262 identification;

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

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

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

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

275 b. A passport issued by the Department of State of the
276 United States;

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

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

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

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

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

24-00168A-19

2019548__

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

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

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

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

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

312
313 STATE OF FLORIDA
314 COUNTY OF
315

316 On this day of, ... (year)..., I attest that the
317 preceding or attached document is a true, exact, complete, and
318 unaltered ... (copy of a tangible or an electronic record
319 presented to me by the document's custodian)... or a

24-00168A-19

2019548__

320 ...(printout made by me from such record).... If a printout, I
 321 further attest that at the time of printing, no security
 322 features, if any, present on the electronic record, indicated
 323 that the record had been altered since execution.

324
 325 ...(Signature of Notary Public - State of Florida)...
 326 ...(Print, Type, or Stamp Commissioned Name of Notary Public)...
 327

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

332 (a) For an oath or affirmation:
 333

334 STATE OF FLORIDA
 335 COUNTY OF

336
 337 Sworn to (or affirmed) and subscribed before me by means of
 338 [] physical presence or [] online notarization, this day of
 339, ...(year)..., by ...(name of person making
 340 statement)....

341
 342 ...(Signature of Notary Public - State of Florida)...
 343 ...(Print, Type, or Stamp Commissioned Name of Notary Public)...
 344 Personally Known OR Produced Identification
 345

346
 347 Type of Identification Produced.....
 348

24-00168A-19

2019548__

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

350

351 STATE OF FLORIDA

352 COUNTY OF

353

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

357

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

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

360 Personally Known OR Produced Identification

361

362 Type of Identification Produced.....

363

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

365

366 STATE OF FLORIDA

367 COUNTY OF

368

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

374

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

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

377 Personally Known OR Produced Identification

24-00168A-19

2019548__

378
379 Type of Identification Produced.....
380

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

383 (a) A notary public may notarize the signature of a person
384 who is blind after the notary public has read the entire
385 instrument to that person.

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

388 1. The document signing is witnessed by two disinterested
389 persons;

390 2. The notary public prints the person's first name at the
391 beginning of the designated signature line and the person's last
392 name at the end of the designated signature line; and

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

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

397 1. For an oath or affirmation:

398
399 ... (First Name) ... (Last Name) ...
400 ... His (or Her) Mark ...

401
402 STATE OF FLORIDA

403 COUNTY OF

404
405 Sworn to and subscribed before me by means of [] physical
406 presence or [] online notarization, this day of,

24-00168A-19

2019548__

407 ... (year) ..., by ... (name of person making statement) ..., who
408 signed with a mark in the presence of these witnesses:

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

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

412 Personally Known OR Produced Identification

413

414 Type of Identification Produced.....

415

416 2. For an acknowledgment in an individual capacity:

417

418 ... (First Name) (Last Name) ...

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

420

421 STATE OF FLORIDA

422 COUNTY OF

423

424 The foregoing instrument was acknowledged before me by means of

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

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

427 who signed with a mark in the presence of these witnesses:

428

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

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

431 Personally Known OR Produced Identification

432

433 Type of Identification Produced.....

434

435 (d) A notary public may sign the name of a person whose

24-00168A-19

2019548__

436 signature is to be notarized when that person is physically
437 unable to sign or make a signature mark on a document if:

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

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

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

448
449 The notary public must maintain the proof of direction and
450 authorization to sign on behalf of the person with a disability
451 for at least 10 years after the date of the notarial act.

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

455 1. For an oath or affirmation:

456
457 STATE OF FLORIDA
458 COUNTY OF

459
460 Sworn to (or affirmed) before me by means of [] physical
461 presence or [] online notarization, this day of,
462 ... (year) ..., by ... (name of person making statement) ..., and
463 subscribed by ... (name of notary) ... at the direction of ~~and in~~
464 ~~the presence of~~ ... (name of person making statement) ... by

24-00168A-19

2019548__

465 ...(written, verbal, or other means)..., and in the presence of
466 these witnesses:

467
468 ...(Signature of Notary Public - State of Florida)...

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

470 Personally Known OR Produced Identification

471

472 Type of Identification Produced.....

473

474 2. For an acknowledgment in an individual capacity:

475

476 STATE OF FLORIDA

477 COUNTY OF

478

479 The foregoing instrument was acknowledged before me by means of

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

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

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

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

484 the presence of these witnesses:

485

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

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

488 Personally Known OR Produced Identification

489

490 Type of Identification Produced.....

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

492 Florida Statutes, are amended to read:

493 117.107 Prohibited acts.-

24-00168A-19

2019548__

494 (2) A notary public may not sign notarial certificates
495 using a facsimile signature stamp unless the notary public has a
496 physical disability that limits or prohibits his or her ability
497 to make a written signature and unless the notary public has
498 first submitted written notice to the Department of State with
499 an exemplar of the facsimile signature stamp. This subsection
500 does not apply to or prohibit the use of an electronic signature
501 and seal by a notary public who is registered as an online
502 notary public to perform an electronic or online notarization in
503 accordance with this chapter.

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

518 Section 6. Section 117.201, Florida Statutes, is created to
519 read:

520 117.201 Definitions.—As used in this part, the term:

521 (1) "Appear before," "before," or "in the presence of"
522 means:

24-00168A-19

2019548__

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

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

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

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

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

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

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

548 (7) "Identity proofing" means a process or service in
549 compliance with applicable law in which a third party affirms
550 the identity of an individual through use of public or
551 proprietary data sources, which may include by means of

24-00168A-19

2019548__

552 knowledge-based authentication or biometric verification.

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

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

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

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

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

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

578 (14) "Remote online notarization service provider" or "RON
579 service provider" means a person who provides audio-video
580 communication technology and related processes, services,

24-00168A-19

2019548__

581 software, data storage, or other services to online notaries
582 public for the purpose of directly facilitating their
583 performance of online notarizations in compliance with this
584 chapter and any rules adopted by the Department of State
585 pursuant to s. 117.295.

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

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

594 117.209 Authority to perform online notarizations.—

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

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

606 (3) An online notary public physically located in this
607 state may perform an online notarization as authorized under
608 this part, regardless of whether the principal or any witnesses
609 are physically located in this state at the time of the online

24-00168A-19

2019548__

610 notarization. A commissioner of deeds registered as an online
611 notary public may perform an online notarization while
612 physically located within or outside the state in accordance
613 with the territorial limits of its jurisdiction and other
614 limitations and requirements otherwise applicable to acts by
615 commissioners of deeds.

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

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

623 117.215 Relation to other laws.-

624 (1) If a provision of law requires a notary public or other
625 authorized official of this state to notarize a signature or a
626 statement, to take an acknowledgement of an instrument, or to
627 administer an oath or affirmation so that a document may be
628 sworn, affirmed, made under oath, or subject to penalty of
629 perjury, an online notarization performed in accordance with
630 this part and any rules adopted hereunder satisfies such
631 requirement.

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

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

638 117.225 Registration; qualifications.-A notary public, a

24-00168A-19

2019548__

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

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

649 (2) Certifying that the notary public, civil-law notary, or
650 commissioner of deeds registering as an online notary public has
651 completed a classroom or online course covering the duties,
652 obligations, and technology requirements for serving as an
653 online notary public.

