

1                                   A bill to be entitled  
2           An act relating to notaries public; amending s.  
3           117.05, F.S.; requiring that certain notarial  
4           certificates contain the printed names of specified  
5           individuals; amending s. 117.105, F.S.; prohibiting a  
6           notary public from falsely notarizing the signature of  
7           a person who is not in that notary public's presence,  
8           either in person or online; defining terms; providing  
9           criminal penalties; making technical changes; amending  
10          s. 117.107, F.S.; deleting a provision that prohibits  
11          a notary public from notarizing a signature on a  
12          document of a person who is not, at the time of the  
13          notarial act, physically present or present by means  
14          of audio-video communication technology and that  
15          provides civil penalties; providing criminal  
16          penalties; creating s. 117.109, F.S.; requiring a  
17          notary public to keep at least one tangible journal;  
18          requiring a journal entry for each notarization;  
19          providing requirements for such entries; requiring the  
20          notary public to take reasonable steps to maintain a  
21          backup record and to protect the journal, the backup  
22          record, and other records from unauthorized access;  
23          requiring the Department of State to retain  
24          jurisdiction over the journal records for a specified  
25          timeframe for a certain purpose; requiring the notary

26 public to maintain the journal for a specified  
27 timeframe; authorizing the notary public or specified  
28 individuals on his or her behalf to contract with a  
29 secure repository to maintain the journal; providing  
30 that such repository must fulfill specified duties of  
31 the notary public with respect to the journal;  
32 requiring the notary public to send, within a  
33 specified timeframe, a certain notification to the  
34 department of such delegation of retention duties;  
35 requiring the notary public to make an entry  
36 identifying the repository and providing notice to the  
37 department; requiring the secure repository to fulfill  
38 certain responsibilities of the notary public during  
39 any delegation; providing that an omitted or  
40 incomplete entry in the journal does not invalidate  
41 the notarial act, but may be used for specified  
42 evidentiary purposes; creating s. 117.111, F.S.;  
43 requiring a notary public to keep the journal secure  
44 and notify, within a specified timeframe, the  
45 appropriate law enforcement agency and the department  
46 of any unauthorized use of or compromise to the  
47 security of the journal; prohibiting the notary public  
48 from allowing another person to use the notary  
49 public's journal or from allowing another person who  
50 is providing services to a notary public to facilitate

51 the performance of notarizations; requiring the notary  
 52 public to provide copies of pertinent entries upon the  
 53 request of specified entities; providing construction;  
 54 amending s. 28.47, F.S.; authorizing a property  
 55 appraiser to refuse to update an owner of record on  
 56 the county's tax rolls under specified circumstances;  
 57 requiring the property appraiser to make a certain  
 58 notation in the records in the event such refusal is  
 59 made; providing an effective date.

60

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

62

63 Section 1. Paragraph (e) of subsection (4) and subsection  
 64 (13) of section 117.05, Florida Statutes, are amended to read:

65 117.05 Use of notary commission; unlawful use; notary fee;  
 66 seal; duties; employer liability; name change; advertising;  
 67 photocopies; penalties.—

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

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

76 (13) The following notarial certificates are sufficient  
 77 for the purposes indicated, if completed with the information  
 78 required by this chapter. The specification of forms under this  
 79 subsection does not preclude the use of other forms. However,  
 80 the notarial certificate must contain the printed names of all  
 81 signatories, including principals and witnesses.

82 (a) For an oath or affirmation:

83

84 STATE OF FLORIDA

85 COUNTY OF .....

86

87 Sworn to (or affirmed) and subscribed before me by means of   
 88 physical presence or  online notarization, this .... day of  
 89 ....., ...(year)..., by ...(name of person making  
 90 statement)....

91

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

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

94 Personally Known..... OR Produced Identification.....

95 Type of Identification Produced .....

96

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

98

99 STATE OF FLORIDA

100 COUNTY OF .....

101  
 102 The foregoing instrument was acknowledged before me by means of  
 103  physical presence or  online notarization, this .... day of  
 104 ....., ...(year)..., by ...(name of person acknowledging)....

