

By Senator Brandes

24-00789A-18

20181042\_\_

1                                   A bill to be entitled  
2       An act relating to notaries public; providing  
3       directives to the Division of Law Revision and  
4       Information; amending s. 117.01, F.S.; revising  
5       provisions relating to use of the office of notary  
6       public; requiring a notary public who registers as an  
7       online notary public to maintain certain liability  
8       insurance; amending s. 117.021, F.S.; requiring  
9       electronic signatures to include access protection;  
10      prohibiting a person from requiring a notary public to  
11      perform a notarial act with certain technology;  
12      authorizing the Department of State, in collaboration  
13      with the Agency for State Technology, to adopt rules  
14      for certain purposes; amending s. 117.05, F.S.;  
15      providing that a person applying for a notary public  
16      commission must provide proof of identity to the  
17      Executive Office of the Governor, rather than the  
18      Department of State, upon request; revising  
19      limitations on notary fees to conform to changes made  
20      by the act; providing for inclusion of certain  
21      information in a jurat or notarial certificate;  
22      providing for compliance with online notarization  
23      requirements; providing for notarial certification of  
24      a printed electronic record; revising statutory forms  
25      for jurats and notarial certifications; amending s.  
26      117.107, F.S.; providing applicability; revising  
27      prohibited acts; creating s. 117.201, F.S.; providing  
28      definitions; creating s. 117.209, F.S.; authorizing  
29      online notarizations; providing an exception; creating

24-00789A-18

20181042\_\_

30 s. 117.215, F.S.; specifying the application of other  
31 laws in relation to online notarizations; creating s.  
32 117.225, F.S.; providing registration and  
33 qualification requirements for online notaries public;  
34 creating s. 117.235, F.S.; authorizing the performance  
35 of certain notarial acts; creating s. 117.245, F.S.;  
36 requiring a notary public to keep an electronic  
37 journal of online notarizations; specifying the  
38 information that must be included for each online  
39 notarization; requiring an online notary public to  
40 take certain steps regarding the maintenance and  
41 security of the electronic journal; creating s.  
42 117.255, F.S.; providing requirements for the use of  
43 electronic journals, signatures, and seals; requiring  
44 a notary public to provide notification of the theft,  
45 vandalism, or loss of an electronic journal,  
46 signature, or seal; authorizing an online notary  
47 public to make copies of electronic journal entries  
48 and provide access to related recordings under certain  
49 circumstances; authorizing an online notary public to  
50 charge a fee for making and delivering such copies;  
51 creating s. 117.265, F.S.; prescribing online  
52 notarization procedures; specifying the manner by  
53 which an online notary public must verify the identity  
54 of a principal or a witness; requiring an online  
55 notary public to take certain measures as to the  
56 security of technology used; specifying that an  
57 electronic notarial certificate must identify the  
58 performance of an online notarization; specifying that

24-00789A-18

20181042\_\_

59 noncompliance does not impair the validity of a  
60 notarial act or the notarized electronic record;  
61 creating s. 117.275, F.S.; providing fees for online  
62 notarizations; creating s. 117.285, F.S.; authorizing  
63 a notary public to supervise the witnessing of  
64 electronic records of online notarizations; creating  
65 s. 117.295, F.S.; providing standards for electronic  
66 and online notarizations; authorizing the Executive  
67 Office of the Governor, in collaboration with the  
68 Agency for State Technology, to adopt certain rules;  
69 creating s. 117.305, F.S.; superseding certain  
70 provisions of federal law regulating electronic  
71 signatures; amending s. 28.222, F.S.; requiring the  
72 clerk of the circuit court to record certain  
73 instruments; amending s. 92.50, F.S.; defining the  
74 term "before"; amending s. 95.231, F.S.; providing a  
75 limitation period for certain recorded instruments;  
76 amending s. 689.01, F.S.; providing for witnessing of  
77 documents in connection with real estate conveyances;  
78 providing for validation of certain recorded  
79 documents; amending s. 694.08, F.S.; providing for  
80 validation of certain recorded documents; amending s.  
81 695.03, F.S.; providing and revising requirements for  
82 making acknowledgments, proofs, and other documents;  
83 defining the term "before"; amending ss. 695.04,  
84 695.05, and 695.09, F.S.; conforming provisions to  
85 changes made by the act; amending s. 695.28, F.S.;  
86 providing for validity of recorded documents;  
87 conforming provisions to changes made by the act;

24-00789A-18

20181042\_\_

88 providing an effective date.