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

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

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

664 (6) Providing evidence satisfactory to the Department of
665 State that the registrant has obtained a bond, payable to any
666 individual harmed as a result of a breach of duty by the
667 registrant acting in his or her official capacity as an online

24-00168A-19

2019548__

668 notary public, conditioned for the due discharge of the office,
669 and on such terms as are specified by rule by the Department of
670 State as reasonably necessary to protect the public. The bond
671 shall be approved and filed with the Department of State and
672 executed by a surety company duly authorized to transact
673 business in this state. Compliance by an online notary public
674 with this requirement satisfies the requirement of obtaining a
675 bond under s. 117.01(7).

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

683 Section 10. Section 117.235, Florida Statutes, is created
684 to read:

685 117.235 Performance of notarial acts.-

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

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

694 Section 11. Section 117.245, Florida Statutes, is created
695 to read:

696 117.245 Electronic journal of online notarizations.-

24-00168A-19

2019548__

697 (1) An online notary public shall keep one or more secure
698 electronic journals of online notarial acts performed by the
699 online notary public. For each online notarization, the
700 electronic journal entry must contain all of the following:

701 (a) The date and time of the notarization.
702 (b) The type of notarial act.
703 (c) The type, the title, or a description of the electronic
704 record or proceeding.
705 (d) The name and address of each principal involved in the
706 transaction or proceeding.
707 (e) Evidence of the identity of each principal involved in
708 the transaction or proceeding in any of the following forms:

709 1. A statement that the person is personally known to the
710 online notary public.
711 2. A notation of the type of government-issued
712 identification credential provided to the online notary public.
713 (f) An indication that the principal satisfactorily passed
714 the identity proofing.
715 (g) An indication that the government-issued identification
716 credential satisfied the credential analysis.
717 (h) The fee, if any, charged for the notarization.

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

720 (a) The principal and any witnesses appeared before the
721 notary public.
722 (b) The identities of the principal and each witness were
723 confirmed.
724 (c) Electronic records were signed by the principal and any
725 witnesses.

24-00168A-19

2019548__

726 (d) The notarial act was performed.

727 (3) The online notary public shall take reasonable steps
728 to:

729 (a) Ensure the integrity, security, and authenticity of
730 online notarizations.

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

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

736 (4) The electronic journal required under subsection (1)
737 and the recordings of audio-video communications required under
738 subsection (2) must be maintained for at least 10 years after
739 the date of the notarial act. However, any records relating to
740 an online notarization session that involves the signing of an
741 electronic will must be maintained in accordance with s.
742 732.524. The Department of State maintains jurisdiction over the
743 electronic journal and audio-video communication recordings to
744 investigate notarial misconduct for a period of 10 years after
745 the date of the notarial act. The online notary public, a
746 guardian of an incapacitated online notary public, or the
747 personal representative of a deceased online notary public may,
748 by contract with a secure repository in accordance with any
749 rules established under this chapter, delegate to the repository
750 the online notary public's duty to retain the electronic journal
751 and the required recordings of audio-video communications,
752 provided that the Department of State is notified of such
753 delegation of retention duties to the repository within 30 days
754 thereafter, including the address and contact information for

24-00168A-19

2019548__

755 the repository.

756 (5) An omitted or incomplete entry in the electronic
757 journal does not impair the validity of the notarial act or the
758 electronic record that was notarized, but such an entry may be
759 introduced as evidence to establish violations of this chapter;
760 as evidence of possible fraud, forgery, impersonation, duress,
761 incapacity, undue influence, minority, illegality, or
762 unconscionability; or for other evidentiary purposes.

763 Section 12. Section 117.255, Florida Statutes, is created
764 to read:

765 117.255 Use of electronic journal, signature, and seal.—

766 (1) An online notary public shall:

767 (a) Take reasonable steps to ensure that any registered
768 device used to create an electronic signature is current and has
769 not been revoked or terminated by the issuing or registering
770 authority of the device.

771 (b) Keep the electronic journal, electronic signature, and
772 electronic seal secure and under his or her sole control, which
773 includes access protection using passwords or codes under
774 control of the online notary public. The online notary public
775 may not allow another person to use the online notary public's
776 electronic journal, electronic signature, or electronic seal,
777 other than a RON service provider or other authorized person
778 providing services to an online notary public to facilitate
779 performance of online notarizations.

780 (c) Attach or logically associate the electronic signature
781 and seal to the electronic notarial certificate of an electronic
782 record in a manner that is capable of independent verification
783 using tamper-evident technology that renders any subsequent

24-00168A-19

2019548__

784 change or modification to the electronic record evident.

785 (d) Notify an appropriate law enforcement agency and the
786 Department of State of any unauthorized use of or compromise to
787 the security of the electronic journal, official electronic
788 signature, or electronic seal within 7 days after discovery of
789 such unauthorized use or compromise to the security.

790 (e) Make electronic copies, upon request, of the pertinent
791 entries in the electronic journal and provide access to the
792 related audio-video communication recordings to the following
793 persons:

794 1. The parties to an electronic record notarized by the
795 online notary public;

796 2. The title agent, settlement agent, or title insurer who
797 insured the electronic record or engaged the online notary
798 public with regard to a real estate transaction;

799 3. The online notary public's RON service provider whose
800 services were used by the online notary public to notarize the
801 electronic record;

802 4. Any person who is asked to accept a power of attorney
803 that was notarized by the online notary public; and

804 5. The Department of State pursuant to a notary misconduct
805 investigation.

806 (2) The online notary public may charge a fee not to exceed
807 \$20 per transaction record for making and delivering electronic
808 copies of a given series of related electronic records, except
809 if requested by:

810 (a) A party to the transaction record;

811 (b) In a real estate transaction, the title agent, the
812 settlement agent, or title insurer who insured the transaction

24-00168A-19

2019548__

813 record or engaged the online notary public with regard to such
814 transaction; or

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

817
818 If the online notary public does charge a fee, the online notary
819 public must disclose the amount of such fee to the requester
820 before making the electronic copies.

821 Section 13. Section 117.265, Florida Statutes, is created
822 to read:

823 117.265 Online notarization procedures.—

824 (1) An online notary public physically located in this
825 state may perform an online notarization that meets the
826 requirements of this part regardless of whether the principal or
827 any witnesses are physically located in this state at the time
828 of the online notarization. A commissioner of deeds registered
829 as an online notary public may perform an online notarization
830 while physically located within or outside of this state in
831 accordance with the territorial limits of its jurisdiction and
832 other limitations and requirements otherwise applicable to acts
833 by commissioners of deeds. An online notarial act performed in
834 accordance with this chapter is deemed to have been performed
835 within this state and is governed by the applicable laws of this
836 state.

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

24-00168A-19

2019548__

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

846 (3) In performing an online notarization of a principal not
847 located within this state, an online notary public must confirm
848 that the principal desires for the notarial act to be performed
849 by a Florida notary public and under the general law of this
850 state.

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

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

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

857 1. Remote presentation of a government-issued
858 identification credential by each individual.

859 2. Credential analysis of each government-issued
860 identification credential.

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

864
865 If the online notary public is unable to confirm the identity of
866 the principal or any witness as provided in paragraph (b), or if
867 the databases consulted for identity proofing do not contain
868 sufficient information to permit authentication, the online
869 notary public may not perform the online notarization.

870 (5) An online notary public may change her or his RON

24-00168A-19

2019548__

871 service provider or providers at any time, but shall notify the
872 Department of State of such change within 30 days thereafter.

