

By the Committee on Commerce and Tourism; and Senator Avila

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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

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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

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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 being  
74 notarized. It is presumed, absent such specific notation by the  
75 notary public, that notarization is to all signatures.

76 (13) The following notarial certificates are sufficient for  
77 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

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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

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

121  
 122 ... (Signature of Notary Public - State of Florida) ...  
 123 ... (Print, Type, or Stamp Commissioned Name of Notary Public) ...  
 124 Personally Known ..... OR Produced Identification .....  
 125 Type of Identification Produced .....

126  
 127 Section 2. Section 117.105, Florida Statutes, is amended to  
 128 read:

129 117.105 False or fraudulent acknowledgments; penalties for  
 130 prohibited acts ~~penalty~~.-

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

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

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

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

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

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146 ~~or s. 775.084.~~

147 (2) A notary public who violates subsection (1) commits a  
148 felony of the third degree, punishable as provided in s.  
149 775.082, s. 775.083, or s. 775.084. If the document notarized  
150 under these circumstances pertains to a real estate transaction  
151 or any other transfer of real property, the notary public  
152 commits a felony of the second degree, punishable as provided in  
153 s. 775.082, s. 775.083, or s. 775.084.

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

156 117.107 Prohibited acts; penalty.—

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

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

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

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

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

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

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

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

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

193 ~~(9) A notary public may not notarize a signature on a~~  
194 ~~document if the person whose signature is being notarized does~~  
195 ~~not appear before the notary public either by means of physical~~  
196 ~~presence or by means of audio-video communication technology as~~  
197 ~~authorized under part II of this chapter at the time the~~  
198 ~~signature is notarized. Any notary public who violates this~~  
199 ~~subsection is guilty of a civil infraction, punishable by~~  
200 ~~penalty not exceeding \$5,000, and such violation constitutes~~  
201 ~~malfeasance and misfeasance in the conduct of official duties.~~  
202 ~~It is no defense to the civil infraction specified in this~~  
203 ~~subsection that the notary public acted without intent to~~

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204 ~~defraud. A notary public who violates this subsection with the~~  
205 ~~intent to defraud is guilty of violating s. 117.105.~~

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

211 (10)~~(11)~~ A notary public may not notarize a signature on a  
212 document if the person whose signature is to be notarized is the  
213 spouse, son, daughter, mother, or father of the notary public.

214 (11)~~(12)~~ A notary public may not notarize a signature on a  
215 document if the notary public has a financial interest in or is  
216 a party to the underlying transaction; however, a notary public  
217 who is an employee may notarize a signature for his or her  
218 employer, and this employment does not constitute a financial  
219 interest in the transaction nor make the notary a party to the  
220 transaction under this subsection as long as he or she does not  
221 receive a benefit other than his or her salary and the fee for  
222 services as a notary public authorized by law. For purposes of  
223 this subsection, a notary public who is an attorney does not  
224 have a financial interest in and is not a party to the  
225 underlying transaction evidenced by a notarized document if he  
226 or she notarizes a signature on that document for a client for  
227 whom he or she serves as an attorney of record and he or she has  
228 no interest in the document other than the fee paid to him or  
229 her for legal services and the fee authorized by law for  
230 services as a notary public.

231 (12) A notary public who commits a violation of this  
232 section commits a misdemeanor of the first degree, punishable as

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

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

243 117.109 Journal of notarizations.—

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

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

249 (b) The type of notarial act performed, whether an oath or  
250 acknowledgment.

251 (c) The type, the title, or a description of the electronic  
252 recording or proceeding.

253 (d) The name and address of each principal or witness  
254 involved in the transaction or proceeding.

255 (e) Evidence of identity of each principal involved in the  
256 transaction or proceeding in either of the following forms:

257 1. A statement that the person is personally known to the  
258 notary public; or

259 2.a. A notation of the type of government-issued  
260 identification credential the person provided to the notary  
261 public;

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- 262        b. An indication that the government-issued identification  
263 credential satisfied the credential analysis; and
- 264        c. An indication that the principal satisfactorily passed  
265 the identity proofing.
- 266        (f) The fee, if any, charged for the notarization.
- 267        (2) The notary public shall take reasonable steps to:
- 268        (a) Maintain a backup record of the journal required by  
269 subsection (1).
- 270        (b) Protect from unauthorized access the journal, the  
271 backup record, and any other records the notary public receives.
- 272        (3) The Department of State shall retain jurisdiction over  
273 the journal records for a period of 10 years after the date of  
274 the notarial acts for the purpose of investigating possible  
275 notarial misconduct.
- 276        (a) A notary public shall maintain the journal required  
277 under subsection (1) for at least 10 years after the date of the  
278 notarial act.
- 279        (b) A notary public, a guardian of an incapacitated notary  
280 public, or the personal representative of a notary public may  
281 contract with a secure repository, in accordance with any rules  
282 established under this chapter, and delegate to the repository  
283 the notary public's duty to maintain the journal, provided that  
284 the department is notified of such delegation of retention  
285 duties within 30 days thereafter, including the effective date  
286 of the delegation and the address and contact information for  
287 the repository.
- 288        (c) If a notary public delegates to a secure repository his  
289 or her duty to maintain the journal required under this section,  
290 the notary public must make an entry in his or her journal

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291 identifying such repository and notify the department as  
292 required in this subsection. During any delegation under this  
293 subsection, the secure repository shall fulfill the  
294 responsibilities of the notary public to provide copies or  
295 access under s. 117.111.

296 (4) An omitted or incomplete entry in the journal does not  
297 invalidate the notarial act performed, but may be introduced as  
298 evidence to establish violations of this chapter; as evidence of  
299 possible fraud, forgery, impersonation, duress, incapacity,  
300 undue influence, minority, illegality, or unconscionability; or  
301 for other evidentiary purposes.

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

304 117.111 Use of journal.-

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

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

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

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

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

319 (b) Any other persons or entities, pursuant to a subpoena,

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320 a court order, a law enforcement investigation, or any other  
321 lawful inspection demand.

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

324 Section 6. Subsection (6) of section 28.47, Florida  
325 Statutes, is amended to read:

326 28.47 Recording notification service.-

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

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

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

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

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

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

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