89  
90 Be It Enacted by the Legislature of the State of Florida:

91  
92 Section 1. The Division of Law Revision and Information is  
93 directed to:

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

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

100 Section 2. Subsection (1) of section 117.01, Florida  
101 Statutes, is amended, and subsection (9) is added to that  
102 section, to read:

103 117.01 Appointment, application, suspension, revocation,  
104 application fee, bond, and oath.-

105 (1) The Governor may appoint as many notaries public as he  
106 or she deems necessary, each of whom must ~~shall~~ be at least 18  
107 years of age and a legal resident of this ~~the~~ state. A permanent  
108 resident alien may apply and be appointed and shall file a  
109 recorded declaration of domicile with his or her application ~~a~~  
110 ~~recorded Declaration of Domicile~~. The residence required for  
111 appointment must be maintained throughout the term of  
112 appointment. Notaries public are ~~shall be~~ appointed for 4 years  
113 and shall use and exercise the office of notary public only  
114 while the notary public is within the boundaries of this state.  
115 An applicant must be able to read, write, and understand the  
116 English language.

24-00789A-18

20181042\_\_

117       (9) A notary public who registers as an online notary  
118 public with the Executive Office of the Governor must maintain a  
119 liability insurance policy providing coverage in the amount of  
120 at least \$1 million which protects errors and omissions related  
121 to online notarization.

122       Section 3. Present subsections (4) and (5) of section  
123 117.021, Florida Statutes, are renumbered as subsections (5) and  
124 (6), respectively, a new subsection (4) is added to that  
125 section, and subsection (2) and present subsection (5) of that  
126 section are amended, to read:

127       117.021 Electronic notarization.—

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

130       (a) Unique to the notary public;

131       (b) Capable of independent verification;

132       (c) Retained under the notary public's sole control and  
133 includes access protection through the use of passwords or codes  
134 under control of the notary public; and

135       (d) Attached to or logically associated with the electronic  
136 document in a manner that any subsequent alteration to the  
137 electronic document displays evidence of the alteration.

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

141       (6)~~(5)~~ The Department of State, in collaboration with the  
142 Agency for State Technology, may adopt rules to ensure the  
143 security, reliability, and uniformity of signatures and seals  
144 authorized in this section.

145       Section 4. Subsection (1), paragraph (a) of subsection (2),

24-00789A-18

20181042\_\_

146 subsections (4) and (5), paragraph (a) of subsection (12), and  
 147 subsections (13) and (14) of section 117.05, Florida Statutes,  
 148 are amended, and paragraph (c) is added to subsection (12) of  
 149 that section, to read:

150 117.05 Use of notary commission; unlawful use; notary fee;  
 151 seal; duties; employer liability; name change; advertising;  
 152 photocopies; penalties.-

153 (1) A ~~No~~ person may not ~~shall~~ obtain or use a notary public  
 154 commission in other than his or her legal name, and it is  
 155 unlawful for a notary public to notarize his or her own  
 156 signature. Any person applying for a notary public commission  
 157 must submit proof of identity to the Executive Office of the  
 158 Governor ~~Department of State~~ if so requested. Any person who  
 159 violates ~~the provisions of this subsection~~ commits ~~is guilty of~~  
 160 a felony of the third degree, punishable as provided in s.  
 161 775.082, s. 775.083, or s. 775.084.

162 (2) (a) The fee of a notary public may not exceed \$10 for  
 163 any one notarial act, except as provided in s. 117.045 or s.  
 164 117.275.