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

877 (7) The electronic notarial certificate for an online
878 notarization must include a notation that the notarization is an
879 online notarization which may be satisfied by placing the term
880 "online notary" in or adjacent to the online notary public's
881 seal.

882 (8) Except where otherwise expressly provided in this part,
883 part I of this chapter applies to an online notarization and an
884 online notary public.

885 (9) Any failure to comply with the online notarization
886 procedures set forth in this section does not impair the
887 validity of the notarial act or the electronic record that was
888 notarized, but may be introduced as evidence to establish
889 violations of this chapter; as an indication of possible fraud,
890 forgery, impersonation, duress, incapacity, undue influence,
891 minority, illegality, or unconscionability; or for other
892 evidentiary purposes. This subsection may not be construed to
893 alter the duty of an online notary public to comply with this
894 chapter and any rules adopted hereunder.

895 Section 14. Section 117.275, Florida Statutes, is created
896 to read:

897 117.275 Fees for online notarization.—An online notary
898 public or the employer of such online notary public may charge a
899 fee, not to exceed \$25, for performing an online notarization

24-00168A-19

2019548__

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

902 Section 15. Section 117.285, Florida Statutes, is created
903 to read:

904 117.285 Supervising the witnessing of electronic records.-
905 An online notary public may supervise the witnessing of
906 electronic records by the same audio-video communication
907 technology used for online notarization, as follows:

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

910 (2) The witness may be physically present with the
911 principal or remote from the principal, provided that the
912 witness and principal are using audio-video communication
913 technology.

914 (3) The act of witnessing an electronic signature means
915 that the witness is either in the physical presence of the
916 principal or present through audio-video communication
917 technology at the time the principal affixes the electronic
918 signature and hears the principal make a statement to the effect
919 that the principal has signed the electronic record.

920 Section 16. Effective upon this act becoming a law, section
921 117.295, Florida Statutes, is created to read:

922 117.295 Standards for electronic and online notarization;
923 rulemaking authority.-

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

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

24-00168A-19

2019548__

929 identity of principals and the security of an electronic record,
930 including tamper-evident technologies in compliance with the
931 standards adopted pursuant to s. 117.021, which apply to online
932 notarizations.

933 (b) Education requirements for online notaries public and
934 the required terms of bonds and errors and omissions insurance,
935 but not including the amounts of such policies.

936 (c) Identity proofing, credential analysis, unauthorized
937 interception, remote presentation, audio-video communication
938 technology, and retention of electronic journals and copies of
939 audio-video communications recordings in a secure repository.

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

944 (3) Until such time as the Department of State adopts rules
945 setting standards that are equally or more protective, an online
946 notarization performed by an online notary public of this state
947 or its RON service provider must:

948 (a) Use identity proofing by means of knowledge-based
949 authentication that must have, at a minimum, the following
950 security characteristics:

951 1. The principal must be presented with five or more
952 questions with a minimum of five possible answer choices per
953 question.

954 2. Each question must be drawn from a third-party provider
955 of public and proprietary data sources and be identifiable to
956 the principal's social security number or other identification
957 information, or the principal's identity and historical events

24-00168A-19

2019548__

958 records.

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

961 4. The principal must answer a minimum of 80 percent of the
962 questions correctly.

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

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

967 (b) Use credential analysis that uses one or more
968 commercially available automated software or hardware processes
969 that are consistent with sound commercial practices; that aid
970 the notary public in verifying the authenticity of the
971 credential by analyzing the integrity of visual, physical, or
972 cryptographic security features to indicate that the credential
973 is not fraudulent or inappropriately modified; and that use
974 information held or published by the issuing source or
975 authoritative source, as available, to confirm the validity of
976 credential details. The output of the credential analysis
977 process must be provided to the online notary public performing
978 the notarial act.

979 (c) Use audio-video communication technology in completing
980 online notarizations which meets the following requirements:

981 1. The signal transmission must be reasonably secure from
982 interception, access, or viewing by anyone other than the
983 participants communicating.

984 2. The technology must provide sufficient audio clarity and
985 video resolution to enable the notary public to communicate with
986 the principal and to confirm the identity of the principal using

24-00168A-19

2019548__

987 identification methods described in s. 117.265.

988 (4) In addition to any coverage it elects to provide for
989 individual online notaries public, a RON service provider shall
990 maintain errors and omissions insurance coverage in a total
991 amount of at least \$250,000 in the annual aggregate with respect
992 to potential errors or omissions in or relating to the
993 technology or processes provided by the RON service provider. An
994 online notary public is not responsible for the security of the
995 systems used by the principal or others to access the online
996 notarization session.

997 (5) A 2-hour in-person or online course addressing the
998 duties, obligations, and technology requirements for serving as
999 an online notary public offered by the Florida Land Title
1000 Association or the Real Property, Probate and Trust Law Section
1001 of The Florida Bar satisfies the education requirements of s.
1002 117.225(2).

1003 (6) The rulemaking required under this section is exempt
1004 from s. 120.541(3).

1005 Section 17. Section 117.305, Florida Statutes, is created
1006 to read:

1007 117.305 Relation to federal law.—This part supersedes the
1008 Electronic Signatures in Global and National Commerce Act as
1009 authorized under 15 U.S.C. s. 7001 et seq., but does not modify,
1010 limit, or supersede s. 101(c) of that act or 15 U.S.C. s.
1011 7001(c) or authorize the electronic delivery of the notices
1012 described in 15 U.S.C. s. 7003(b).

1013 Section 18. Present paragraph (h) of subsection (3) of
1014 section 28.222, Florida Statutes, is redesignated as paragraph
1015 (i), and a new paragraph (h) is added to that subsection, to

24-00168A-19

2019548__

1016 read:

1017 28.222 Clerk to be county recorder.—

1018 (3) The clerk of the circuit court shall record the
 1019 following kinds of instruments presented to him or her for
 1020 recording, upon payment of the service charges prescribed by
 1021 law:

1022 (h) Copies of any instruments originally created and
 1023 executed using an electronic signature, as defined in s. 695.27,
 1024 and certified to be a true and correct paper printout by a
 1025 notary public in accordance with chapter 117, if the county
 1026 recorder is not prepared to accept electronic documents for
 1027 recording electronically.

1028 Section 19. Subsection (25) is added to section 90.803,
 1029 Florida Statutes, to read:

1030 90.803 Hearsay exceptions; availability of declarant
 1031 immaterial.—The provision of s. 90.802 to the contrary
 1032 notwithstanding, the following are not inadmissible as evidence,
 1033 even though the declarant is available as a witness:

1034 (25) ELECTRONIC RECORDS OF QUALIFIED CUSTODIANS.—The
 1035 electronic records, including, but not limited to, electronic
 1036 wills and the audio-video recordings of the execution of such
 1037 wills, which are created and stored by a qualified custodian in
 1038 the course of the qualified custodian's regularly conducted
 1039 business activity as certified or declared by the qualified
 1040 custodian in accordance with s. 90.902(11).