105  
 106                   ...(Signature of Notary Public - State of Florida)...  
 107                   ...(Print, Type, or Stamp Commissioned Name of Notary Public)...  
 108                   Personally Known..... OR Produced Identification.....  
 109                   Type of Identification Produced .....

110  
 111           (c) For an acknowledgment in a representative capacity:

112  
 113 STATE OF FLORIDA  
 114 COUNTY OF .....

115  
 116 The foregoing instrument was acknowledged before me by means of  
 117  physical presence or  online notarization, this .... day of  
 118 ....., ...(year)..., by ...(name of person)... as ...(type of  
 119 authority, . . . e.g. officer, trustee, attorney in fact)...  
 120 for ...(name of party on behalf of whom instrument was  
 121 executed)....

122  
 123                   ...(Signature of Notary Public - State of Florida)...  
 124                   ...(Print, Type, or Stamp Commissioned Name of Notary Public)...  
 125                   Personally Known..... OR Produced Identification.....

126 Type of Identification Produced .....

127

128 Section 2. Section 117.105, Florida Statutes, is amended  
 129 to read:

130 117.105 False or fraudulent acknowledgments; penalties for  
 131 prohibited acts ~~penalty~~.-

132 (1) A notary public may not do any of the following: ~~who~~

133 (a) Falsely notarize a signature on a written or  
 134 electronic document of a person who is not in the presence of  
 135 the notary public, either in person or online, at the time the  
 136 signature is notarized. For the purposes of this paragraph, the  
 137 terms "in the presence of" and "electronic" have the same  
 138 meaning as provided in s. 117.201.

139 (b) Falsely or fraudulently take ~~takes~~ an acknowledgment  
 140 of an instrument as a notary public. ~~or~~

141 (c) ~~Who~~ Falsely or fraudulently make ~~makes~~ a certificate  
 142 as a notary public. ~~or~~

143 (d) ~~Who~~ Falsely or fraudulently take or receive ~~takes or~~  
 144 ~~receives~~ an acknowledgment of the signature on a written or  
 145 electronic document ~~instrument is guilty of a felony of the~~  
 146 ~~third degree, punishable as provided in s. 775.082, s. 775.083,~~  
 147 ~~or s. 775.084.~~

148 (2) A notary public who violates subsection (1) commits a  
 149 felony of the third degree, punishable as provided in s.  
 150 775.082, s. 775.083, or s. 775.084. If the document notarized

151 under these circumstances pertains to a real estate transaction  
 152 or any other transfer of real property, the notary public  
 153 commits a felony of the second degree, punishable as provided in  
 154 s. 775.082, s. 775.083, or s. 775.084.

155 Section 3. Section 117.107, Florida Statutes, is amended  
 156 to read:

157 117.107 Prohibited acts; penalty.—

158 (1) A notary public may not use a name or initial in  
 159 signing certificates other than that by which the notary public  
 160 is commissioned.

161 (2) A notary public may not sign notarial certificates  
 162 using a facsimile signature stamp unless the notary public has a  
 163 physical disability that limits or prohibits his or her ability  
 164 to make a written signature and unless the notary public has  
 165 first submitted written notice to the Department of State with  
 166 an exemplar of the facsimile signature stamp. This subsection  
 167 does not apply to or prohibit the use of an electronic signature  
 168 and seal by a notary public who is registered as an online  
 169 notary public to perform an electronic or online notarization in  
 170 accordance with this chapter.

171 (3) A notary public may not affix his or her signature to  
 172 a blank form of affidavit or certificate of acknowledgment and  
 173 deliver that form to another person with the intent that it be  
 174 used as an affidavit or acknowledgment.

175 (4) A notary public may not take the acknowledgment of or

176 administer an oath to a person whom the notary public actually  
177 knows to have been adjudicated mentally incapacitated by a court  
178 of competent jurisdiction, where the acknowledgment or oath  
179 necessitates the exercise of a right that has been removed  
180 pursuant to s. 744.3215(2) or (3), and where the person has not  
181 been restored to capacity as a matter of record.

182 (5) A notary public may not notarize a signature on a  
183 document if it appears that the person is mentally incapable of  
184 understanding the nature and effect of the document at the time  
185 of notarization.