165 (4) When notarizing a signature, a notary public shall  
 166 complete a jurat or notarial certificate in substantially the  
 167 same form as those found in subsection (13). The jurat or  
 168 certificate of acknowledgment shall contain the following  
 169 elements:

170 (a) The venue stating the location of the notary at the  
 171 time of the notarization in the format, "State of Florida,  
 172 County of ....."

173 (b) The type of notarial act performed, an oath or an  
 174 acknowledgment, evidenced by the words "sworn" or

24-00789A-18

20181042\_\_

175 "acknowledged."

176 (c) That the signer personally appeared before the notary  
177 public at the time of the notarization either by physical  
178 presence or by means of audio-video communication technology as  
179 authorized under part II of this chapter.

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

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

184 (f) The specific type of identification the notary public  
185 is relying upon in identifying the signer, either based on  
186 personal knowledge or satisfactory evidence specified in  
187 subsection (5).

188 (g) The notary's official signature.

189 (h) The notary's name, typed, printed, or stamped below the  
190 signature.

191 (i) The notary's official seal affixed below or to either  
192 side of the notary's signature.

193 (5) A notary public may not notarize a signature on a  
194 document unless he or she personally knows, or has satisfactory  
195 evidence, that the person whose signature is to be notarized is  
196 the individual who is described in and who is executing the  
197 instrument. A notary public shall certify in the certificate of  
198 acknowledgment or jurat the type of identification, either based  
199 on personal knowledge or other form of identification, upon  
200 which the notary public is relying. In the case of an online  
201 notarization, the online notary public shall comply with the  
202 requirements set forth in part II of this chapter.

203 (a) For purposes of this subsection, the term "personally

24-00789A-18

20181042\_\_

204 knows" means having an acquaintance, derived from association  
205 with the individual, which establishes the individual's identity  
206 with at least a reasonable certainty.

207 (b) For the purposes of this subsection, the term  
208 "satisfactory evidence" means the absence of any information,  
209 evidence, or other circumstances which would lead a reasonable  
210 person to believe that the person whose signature is to be  
211 notarized is not the person he or she claims to be and any one  
212 of the following:

213 1. The sworn written statement of one credible witness  
214 personally known to the notary public or the sworn written  
215 statement of two credible witnesses whose identities are proven  
216 to the notary public upon the presentation of satisfactory  
217 evidence that each of the following is true:

218 a. That the person whose signature is to be notarized is  
219 the person named in the document;

220 b. That the person whose signature is to be notarized is  
221 personally known to the witnesses;

222 c. That it is the reasonable belief of the witnesses that  
223 the circumstances of the person whose signature is to be  
224 notarized are such that it would be very difficult or impossible  
225 for that person to obtain another acceptable form of  
226 identification;

227 d. That it is the reasonable belief of the witnesses that  
228 the person whose signature is to be notarized does not possess  
229 any of the identification documents specified in subparagraph  
230 2.; and

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

24-00789A-18

20181042\_\_

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

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

239           b. A passport issued by the Department of State of the  
240 United States;

241           c. A passport issued by a foreign government if the  
242 document is stamped by the United States Bureau of Citizenship  
243 and Immigration Services;

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

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

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

252           g. An inmate identification card issued on or after January  
253 1, 1991, by the Florida Department of Corrections for an inmate  
254 who is in the custody of the department;

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

258           i. A sworn, written statement from a sworn law enforcement  
259 officer that the forms of identification for an inmate in an  
260 institution of confinement were confiscated upon confinement and  
261 that the person named in the document is the person whose

24-00789A-18

20181042\_\_

262 signature is to be notarized; or

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

265 (12) (a) A notary public may supervise the making of a  
266 photocopy of an original document or the duplication or printout  
267 of an electronic record and attest to the trueness of the copy,  
268 provided the document is neither a vital record in this state,  
269 another state, a territory of the United States, or another  
270 country, nor a public record, if a copy can be made by the  
271 custodian of the public record.

272 (c) A notary public must use a certificate in substantially  
273 the following form in notarizing an attested copy of an  
274 electronic document:

275  
276 STATE OF FLORIDA  
277 COUNTY OF .....