1041 Section 20. Subsections (1) and (2) of section 92.50,
 1042 Florida Statutes, are amended to read:

1043 92.50 Oaths, affidavits, and acknowledgments; who may take
 1044 or administer; requirements.—

24-00168A-19

2019548__

1045 (1) IN THIS STATE.—Oaths, affidavits, and acknowledgments
1046 required or authorized under the laws of this state, except
1047 oaths to jurors and witnesses in court and such other oaths,
1048 affidavits and acknowledgments as are required by law to be
1049 taken or administered by or before particular officers, + may be
1050 taken or administered by or before any judge, clerk, or deputy
1051 clerk of any court of record within this state, including
1052 federal courts, or by or before any United States commissioner
1053 or any notary public within this state. The jurat, or
1054 certificate of proof or acknowledgment, shall be authenticated
1055 by the signature and official seal of such officer or person
1056 taking or administering the same; however, when taken or
1057 administered by or before any judge, clerk, or deputy clerk of a
1058 court of record, the seal of such court may be affixed as the
1059 seal of such officer or person.

1060 (2) IN OTHER STATES, TERRITORIES, AND DISTRICTS OF THE
1061 UNITED STATES.—Oaths, affidavits, and acknowledgments required
1062 or authorized under the laws of this state, may be taken or
1063 administered in any other state, territory, or district of the
1064 United States, by or before any judge, clerk or deputy clerk of
1065 any court of record, within such state, territory, or district,
1066 having a seal, or by or before any notary public or justice of
1067 the peace, having a seal, in such state, territory, or district;
1068 provided, however, such officer or person is authorized under
1069 the laws of such state, territory, or district to take or
1070 administer oaths, affidavits and acknowledgments. The jurat, or
1071 certificate of proof or acknowledgment, shall be authenticated
1072 by the signature and official seal of such officer or person
1073 taking or administering the same; provided, however, when taken

24-00168A-19

2019548__

1074 or administered by or before any judge, clerk, or deputy clerk
1075 of a court of record, the seal of such court may be affixed as
1076 the seal of such officer or person.

1077 Section 21. Subsection (1) of section 95.231, Florida
1078 Statutes, is amended to read:

1079 95.231 Limitations where deed or will on record.—

1080 (1) Five years after the recording of an instrument
1081 required to be executed in accordance with s. 689.01; 5 years
1082 after the recording of a power of attorney accompanying and used
1083 for an instrument required to be executed in accordance with s.
1084 689.01; or 5 years after the probate of a will purporting to
1085 convey real property, from which it appears that the person
1086 owning the property attempted to convey, affect, or devise it,
1087 the instrument, power of attorney, or will shall be held to have
1088 its purported effect to convey, affect, or devise, the title to
1089 the real property of the person signing the instrument, as if
1090 there had been no lack of seal or seals, witness or witnesses,
1091 defect in, failure of, or absence of acknowledgment or
1092 relinquishment of dower, in the absence of fraud, adverse
1093 possession, or pending litigation. The instrument is admissible
1094 in evidence. A power of attorney validated under this subsection
1095 shall be valid only for the purpose of effectuating the
1096 instrument with which it was recorded.

1097 Section 22. Section 689.01, Florida Statutes, is amended to
1098 read:

1099 689.01 How real estate conveyed.—

1100 (1) No estate or interest of freehold, or for a term of
1101 more than 1 year, or any uncertain interest of, in or out of any
1102 messuages, lands, tenements or hereditaments shall be created,

24-00168A-19

2019548__

1103 made, granted, transferred or released in any other manner than
1104 by instrument in writing, signed in the presence of two
1105 subscribing witnesses by the party creating, making, granting,
1106 conveying, transferring or releasing such estate, interest, or
1107 term of more than 1 year, or by the party's lawfully authorized
1108 agent, unless by will and testament, or other testamentary
1109 appointment, duly made according to law; and no estate or
1110 interest, either of freehold, or of term of more than 1 year, or
1111 any uncertain interest of, in, to, or out of any messuages,
1112 lands, tenements or hereditaments, shall be assigned or
1113 surrendered unless it be by instrument signed in the presence of
1114 two subscribing witnesses by the party so assigning or
1115 surrendering, or by the party's lawfully authorized agent, or by
1116 the act and operation of law. No seal shall be necessary to give
1117 validity to any instrument executed in conformity with this
1118 section. Corporations may execute any and all conveyances in
1119 accordance with the provisions of this section or ss. 692.01 and
1120 692.02.

1121 (2) For purposes of this chapter:

1122 (a) Any requirement that an instrument be signed in the
1123 presence of two subscribing witnesses may be satisfied by the
1124 witnesses being present and electronically signing the
1125 instrument by means of audio-video communication technology, as
1126 defined in s. 117.201.

1127 (b) The act of witnessing an electronic signature is
1128 satisfied if a witness is present either in the physical
1129 presence of the principal or present through audio-video
1130 communication technology at the time the principal affixes his
1131 or her electronic signature and hears the principal make a

24-00168A-19

2019548__

1132 statement acknowledging that the principal has signed the
1133 electronic record.

1134 (3) All acts of witnessing heretofore made or taken
1135 pursuant to subsection (2) are validated and, upon recording,
1136 may not be denied to have provided constructive notice based on
1137 any alleged failure to have strictly complied with this section,
1138 as currently or previously in effect, or the laws governing
1139 notarization of instruments, including online notarization. This
1140 subsection does not preclude a challenge to the validity or
1141 enforceability of an instrument or electronic record based upon
1142 fraud, forgery, impersonation, duress, incapacity, undue
1143 influence, minority, illegality, or unconscionability, or on any
1144 other basis not related to the act of witnessing.

1145 Section 23. Section 694.08, Florida Statutes, is amended to
1146 read:

1147 694.08 Certain instruments validated, notwithstanding lack
1148 of seals or witnesses, or defect in acknowledgment, ~~etc.-~~

1149 (1) Whenever any power of attorney has been executed and
1150 delivered, or any conveyance has been executed and delivered to
1151 any grantee by the person owning the land therein described, or
1152 conveying the same in an official or representative capacity,
1153 and has, for a period of 7 years or more been spread upon the
1154 records of the county wherein the land therein described has
1155 been or was at the time situated, and one or more subsequent
1156 conveyances of said land or parts thereof have been made,
1157 executed, delivered and recorded by parties claiming under such
1158 instrument or instruments, and such power of attorney or
1159 conveyance, or the public record thereof, shows upon its face a
1160 clear purpose and intent of the person executing the same to

24-00168A-19

2019548__

1161 authorize the conveyance of said land or to convey the said
1162 land, the same shall be taken and held by all the courts of this
1163 state, in the absence of any showing of fraud, adverse
1164 possession, or pending litigation, to have authorized the
1165 conveyance of, or to have conveyed, the fee simple title, or any
1166 interest therein, of the person signing such instruments, or the
1167 person in behalf of whom the same was conveyed by a person in an
1168 official or representative capacity, to the land therein
1169 described as effectively as if there had been no defect in,
1170 failure of, or absence of the acknowledgment or the certificate
1171 of acknowledgment, if acknowledged, or the relinquishment of
1172 dower, and as if there had been no lack of the word "as"
1173 preceding the title of the person conveying in an official or
1174 representative capacity, of any seal or seals, or of any witness
1175 or witnesses, and shall likewise be taken and held by all the
1176 courts of this state to have been duly recorded so as to be
1177 admissible in evidence;

1178 (2) Provided, however, that this section shall not apply to
1179 any conveyance the validity of which shall be contested or have
1180 been contested by suit commenced heretofore or within 1 year of
1181 the effective date of this law.