186 (6) A notary public may not take the acknowledgment of a  
187 person who does not speak or understand the English language,  
188 unless the nature and effect of the instrument to be notarized  
189 is translated into a language which the person does understand.

190 (7) A notary public may not change anything in a written  
191 instrument after it has been signed by anyone.

192 (8) A notary public may not amend a notarial certificate  
193 after the notarization is complete.

194 ~~(9) A notary public may not notarize a signature on a~~  
195 ~~document if the person whose signature is being notarized does~~  
196 ~~not appear before the notary public either by means of physical~~  
197 ~~presence or by means of audio-video communication technology as~~  
198 ~~authorized under part II of this chapter at the time the~~  
199 ~~signature is notarized. Any notary public who violates this~~  
200 ~~subsection is guilty of a civil infraction, punishable by~~

201 ~~penalty not exceeding \$5,000, and such violation constitutes~~  
 202 ~~malfeasance and misfeasance in the conduct of official duties.~~  
 203 ~~It is no defense to the civil infraction specified in this~~  
 204 ~~subsection that the notary public acted without intent to~~  
 205 ~~defraud. A notary public who violates this subsection with the~~  
 206 ~~intent to defraud is guilty of violating s. 117.105.~~

207 ~~(10)~~ A notary public may not notarize a signature on a  
 208 document if the document is incomplete or blank. However, an  
 209 endorsement or assignment in blank of a negotiable or  
 210 nonnegotiable note and the assignment in blank of any instrument  
 211 given as security for such note is not deemed incomplete.

212 (10)~~(11)~~ A notary public may not notarize a signature on a  
 213 document if the person whose signature is to be notarized is the  
 214 spouse, son, daughter, mother, or father of the notary public.

215 (11)~~(12)~~ A notary public may not notarize a signature on a  
 216 document if the notary public has a financial interest in or is  
 217 a party to the underlying transaction; however, a notary public  
 218 who is an employee may notarize a signature for his or her  
 219 employer, and this employment does not constitute a financial  
 220 interest in the transaction nor make the notary a party to the  
 221 transaction under this subsection as long as he or she does not  
 222 receive a benefit other than his or her salary and the fee for  
 223 services as a notary public authorized by law. For purposes of  
 224 this subsection, a notary public who is an attorney does not  
 225 have a financial interest in and is not a party to the

226 underlying transaction evidenced by a notarized document if he  
 227 or she notarizes a signature on that document for a client for  
 228 whom he or she serves as an attorney of record and he or she has  
 229 no interest in the document other than the fee paid to him or  
 230 her for legal services and the fee authorized by law for  
 231 services as a notary public.

232 (12) A notary public who commits a violation of this  
 233 section commits a misdemeanor of the first degree, punishable as  
 234 provided in s. 775.082 or s. 775.083. A notary public who  
 235 commits a violation of this section with the intent to defraud  
 236 commits a felony of the third degree, punishable as provided in  
 237 s. 775.082, s. 775.083, or s. 775.084. If the violation of this  
 238 section pertains to a real estate transaction or any other  
 239 transfer of real property, the notary public commits a felony of  
 240 the second degree, punishable as provided in s. 775.082, s.  
 241 775.083, or s. 775.084.

242 Section 4. Section 117.109, Florida Statutes, is created  
 243 to read:

244 117.109 Journal of notarizations.—

245 (1) A notary public shall keep one or more tangible  
 246 journals of all notarizations performed by the notary public.  
 247 For each notarization, the journal entry must contain all of the  
 248 following:

- 249 (a) The date and time of the notarization.
- 250 (b) The type of notarial act performed, whether an oath or

251 acknowledgment.

252 (c) The type, the title, or a description of the

253 electronic recording or proceeding.

254 (d) The name and address of each principal or witness

255 involved in the transaction or proceeding.

256 (e) Evidence of identity of each principal involved in the

257 transaction or proceeding in either of the following forms:

258 1. A statement that the person is personally known to the

259 notary public; or

260 2.a. A notation of the type of government-issued

261 identification credential the person provided to the notary

262 public;

263 b. An indication that the government-issued identification

264 credential satisfied the credential analysis; and

265 c. An indication that the principal satisfactorily passed

266 the identity proofing.