278  
279 On this .... day of ....., ... (year) ..., I attest that the  
280 preceding or attached document is a true, exact, complete, and  
281 unaltered copy duplicated before me or printed by me from an  
282 electronic record of ... (description of electronic record) ...  
283 presented to me by the document's custodian, .....  
284 At the time of duplication or printing, no security features, if  
285 any present on the electronic record, indicated that the record  
286 had been altered since execution.

287  
288 ... (Signature of Notary Public - State of Florida) ...  
289 ... (Print, Type, or Stamp Commissioned Name of Notary Public) ...

290

24-00789A-18

20181042\_\_

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

295 (a) For an oath or affirmation:

296

297 STATE OF FLORIDA

298 COUNTY OF .....

299

300 Sworn to (or affirmed) and subscribed before me by means of  
 301 [] physical presence or [] online notarization, this .... day of  
 302 ....., ... (year) ..., by ... (name of person making  
 303 statement)....

304

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

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

307 Personally Known ..... OR Produced Identification

308 .....

309 Type of Identification Produced.....

310

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

312

313 STATE OF FLORIDA

314 COUNTY OF .....

315

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

319

24-00789A-18

20181042\_\_

320                   ...(Signature of Notary Public - State of Florida)...  
 321    ...(Print, Type, or Stamp Commissioned Name of Notary Public)...  
 322           Personally Known ..... OR Produced Identification  
 323    .....  
 324           Type of Identification Produced.....

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

327  
 328    STATE OF FLORIDA  
 329    COUNTY OF .....

330  
 331    The foregoing instrument was acknowledged before me by means of  
 332    [] physical presence or [] online notarization, this .... day of  
 333    ....., ... (year)..., by ... (name of person)... as ... (type of  
 334    authority, . . . e.g. officer, trustee, attorney in fact)... for  
 335    ...(name of party on behalf of whom instrument was executed)....

336  
 337                   ...(Signature of Notary Public - State of Florida)...  
 338    ...(Print, Type, or Stamp Commissioned Name of Notary Public)...  
 339           Personally Known ..... OR Produced Identification  
 340    .....  
 341           Type of Identification Produced.....

342  
 343           (14) A notary public must make reasonable accommodations to  
 344    provide notarial services to persons with disabilities.

345           (a) A notary public may notarize the signature of a person  
 346    who is blind after the notary public has read the entire  
 347    instrument to that person.

348           (b) A notary public may notarize the signature of a person

24-00789A-18

20181042\_\_

349 who signs with a mark if:

350 1. The document signing is witnessed by two disinterested  
351 persons;

352 2. The notary prints the person's first name at the  
353 beginning of the designated signature line and the person's last  
354 name at the end of the designated signature line; and

355 3. The notary prints the words "his (or her) mark" below  
356 the person's signature mark.

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

359 1. For an oath or affirmation:

360

361 ... (First Name) ... (Last Name) ...

362 ... His (or Her) Mark ...

363

364 STATE OF FLORIDA

365 COUNTY OF .....

366

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

371

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

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

374 Personally Known ..... OR Produced Identification

375 .....

376 Type of Identification Produced.....

377

24-00789A-18

20181042\_\_

378           2. For an acknowledgment in an individual capacity:  
 379  
 380   ...(First Name)... ...(Last Name)...  
 381   ...His (or Her) Mark...  
 382

383 STATE OF FLORIDA  
 384 COUNTY OF .....

386 The foregoing instrument was acknowledged before me by means of  
 387 [] physical appearance or [] online notarization, this .... day  
 388 of ....., ...(year)..., by ...(name of person  
 389 acknowledging)..., who signed with a mark in the presence of  
 390 these witnesses:

391  
 392   ...(Signature of Notary Public - State of Florida)...  
 393   ...(Print, Type, or Stamp Commissioned Name of Notary Public)...  
 394   Personally Known ..... OR Produced Identification  
 395 .....  
 396   Type of Identification Produced.....  
 397

398           (d) A notary public may sign the name of a person whose  
 399 signature is to be notarized when that person is physically  
 400 unable to sign or make a signature mark on a document if:  
 401           1. The person with a disability directs the notary to sign  
 402 in his or her presence;  
 403           2. The document signing is witnessed by two disinterested  
 404 persons;  
 405           3. The notary writes below the signature the following  
 406 statement: "Signature affixed by notary, pursuant to s.