1182 Section 24. Section 695.03, Florida Statutes, is amended to
1183 read:

1184 695.03 Acknowledgment and proof; validation of certain
1185 acknowledgments; legalization or authentication before foreign
1186 officials.—To entitle any instrument concerning real property to
1187 be recorded, the execution must be acknowledged by the party
1188 executing it, proved by a subscribing witness to it, or
1189 legalized or authenticated in one of the following forms ~~by a~~

24-00168A-19

2019548__

1190 ~~civil-law notary or notary public who affixes her or his~~
 1191 ~~official seal, before the officers and in the form and manner~~
 1192 ~~following:~~

1193 (1) WITHIN THIS STATE.—An acknowledgment or a proof may be
 1194 taken or administered ~~made~~ within this state by or ~~may be made~~
 1195 before a judge, clerk, or deputy clerk of any court; a United
 1196 States commissioner or magistrate; or any ~~a~~ notary public or
 1197 civil-law notary of this state, and the certificate of
 1198 acknowledgment or proof must be under the seal of the court or
 1199 officer, as the case may be. ~~All affidavits and acknowledgments~~
 1200 ~~heretofore made or taken in this manner are hereby validated.~~

1201 (2) OUTSIDE ~~WITHOUT~~ THIS STATE BUT WITHIN THE UNITED
 1202 STATES.—An acknowledgment or a proof taken, administered, or
 1203 made outside ~~out~~ of this state but within the United States may
 1204 be taken, administered, or made by or before a civil-law notary
 1205 of this state or a commissioner of deeds appointed by the
 1206 Governor of this state; a judge or clerk of any court of the
 1207 United States or of any state, territory, or district; by or
 1208 before a United States commissioner or magistrate; or by or
 1209 before any ~~a~~ notary public, justice of the peace, master in
 1210 chancery, or registrar or recorder of deeds of any state,
 1211 territory, or district having a seal, and the certificate of
 1212 acknowledgment or proof must be under the seal of the court or
 1213 officer, as the case may be. If the acknowledgment or proof is
 1214 taken, administered, or made by or before a notary public who
 1215 does not affix a seal, it is sufficient for the notary public to
 1216 type, print, or write by hand on the instrument, "I am a Notary
 1217 Public of the State of ...(state)..., and my commission expires
 1218 on ...(date)...."

24-00168A-19

2019548__

1219 (3) OUTSIDE OF THE UNITED STATES OR WITHIN FOREIGN
1220 COUNTRIES.—An ~~If the~~ acknowledgment, an affidavit, an oath, a
1221 legalization, an authentication, or a proof taken, administered,
1222 or made outside the United States or is made in a foreign
1223 country, ~~it~~ may be taken, administered, or made by or before a
1224 commissioner of deeds appointed by the Governor of this state to
1225 act in such country; before a notary public of such foreign
1226 country or a civil-law notary of this state or of such foreign
1227 country who has an official seal; before an ambassador, envoy
1228 extraordinary, minister plenipotentiary, minister, commissioner,
1229 charge d'affaires, consul general, consul, vice consul, consular
1230 agent, or other diplomatic or consular officer of the United
1231 States appointed to reside in such country; or before a military
1232 or naval officer authorized by 10 U.S.C. s. 1044a ~~the Laws or~~
1233 ~~Articles of War of the United States~~ to perform the duties of
1234 notary public, and the certificate of acknowledgment,
1235 legalization, authentication, or proof must be under the seal of
1236 the officer. A certificate legalizing or authenticating the
1237 signature of a person executing an instrument concerning real
1238 property and to which a civil-law notary or notary public of
1239 that country has affixed her or his official seal is sufficient
1240 as an acknowledgment. For the purposes of this section, the term
1241 "civil-law notary" means a civil-law notary as defined in
1242 chapter 118 or an official of a foreign country who has an
1243 official seal and who is authorized to make legal or lawful the
1244 execution of any document in that jurisdiction, in which
1245 jurisdiction the affixing of her or his official seal is deemed
1246 proof of the execution of the document or deed in full
1247 compliance with the laws of that jurisdiction.

24-00168A-19

2019548__

1248 (4) COMPLIANCE AND VALIDATION.—The affixing of the official
1249 seal or the electronic equivalent thereof under s. 117.021 or
1250 other applicable law, including part II of chapter 117,
1251 conclusively establishes that the acknowledgement or proof was
1252 taken, administered, or made in full compliance with the laws of
1253 this state or, as applicable, the laws of the other state or of
1254 the foreign country governing notarial acts. All affidavits,
1255 oaths, acknowledgments, legalizations, authentications, or
1256 proofs taken, administered, or made in any manner as set forth
1257 in subsections (1), (2), and (3) are validated and upon
1258 recording may not be denied to have provided constructive notice
1259 based on any alleged failure to have strictly complied with this
1260 section, as currently or previously in effect, or the laws
1261 governing notarization of instruments. This subsection does not
1262 preclude a challenge to the validity or enforceability of an
1263 instrument or electronic record based upon fraud, forgery,
1264 impersonation, duress, incapacity, undue influence, minority,
1265 illegality, unconscionability, or any other basis not related to
1266 the notarial act or constructive notice provided by recording.

1267
1268 ~~All affidavits, legalizations, authentications, and~~
1269 ~~acknowledgments heretofore made or taken in the manner set forth~~
1270 ~~above are hereby validated.~~

1271 Section 25. Section 695.04, Florida Statutes, is amended to
1272 read:

1273 695.04 Requirements of certificate.—The certificate of the
1274 officer before whom the acknowledgment or proof is taken, except
1275 for a certificate legalizing or authenticating the signature of
1276 a person executing an instrument concerning real property

24-00168A-19

2019548__

1277 pursuant to s. 695.03(3), shall contain and set forth
 1278 substantially the matter required to be done or proved to make
 1279 such acknowledgment or proof effectual as set forth in s.
 1280 117.05.

1281 Section 26. Section 695.25, Florida Statutes, is amended to
 1282 read:

1283 695.25 Short form of acknowledgment.—The forms of
 1284 acknowledgment set forth in this section may be used, and are
 1285 sufficient for their respective purposes, under any law of this
 1286 state. The forms shall be known as “Statutory Short Forms of
 1287 Acknowledgment” and may be referred to by that name. The
 1288 authorization of the forms in this section does not preclude the
 1289 use of other forms.

1290 (1) For an individual acting in his or her own right:

1291
 1292 STATE OF
 1293 COUNTY OF

1294 The foregoing instrument was acknowledged before me by
 1295 means of [] physical presence or [] online notarization, this
 1296 ... (date) ... by ... (name of person acknowledging) ..., who is
 1297 personally known to me or who has produced ... (type of
 1298 identification) ... as identification.

1299
 1300 ... (Signature of person taking acknowledgment) ...
 1301 ... (Name typed, printed or stamped) ...
 1302 ... (Title or rank) ...
 1303 ... (Serial number, if any) ...

1304
 1305 (2) For a corporation:

24-00168A-19

2019548__

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STATE OF
COUNTY OF

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

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

(3) For a limited liability company:

STATE OF
COUNTY OF

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

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

24-00168A-19

2019548__

1335 ...(Name typed, printed or stamped)...

1336 ...(Title or rank)...

1337 ...(Serial number, if any)...