267 (f) The fee, if any, charged for the notarization.

268 (2) The notary public shall take reasonable steps to:

269 (a) Maintain a backup record of the journal required by

270 subsection (1).

271 (b) Protect from unauthorized access the journal, the

272 backup record, and any other records the notary public receives.

273 (3) The Department of State shall retain jurisdiction over

274 the journal records for a period of 10 years after the date of

275 the notarial acts for the purpose of investigating possible

276 notarial misconduct.

277 (a) A notary public shall maintain the journal required  
278 under subsection (1) for at least 10 years after the date of the  
279 notarial act.

280 (b) A notary public, a guardian of an incapacitated notary  
281 public, or the personal representative of a notary public may  
282 contract with a secure repository, in accordance with any rules  
283 established under this chapter, and delegate to the repository  
284 the notary public's duty to maintain the journal, provided that  
285 the department is notified of such delegation of retention  
286 duties within 30 days thereafter, including the effective date  
287 of the delegation and the address and contact information for  
288 the repository.

289 (c) If a notary public delegates to a secure repository  
290 his or her duty to maintain the journal required under this  
291 section, the notary public must make an entry in his or her  
292 journal identifying such repository and notify the department as  
293 required in this subsection. During any delegation under this  
294 subsection, the secure repository shall fulfill the  
295 responsibilities of the notary public to provide copies or  
296 access under s. 117.111.

297 (4) An omitted or incomplete entry in the journal does not  
298 invalidate the notarial act performed, but may be introduced as  
299 evidence to establish violations of this chapter; as evidence of  
300 possible fraud, forgery, impersonation, duress, incapacity,

301 undue influence, minority, illegality, or unconscionability; or  
 302 for other evidentiary purposes.

303 Section 5. Section 117.111, Florida Statutes, is created  
 304 to read:

305 117.111 Use of journal.-

306 (1) A notary public shall do all of the following:

307 (a) Keep the journal maintained pursuant to s. 117.109  
 308 secure and under his or her sole control. The notary public may  
 309 not allow another person to use the notary public's journal or  
 310 allow another person who is providing services to a notary  
 311 public to facilitate the performance of notarizations.

312 (b) Notify an appropriate law enforcement agency and the  
 313 Department of State of any unauthorized use of or compromise to  
 314 the security of the journal within 7 days after the discovery of  
 315 the unauthorized use or compromise to security.

316 (2) A notary public shall provide copies of pertinent  
 317 entries in the journal upon the request of any of the following:

318 (a) The department, pursuant to a notary misconduct  
 319 investigation.

320 (b) Any other persons or entities, pursuant to a subpoena,  
 321 a court order, a law enforcement investigation, or any other  
 322 lawful inspection demand.

323 (3) This section may not be construed to prevent a notary  
 324 public from designating a secure repository under s. 117.109.

325 Section 6. Subsection (6) of section 28.47, Florida

326 Statutes, is amended to read:

327 28.47 Recording notification service.—

328 (6) This section also applies to county property  
 329 appraisers who have adopted an electronic land record  
 330 notification service before July 1, 2023.

331 (a)1. The property appraiser may use a verification  
 332 process for persons wishing to register for the electronic land  
 333 record notification service to ensure the integrity of the  
 334 process.

335 2. If the property appraiser receives notice from the  
 336 property owner or clerk of the circuit court and reasonably  
 337 determines that the recorded deed is fraudulent, the property  
 338 appraiser may refuse to update the owner of record on the  
 339 county's tax rolls. However, the property appraiser shall make a  
 340 notation in his or her records that a possible conveyance has  
 341 been recorded.

342 (b) For purposes of this subsection only, and  
 343 notwithstanding paragraph (1)(a) and subsection (3):

344 1. "Land record" means a deed or other document purporting  
 345 to convey real property.

346 2. When a land record is recorded for a monitored  
 347 identity, the property appraiser must send a recording  
 348 notification to each registrant who is subscribed to receive  
 349 recording notifications for that monitored identity within 24  
 350 hours after the instrument being reflected on the county tax

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351 | roll.

352 |       Section 7. This act shall take effect July 1, 2024.