24-00789A-18

20181042\_\_

407 117.05(14), Florida Statutes," and states the circumstances of  
408 the signing in the notarial certificate.

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

412 1. For an oath or affirmation:

413

414 STATE OF FLORIDA

415 COUNTY OF .....

416

417 Sworn to (or affirmed) before me by means of [] physical  
418 presence or [] online notarization, this .... day of .....,  
419 ...(year)..., by ...(name of person making statement)..., and  
420 subscribed by ...(name of notary)... at the direction of ~~and in~~  
421 ~~the presence of~~ ...(name of person making statement)..., and in  
422 the presence of these witnesses:

423

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

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

426 Personally Known ..... OR Produced Identification

427 .....

428 Type of Identification Produced.....

429

430 2. For an acknowledgment in an individual capacity:

431

432 STATE OF FLORIDA

433 COUNTY OF .....

434

435 The foregoing instrument was acknowledged before me by means of

24-00789A-18

20181042\_\_

436 [ ] physical presence or [ ] online notarization, this .... day of  
 437 ....., ... (year) ..., by ... (name of person acknowledging) ...  
 438 and subscribed by ... (name of notary) ... at the direction of ~~and~~  
 439 ~~in the presence of~~ ... (name of person acknowledging) ..., and in  
 440 the presence of these witnesses:

441  
 442                   ... (Signature of Notary Public - State of Florida) ...  
 443                   ... (Print, Type, or Stamp Commissioned Name of Notary Public) ...  
 444                   Personally Known ..... OR Produced Identification  
 445 .....  
 446                   Type of Identification Produced.....

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

450                   117.107 Prohibited acts.—

451                   (2) A notary public may not sign notarial certificates  
 452 using a facsimile signature stamp unless the notary public has a  
 453 physical disability that limits or prohibits his or her ability  
 454 to make a written signature and unless the notary public has  
 455 first submitted written notice to the Department of State with  
 456 an exemplar of the facsimile signature stamp. This subsection  
 457 does not apply to or prohibit the use of an electronic signature  
 458 and seal by a notary public performing online notarizations in  
 459 accordance with the requirements of this chapter.

460                   (9) A notary public may not notarize a signature on a  
 461 document if the person whose signature is being notarized does  
 462 not appear before the notary public either by means of physical  
 463 presence or by means of audio-video communication technology as  
 464 authorized under part II of this chapter ~~is not in the presence~~

24-00789A-18

20181042\_\_

465 ~~of the notary public~~ at the time the signature is notarized. Any  
466 notary public who violates this subsection is guilty of a civil  
467 infraction, punishable by penalty not exceeding \$5,000, and such  
468 violation constitutes malfeasance and misfeasance in the conduct  
469 of official duties. It is no defense to the civil infraction  
470 specified in this subsection that the notary public acted  
471 without intent to defraud. A notary public who violates this  
472 subsection with the intent to defraud is guilty of violating s.  
473 117.105.

474 Section 6. Section 117.201, Florida Statutes, is created to  
475 read:

476 117.201 Definitions.—As used in this part, the term:

477 (1) "Appear before," "before," "appear personally before,"  
478 or "in the presence of," as used in this chapter and in ss.  
479 92.50 and 695.03, means in:

480 (a) The same physical location as another person and close  
481 enough to see, hear, communicate with, and exchange credentials  
482 with that person; or

483 (b) A different physical location from another person, but  
484 able to see, hear, and communicate with the person by means of  
485 audio-video communication technology.

486 (2) "Audio-video communication technology" means technology  
487 approved by the Executive Office of the Governor or authorized  
488 in this part which enables real-time, two-way communication  
489 using electronic means in which participants are able to see,  
490 hear, and communicate with one another.