1338 (4)~~(3)~~ For a partnership:

1339

1340 STATE OF

1341 COUNTY OF

1342 The foregoing instrument was acknowledged before me by
 1343 means of [] physical presence or [] online notarization, this
 1344 ...(date)... by ...(name of acknowledging partner or agent)...,
 1345 partner (or agent) on behalf of ...(name of partnership)..., a
 1346 partnership. He/she is personally known to me or has produced
 1347 ...(type of identification)... as identification.

1348

1349 ...(Signature of person taking acknowledgment)...

1350 ...(Name typed, printed or stamped)...

1351 ...(Title or rank)...

1352 ...(Serial number, if any)...

1353 (5)~~(4)~~ For an individual acting as principal by an attorney
 1354 in fact:

1355

1356 STATE OF

1357 COUNTY OF

1358 The foregoing instrument was acknowledged before me by
 1359 means of [] physical presence or [] online notarization, this
 1360 ...(date)... by ...(name of attorney in fact)... as attorney in
 1361 fact, who is personally known to me or who has produced ...(type
 1362 of identification)... as identification on behalf of ...(name of
 1363 principal)....

24-00168A-19

2019548__

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

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

STATE OF
 COUNTY OF

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

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

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

695.28 Validity of recorded electronic documents.—

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

24-00168A-19

2019548__

1393 (a) That the document was received and accepted for
1394 recordation before the Department of State adopted standards
1395 implementing s. 695.27; ~~or~~

1396 (b) Any defects in, deviations from, or the inability to
1397 demonstrate strict compliance with any statute, rule, or
1398 procedure relating to electronic signatures, electronic
1399 witnesses, electronic notarization, or online notarization, or
1400 for submitting or recording to submit or record an electronic
1401 document in effect at the time the electronic document was
1402 executed or was submitted for recording;

1403 (c) That the document was signed, witnessed, or notarized
1404 electronically, and that the document was notarized by an online
1405 notary public outside the physical presence of the signer
1406 through audio-video communication technology, as defined in s.
1407 117.201, or that witnessing may have been done outside the
1408 physical presence of the notary public or principal through such
1409 audio-visual communication technology; or

1410 (d) That the document recorded was a certified printout of
1411 a document to which one or more electronic signatures have been
1412 affixed.

1413 (2) This section does not alter the duty of the clerk or
1414 recorder to comply with s. 28.222, s. 695.27, or any rules
1415 adopted pursuant to those sections ~~that section~~.

1416 (3) This section does not preclude a challenge to the
1417 validity or enforceability of an instrument or electronic record
1418 based upon fraud, forgery, impersonation, duress, incapacity,
1419 undue influence, minority, illegality, unconscionability, or any
1420 other basis not in the nature of those matters described in
1421 subsection (1).

24-00168A-19

2019548__

1422 Section 28. Subsections (3) and (4) of section 709.2119,
1423 Florida Statutes, are amended to read:

1424 709.2119 Acceptance of and reliance upon power of
1425 attorney.—

1426 (3) A third person who is asked to accept a power of
1427 attorney that appears to be executed in accordance with s.
1428 709.2105 may in good faith request, and rely upon, without
1429 further investigation:

1430 (a) A certified English translation of the power of
1431 attorney if the power of attorney contains, in whole or in part,
1432 language other than English;

1433 (b) An opinion of counsel as to any matter of law
1434 concerning the power of attorney if the third person making the
1435 request provides in a writing or other record the reason for the
1436 request; ~~or~~

1437 (c) The affidavit described in subsection (2); or—

1438 (d) The electronic journal or record made by the notary
1439 public pursuant to the laws of the state in which the notary
1440 public is appointed if the power of attorney is witnessed or
1441 notarized remotely through the use of online witnesses or
1442 notarization.

1443 (4) An English translation, ~~or~~ an opinion of counsel, or an
1444 electronic journal or record requested under this section must
1445 be provided at the principal's expense unless the request is
1446 made after the time specified in s. 709.2120(1) for acceptance
1447 or rejection of the power of attorney.

1448 Section 29. Subsection (4) of section 709.2120, Florida
1449 Statutes, is amended to read:

1450 709.2120 Rejecting power of attorney.—

24-00168A-19

2019548__

1451 (4) A third person is not required to accept a power of
1452 attorney if:

1453 (a) The third person is not otherwise required to engage in
1454 a transaction with the principal in the same circumstances;

1455 (b) The third person has knowledge of the termination or
1456 suspension of the agent's authority or of the power of attorney
1457 before exercising the power;

1458 (c) A timely request by the third person for an affidavit,
1459 English translation, ~~or~~ opinion of counsel, or electronic
1460 journal or record under s. 709.2119 ~~s. 709.2119(4)~~ is refused by
1461 the agent;

1462 (d) The power of attorney is witnessed or notarized
1463 remotely through the use of online witnesses or notarization,
1464 and either the agent is unable to produce the electronic journal
1465 or record, or the notary public did not maintain an electronic
1466 journal or record of the notarization;

1467 (e) ~~(d)~~ Except as provided in paragraph (b), the third
1468 person believes in good faith that the power is not valid or
1469 that the agent does not have authority to perform the act
1470 requested; or

1471 (f) ~~(e)~~ The third person makes, or has knowledge that
1472 another person has made, a report to the local adult protective
1473 services office stating a good faith belief that the principal
1474 may be subject to physical or financial abuse, neglect,
1475 exploitation, or abandonment by the agent or a person acting for
1476 or with the agent.

1477 Section 30. Present subsection (6) of section 709.2202,
1478 Florida Statutes, is renumbered as subsection (7), and a new
1479 subsection (6) is added to that section, to read:

24-00168A-19

2019548__

1480 709.2202 Authority that requires separate signed
1481 enumeration.—

1482 (6) Notwithstanding subsection (1) and s. 709.2106(3), a
1483 power of attorney executed by a principal domiciled in this
1484 state at the time of execution which is witnessed remotely
1485 pursuant to s. 117.285 or other applicable law by a witness who
1486 is not in the physical presence of the principal, or which is
1487 notarized in an online notarization, is not effective to grant
1488 authority to an agent to take any of the actions enumerated in
1489 subsection (1), unless the principal provides, to the
1490 satisfaction of the online notary public during the online
1491 notarization, verbal answers to all of the following questions:

1492 (a) Are you 18 years of age or older?

1493 (b) Are you of sound mind?

1494 (c) Are you signing this power of attorney voluntarily?

1495 (d) Are you under the influence of any drugs or alcohol
1496 that impairs your ability to make decisions?

1497 (e) Has anyone forced or influenced you to include anything
1498 in this power of attorney which you do not wish to include?

1499 (f) Did anyone assist you in accessing this video
1500 conference? If so, who?

1501 (g) Where are you? Name everyone you know in the room with
1502 you.

1503 Section 31. Subsection (40) of section 731.201, Florida
1504 Statutes, is amended to read:

1505 731.201 General definitions.—Subject to additional
1506 definitions in subsequent chapters that are applicable to
1507 specific chapters or parts, and unless the context otherwise
1508 requires, in this code, in s. 409.9101, and in chapters 736,

24-00168A-19

2019548__

1509 738, 739, and 744, the term:

1510 (40) "Will" means an instrument, including a codicil,
1511 executed by a person in the manner prescribed by this code,
1512 which disposes of the person's property on or after his or her
1513 death and includes an instrument which merely appoints a
1514 personal representative or revokes or revises another will. The
1515 term includes an electronic will as defined in s. 732.521.