491 (3) "Credential analysis" means a process or service  
492 operating according to criteria approved by the Executive Office  
493 of the Governor or by this part through which a third party

24-00789A-18

20181042\_\_

494 confirms the validity of a government-issued identity credential  
495 or data thereon through review of public and proprietary data  
496 sources.

497 (4) "Government-issued identity credential" means any  
498 approved credential for verifying identity set forth in s.  
499 117.05(5)(b)2.

500 (5) "Identity proofing" means a process or service  
501 operating according to criteria approved by the Executive Office  
502 of the Governor or by this part, through which a third party  
503 confirms the identity of an individual through review of public  
504 and proprietary data sources.

505 (6) "Knowledge-based authentication" means a form of  
506 identity proofing based on a set of questions formulated from  
507 public and proprietary data sources for which the principal has  
508 not provided a previous answer during the course of the identity  
509 proofing.

510 (7) "Online notarization" means the performance of an  
511 electronic notarization by means of audio-video communication  
512 technology and which meets standards provided in this chapter.

513 (8) "Online notary public" means a notary public who has  
514 registered with the Executive Office of the Governor to perform  
515 online notarizations under this part or a civil-law notary  
516 appointed under chapter 118.

517 (9) "Principal" means an individual whose electronic  
518 signature is acknowledged, witnessed, or attested to in an  
519 online notarization or who takes an oath or affirmation from the  
520 online notary public.

521 (10) "Remote presentation" means transmission of an image  
522 of a government-issued identity credential that is of sufficient

24-00789A-18

20181042\_\_

523 quality to enable the online notary public through communication  
524 technology to identify the individual seeking the notary's  
525 services and to perform credential analysis through audio-video  
526 communication technology.

527

528 Except where the context otherwise requires, any term defined in  
529 s. 668.50(2) has the same meaning when used in this part.

530 Section 7. Section 117.209, Florida Statutes, is created to  
531 read:

532 117.209 Authority to perform online notarizations.—

533 (1) An online notary public may perform any of the  
534 functions authorized under part I of this chapter as an online  
535 notarization, excluding solemnizing the rites of matrimony.

536 (2) If a notarial act requires a principal to appear before  
537 or in the presence of the online notary public, the principal  
538 may appear before the online notary public by means of audio-  
539 video communication technology that meets the requirements of  
540 this chapter and any rules adopted by the Executive Office of  
541 the Governor under s. 117.295.

542 (3) An online notary public may perform a notarial act as  
543 an online notarization as authorized under this chapter,  
544 regardless of the physical location of the principal at the time  
545 of the notarial act, provided the notary public is physically  
546 located in this state while performing the online notarization.

547 (4) The validity of an online notarization performed by an  
548 online notary public appointed in this state shall be determined  
549 by applicable laws of this state regardless of the physical  
550 location of the principal at the time of the notarial act.

551 Section 8. Section 117.215, Florida Statutes, is created to

24-00789A-18

20181042\_\_

552 read:

553 117.215 Relation to other laws.-554 (1) If a provision of law requires a signature, a  
555 statement, or an instrument to be acknowledged, sworn, affirmed,  
556 or made under oath, or is subject to penalty of perjury:557 (a) The acknowledgement or proof may be made by any of the  
558 officials listed and in the manner described in s. 695.03.559 (b) The requirement may be satisfied by an online  
560 notarization if made in accordance with the online notarization  
561 provisions of this part or in conformance with the laws of the  
562 notary public's appointing state.563 (2) If a provision of law requires a signature or an act to  
564 be witnessed, compliance with the online electronic witnessing  
565 standards prescribed in s. 117.285 satisfies that requirement.566 Section 9. Section 117.225, Florida Statutes, is created to  
567 read:568 117.225 Registration; qualifications.-A notary public may  
569 complete registration as an online notary public with the  
570 Executive Office of the Governor by:571 (1) Satisfying the qualification requirements for  
572 appointment as a notary public under part I of this chapter.573 (2) Paying an online notary public application fee in the  
574 amount of \$25.575 (3) Providing proof of a professional liability insurance  
576 policy as required under s. 117.01(9).577 (4) Submitting a registration as an online notary public to  
578 the Executive Office of the Governor, signed and sworn to by the  
579 applicant.580 (5) Identifying the audio-video communication technology

24-00789A-18

20181042\_\_

581 and identity proofing methods that the online notary public  
582 intends to use in performing online notarizations. If the  
583 Executive Office of the Governor and the Agency for State  
584 Technology has established standards for approval of technology  
585 pursuant to this part, the technology and methods selected by  
586 the online notary must be in conformance with such standards. If  
587 a form of technology conforms to the standards, the Executive  
588 Office of the Governor and the Agency for State Technology must  
589 approve the use of the technology. If the Executive Office of  
590 the Governor and the Agency for State Technology have not yet  
591 established such standards, the online notary public must  
592 identify technologies that are consistent with the requirements  
593 of s. 117.295(2).

594 Section 10. Section 117.235, Florida Statutes, is created  
595 to read:

596 117.235 Performance of notarial acts.-

597 (1) An online notary public is subject to part I to the  
598 same extent as a notary public appointed and commissioned only  
599 under that part, including the provisions of s. 117.021 relating  
600 to electronic notarizations.

601 (2) An online notary public may perform notarial acts as  
602 provided by part I in addition to performing online  
603 notarizations as authorized and pursuant to the provisions of  
604 this part.

605 Section 11. Section 117.245, Florida Statutes, is created  
606 to read:

607 117.245 Electronic journal of online notarizations.-

608 (1) An online notary public shall keep a secure electronic  
609 journal of electronic records notarized by the online notary

24-00789A-18

20181042\_\_

- 610 public. For each online notarization, the electronic journal  
611 entry must contain all of the following:
- 612 (a) The date and time of the notarization.
  - 613 (b) The type of notarial act.
  - 614 (c) The type, the title, or a description of the electronic  
615 record or proceeding.
  - 616 (d) The printed name and address of each principal involved  
617 in the transaction or proceeding.
  - 618 (e) Evidence of identity of each principal involved in the  
619 transaction or proceeding in the form of:
    - 620 1. A statement that the person is personally known to the  
621 online notary public;
    - 622 2. A notation of the type of identification document  
623 provided to the online notary public;
    - 624 3. A copy of the government-issued identity credential  
625 provided; and
    - 626 4. A copy of any other identity credential or information  
627 provided.
  - 628 (f) An indication that the principal satisfactorily passed  
629 the identity proofing.
  - 630 (g) An indication that the government-issued identity  
631 credential satisfied the credential analysis.
  - 632 (h) A recording of the audio-video communication in which:
    - 633 1. The principal and any witnesses appeared before the  
634 notary public.
    - 635 2. The identity of each was confirmed.
    - 636 3. The notarial act was performed.
  - 637 (i) The fee, if any, charged for the notarization.
  - 638 (2) The online notary public shall take reasonable steps

24-00789A-18

20181042\_\_

639 to:640 (a) Ensure the integrity, security, and authenticity of  
641 online notarizations.642 (b) Maintain a backup record of the electronic journal  
643 required by subsection (1).644 (c) Protect the backup record from unauthorized access or  
645 use.646 (3) The electronic journal required by subsection (1) shall  
647 be maintained for at least 10 years after the date of the  
648 notarial act.649 (4) An omitted or incomplete entry in the electronic  
650 journal does not impair the validity of the notarial act or of  
651 the electronic record notarized, but may be introduced as  
652 evidence to establish violations of this chapter; as an  
653 indication of possible fraud, forgery, or impersonation; or for  
654 other evidentiary purposes.655 Section 12. Section 117.255, Florida Statutes, is created  
656 to read:657 117.255 Use of electronic journal, signature, and seal.—An  
658 online notary public shall:659 (1) Take reasonable steps to ensure that any registered  
660 device used to create an electronic signature is current and has  
661 not been revoked or terminated by the device's issuing or  
662 registering authority.663 (2) Keep his or her electronic journal, electronic  
664 signature, and electronic seal secure and under his or her sole  
665 control, which includes control in the form of access protection  
666 using passwords or codes under control of the online notary  
667 public. The online notary public may not allow another person to

24-00789A-18

20181042\_\_

668 use or access his or her electronic journal, electronic  
669 signature, or electronic seal.