1516 Section 32. Section 732.506, Florida Statutes, is amended
1517 to read:

1518 732.506 Revocation by act.—A will or codicil, other than an
1519 electronic will, is revoked by the testator, or some other
1520 person in the testator's presence and at the testator's
1521 direction, by burning, tearing, canceling, defacing,
1522 obliterating, or destroying it with the intent, and for the
1523 purpose, of revocation. An electronic will or codicil is revoked
1524 by the testator, or some other person in the testator's presence
1525 and at the testator's direction, by deleting, canceling,
1526 rendering unreadable, or obliterating the electronic will or
1527 codicil with the intent, and for the purpose, of revocation, as
1528 proved by clear and convincing evidence.

1529 Section 33. Section 732.521, Florida Statutes, is created
1530 to read:

1531 732.521 Definitions.—As used in ss. 732.521-732.525, the
1532 term:

1533 (1) "Audio-video communication technology" has the same
1534 meaning as provided in s. 117.201.

1535 (2) "Electronic signature" means an electronic mark visibly
1536 manifested in a record as a signature and executed or adopted by
1537 a person with the intent to sign the record.

24-00168A-19

2019548__

1538 (3) "Electronic will" means an instrument, including a
1539 codicil, executed with an electronic signature by a person in
1540 the manner prescribed by this code, which disposes of the
1541 person's property on or after his or her death and includes an
1542 instrument that merely appoints a personal representative or
1543 revokes or revises another will.

1544 (4) "Online notarization" has the same meaning as provided
1545 in s. 117.201.

1546 (5) "Online notary public" has the same meaning as provided
1547 in s. 117.201.

1548 (6) "Qualified custodian" means a person who meets the
1549 requirements of s. 732.524(1).

1550 Section 34. Effective July 1, 2020, section 732.522,
1551 Florida Statutes, is created to read:

1552 732.522 Method and place of execution.—For purposes of the
1553 execution or filing of an electronic will, the acknowledgment of
1554 an electronic will by the testator and the affidavits of
1555 witnesses under s. 732.503, or any other instrument under the
1556 Florida Probate Code:

1557 (1) Any requirement that an instrument be signed may be
1558 satisfied by an electronic signature.

1559 (2) Any requirement that individuals sign an instrument in
1560 the presence of one another may be satisfied by witnesses being
1561 present and electronically signing by means of audio-video
1562 communication technology that meets the requirements of part II
1563 of chapter 117 and any rules adopted thereunder, if:

1564 (a) The individuals are supervised by a notary public in
1565 accordance with s. 117.285;

1566 (b) The individuals are authenticated and signing as part

24-00168A-19

2019548__

1567 of an online notarization session in accordance with s. 117.265;

1568 (c) The witness hears the signer make a statement
1569 acknowledging that the signer has signed the electronic record;
1570 and

1571 (d) In the case of an electronic will, the testator
1572 provides, to the satisfaction of the online notary public during
1573 the online notarization, verbal answers to all of the following
1574 questions:

1575 1. Are you 18 years of age or older?

1576 2. Are you of sound mind?

1577 3. Are you signing this will voluntarily?

1578 4. Are you under the influence of any drugs or alcohol that
1579 impairs your ability to make decisions?

1580 5. Has anyone forced or influenced you to include anything
1581 in this will which you do not wish to include?

1582 6. Did anyone assist you in accessing this video
1583 conference? If so, who?

1584 7. Where are you? Name everyone you know in the room with
1585 you.

1586 (3) The execution of an electronic will of a testator who
1587 is a vulnerable adult, as defined in s. 415.102, may not be
1588 witnessed by means of audio-video communication technology. The
1589 contestant of the electronic will has the burden of proving that
1590 the testator was a vulnerable adult at the time of executing the
1591 electronic will.

1592 (4) Except as otherwise provided in this part, all
1593 questions as to the force, effect, validity, and interpretation
1594 of an electronic will which comply with this section must be
1595 determined in the same manner as in the case of a will executed

24-00168A-19

2019548__

1596 in accordance with s. 732.502.

1597 (5) An instrument that is signed electronically is deemed
1598 to be executed in this state if the instrument states that the
1599 person creating the instrument intends to execute and
1600 understands that he or she is executing the instrument in, and
1601 pursuant to the laws of, this state.

1602 Section 35. Section 732.523, Florida Statutes, is created
1603 to read:

1604 732.523 Self-proof of electronic will.—An electronic will
1605 is self-proved if:

1606 (1) The acknowledgment of the electronic will by the
1607 testator and the affidavits of the witnesses are made in
1608 accordance with s. 732.503 and are part of the electronic record
1609 containing the electronic will, or are attached to, or are
1610 logically associated with the electronic will;

1611 (2) The electronic will designates a qualified custodian;

1612 (3) The electronic record that contains the electronic will
1613 is held in the custody of a qualified custodian at all times
1614 before being offered to the court for probate; and

1615 (4) The qualified custodian who has custody of the
1616 electronic will at the time of the testator's death certifies
1617 under oath that, to the best knowledge of the qualified
1618 custodian, the electronic record that contains the electronic
1619 will was at all times before being offered to the court in the
1620 custody of a qualified custodian in compliance with s. 732.524
1621 and that the electronic will has not been altered in any way
1622 since the date of its execution.

1623 Section 36. Section 732.524, Florida Statutes, is created
1624 to read:

24-00168A-19

2019548__

- 1625 732.524 Qualified custodians.—
1626 (1) To serve as a qualified custodian of an electronic
1627 will, a person must:
1628 (a) Be domiciled in and a resident of this state or be
1629 incorporated or organized in this state;
1630 (b) In the course of maintaining custody of electronic
1631 wills, regularly employ a secure system and store in such secure
1632 system electronic records containing:
1633 1. Electronic wills;
1634 2. Records attached to or logically associated with
1635 electronic wills; and
1636 3. Acknowledgements of the electronic wills by testators,
1637 affidavits of the witnesses, and the records described in s.
1638 117.245(1) and (2) which pertain to the online notarization; and
1639 (c) Furnish for any court hearing involving an electronic
1640 will that is currently or was previously stored by the qualified
1641 custodian any information requested by the court pertaining to
1642 the qualified custodian's qualifications, policies, and
1643 practices related to the creation, sending, communication,
1644 receipt, maintenance, storage, and production of electronic
1645 wills.
1646 (2) The qualified custodian of an electronic will shall
1647 provide access to or information concerning the electronic will,
1648 or the electronic record containing the electronic will, only:
1649 (a) To the testator;
1650 (b) To persons authorized by the testator in the electronic
1651 will or in written instructions signed by the testator with the
1652 formalities required for the execution of a will in this state;
1653 (c) After the death of the testator, to the testator's

24-00168A-19

2019548__

1654 nominated personal representative; or

1655 (d) At any time, as directed by a court of competent
1656 jurisdiction.

1657 (3) The qualified custodian of the electronic record of an
1658 electronic will may elect to destroy such record, including any
1659 of the documentation required to be created and stored under
1660 paragraph (1)(d), at any time after the earlier of the fifth
1661 anniversary of the conclusion of the administration of the
1662 estate of the testator or 20 years after the death of the
1663 testator.

1664 (4) A qualified custodian who at any time maintains custody
1665 of the electronic record of an electronic will may elect to
1666 cease serving in such capacity by:

1667 (a) Delivering the electronic will or the electronic record
1668 containing the electronic will to the testator, if then living,
1669 or, after the death of the testator, by filing the will with the
1670 court in accordance with s. 732.901; and

1671 (b) If the outgoing qualified custodian intends to
1672 designate a successor qualified custodian, by doing the
1673 following:

1674 1. Providing written notice to the testator of the name,
1675 address, and qualifications of the proposed successor qualified
1676 custodian. The testator must provide written consent before the
1677 electronic record, including the electronic will, is delivered
1678 to a successor qualified custodian;

1679 2. Delivering the electronic record containing the
1680 electronic will to the successor qualified custodian; and

1681 3. Delivering to the successor qualified custodian an
1682 affidavit of the outgoing qualified custodian stating that:

24-00168A-19

2019548__

1683 a. The outgoing qualified custodian is eligible to act as a
1684 qualified custodian in this state;

1685 b. The outgoing qualified custodian is the qualified
1686 custodian designated by the testator in the electronic will or
1687 appointed to act in such capacity under this paragraph;

1688 c. The electronic will has at all times been in the custody
1689 of one or more qualified custodians in compliance with this
1690 section since the time the electronic record was created, and
1691 identifying such qualified custodians; and

1692 d. To the best of the outgoing qualified custodian's
1693 knowledge, the electronic will has not been altered since the
1694 time it was created.

1695
1696 For purposes of making this affidavit, the outgoing qualified
1697 custodian may rely conclusively on any affidavits delivered by a
1698 predecessor qualified custodian in connection with its
1699 designation or appointment as qualified custodian; however, all
1700 such affidavits must be delivered to the successor qualified
1701 custodian.

1702 (5) Upon the request of the testator which is made in a
1703 writing signed with the formalities required for the execution
1704 of a will in this state, a qualified custodian who at any time
1705 maintains custody of the electronic record of the testator's
1706 electronic will must cease serving in such capacity and must
1707 deliver to a successor qualified custodian designated in writing
1708 by the testator the electronic record containing the electronic
1709 will and the affidavit required in subparagraph (4) (b) 3.

1710 (6) A qualified custodian may not succeed to office as a
1711 qualified custodian of an electronic will unless he or she

24-00168A-19

2019548__

1712 agrees in writing to serve in such capacity.

1713 (7) If a qualified custodian is an entity, an affidavit, or
1714 an appearance by the testator in the presence of a duly
1715 authorized officer or agent of such entity, acting in his or her
1716 own capacity as such, shall constitute an affidavit, or an
1717 appearance by the testator in the presence of the qualified
1718 custodian.

1719 (8) A qualified custodian must provide a paper copy of an
1720 electronic will and the electronic record containing the
1721 electronic will to the testator immediately upon request. For
1722 the first request, the testator may not be charged a fee for
1723 being provided with these documents.

1724 (9) The qualified custodian shall be liable for any damages
1725 caused by the negligent loss or destruction of the electronic
1726 record, including the electronic will, while it is in the
1727 possession of the qualified custodian. A qualified custodian may
1728 not limit liability for such damages.

1729 (10) A qualified custodian may not terminate or suspend
1730 access to, or downloads of, the electronic will by the testator,
1731 provided that a qualified custodian may charge a fee for
1732 providing such access and downloads.

1733 (11) Upon receiving information that the testator is dead,
1734 a qualified custodian must deposit the electronic will with the
1735 court in accordance with s. 732.901. A qualified custodian may
1736 not charge a fee for depositing the electronic will with the
1737 clerk, providing the affidavit is made in accordance with s.
1738 732.503, or furnishing in writing any information requested by a
1739 court under paragraph (1) (d).

1740 (12) Except as provided in this act, a qualified custodian

24-00168A-19

2019548__

1741 must at all times keep information provided by the testator
1742 confidential and may not disclose such information to any third
1743 party.

1744 (13) A contractual venue provision between a qualified
1745 custodian and a testator is not valid or enforceable to the
1746 extent that it requires a specific jurisdiction or venue for any
1747 proceeding relating to the probate of an estate or the contest
1748 of a will.

1749 Section 37. Section 732.525, Florida Statutes, is created
1750 to read:

1751 732.525 Liability coverage; receivership of qualified
1752 custodians.—

1753 (1) A qualified custodian shall:

1754 (a) Post and maintain a blanket surety bond of at least
1755 \$250,000 to secure the faithful performance of all duties and
1756 obligations required under this part. The bond must be made
1757 payable to the Governor and his or her successors in office for
1758 the benefit of all persons who store electronic records with a
1759 qualified custodian and their estates, beneficiaries,
1760 successors, and heirs, and be conditioned on the faithful
1761 performance of all duties and obligations under this chapter.
1762 The terms of the bond must cover the acts or omissions of the
1763 qualified custodian and each agent or employee of the qualified
1764 custodian; or

1765 (b) Maintain a liability insurance policy that covers any
1766 losses sustained by any person who stores electronic records
1767 with a qualified custodian and their estates, beneficiaries,
1768 successors, and heirs which are caused by errors or omissions by
1769 the qualified custodian and each agent or employee of the

24-00168A-19

2019548__

1770 qualified custodian. The policy must cover losses of at least
1771 \$250,000 in the aggregate.

1772 (2) The Attorney General may petition a court of competent
1773 jurisdiction for the appointment of a receiver to manage the
1774 electronic records of a qualified custodian for proper delivery
1775 and safekeeping if any of the following conditions exists:

1776 (a) The qualified custodian is ceasing operation;

1777 (b) The qualified custodian intends to close the facility
1778 and adequate arrangements have not been made for proper delivery
1779 of the electronic records in accordance with this part;

1780 (c) The Attorney General determines that conditions exist
1781 which present a danger that electronic records will be lost or
1782 misappropriated; or

1783 (d) The qualified custodian fails to maintain and post a
1784 surety bond or maintain insurance as required in this section.

1785 Section 38. Section 732.526, Florida Statutes, is created
1786 to read:

1787 732.526 Probate.—

1788 (1) An electronic will that is filed electronically with
1789 the clerk of the court through the Florida Courts E-Filing
1790 Portal is deemed to have been deposited with the clerk as an
1791 original of the electronic will.

1792 (2) A paper copy of an electronic will which is certified
1793 by a notary public to be a true and correct copy of the
1794 electronic will may be offered for and admitted to probate and
1795 constitutes an original of the electronic will.

1796 Section 39. Subsection (1) of section 733.201, Florida
1797 Statutes, is amended to read:

1798 733.201 Proof of wills.—

24-00168A-19

2019548__

1799 (1) Self-proved wills executed in accordance with this code
1800 may be admitted to probate without further proof. However, a
1801 purportedly self-proved electronic will may be admitted to
1802 probate only in the manners prescribed in subsections (2) and
1803 (3) if the execution of such electronic will, or the
1804 acknowledgement by the testator and the affidavits of the
1805 witnesses, involves an online notarization in which there was a
1806 substantial failure to comply with the procedures set forth in
1807 s. 117.265.

1808 Section 40. Section 740.10, Florida Statutes, is created to
1809 read:

1810 740.10 Relation to wills.—No act taken pursuant to this
1811 chapter is valid to affect the obligation of a person to deposit
1812 a will of a decedent as required under s. 732.901.

1813 Section 41. Except as otherwise expressly provided in this
1814 act, and except for this section, which shall take effect upon
1815 becoming a law, this act shall take effect January 1, 2020.