670 (3) Use his or her electronic signature only for performing  
671 online notarization.

672 (4) Attach or logically associate the online notary  
673 public's electronic signature and seal to the electronic  
674 notarial certificate of an electronic record in a manner that is  
675 capable of independent verification using tamper-evident  
676 technology that renders any subsequent change or modification to  
677 the electronic record evident.

678 (5) Immediately notify an appropriate law enforcement  
679 agency and the Executive Office of the Governor of theft or  
680 vandalism of his or her electronic journal, electronic  
681 signature, or electronic seal. An online notary public shall  
682 immediately notify the Executive Office of the Governor of the  
683 loss or use by another person of the online notary public's  
684 electronic journal, electronic signature, or electronic seal.

685 (6) Make electronic copies, upon request, of the pertinent  
686 entries in the electronic journal and provide access to the  
687 related audio-video communication recordings to the title agent,  
688 settlement agent, or title insurer who engaged the online notary  
689 with regard to a real estate transaction. The online notary  
690 public may charge a reasonable fee for making and delivering  
691 electronic copies of a given series of related electronic  
692 records. The online notary public shall disclose the amount of  
693 such fee to the requester before making the electronic copies.

694 Section 13. Section 117.265, Florida Statutes, is created  
695 to read:

696 117.265 Online notarization procedures.—

24-00789A-18

20181042\_\_

697       (1) An online notary public physically located in this  
698 state may perform an online notarization that meets the  
699 requirements of this part regardless of whether the principal or  
700 any witnesses are physically located in this state at the time  
701 of the online notarization. An online notarial act performed in  
702 accordance with this part is deemed to have been performed  
703 within this state and is governed by the applicable laws of this  
704 state.

705       (2) In performing an online notarization, an online notary  
706 public shall verify the identity of a principal at the time that  
707 the signature is taken by using audio-video communication  
708 technology and processes that meet the requirements of this part  
709 and record the entire two-way audio-video conference session  
710 between the notary public and the principal and any subscribing  
711 witnesses. A principal may not act in the capacity of a witness  
712 for the online notarization.

713       (3) In performing an online notarization of a principal not  
714 located within the state, an online notary public must confirm  
715 that the principal desires for the notarial act to be performed  
716 by a Florida notary public and governed by the applicable laws  
717 of this state.

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

720           (a) The online notary public's personal knowledge of each  
721 such individual; or

722           (b) All of the following, as the same may be refined or  
723 supplemented in rules adopted pursuant to s. 117.295:

724           1. Remote presentation of a government-issued identity  
725 credential by each individual;

24-00789A-18

20181042\_\_

726 2. Credential analysis of each government-issued identity  
727 credential; and

728 3. Identity proofing of each individual, in the form of  
729 knowledge-based authentication or another method of identity  
730 proofing that conforms to standards established by the Executive  
731 Office of the Governor.

732  
733 If the online notary public is unable to satisfy subparagraphs  
734 (b)1.-3., or if the databases consulted for identity proofing do  
735 not contain sufficient information to permit authentication, the  
736 online notary public is not authorized to perform the online  
737 notarization.

738 (5) The online notary public shall take reasonable steps to  
739 ensure that the audio-video communication technology used in an  
740 online notarization is secure from unauthorized interception.

741 (6) The electronic notarial certificate for an online  
742 notarization must include a notation that the notarization is an  
743 online notarization.

744 (7) Except as expressly modified in this part, the  
745 requirements of part I of this chapter apply to an online  
746 notarization and an online notary public.

747 (8) Any failure to comply with the procedures set forth in  
748 this section does not impair the validity of the notarial act or  
749 the electronic record that was notarized, but may be introduced  
750 as evidence to establish violations of this chapter; as an  
751 indication of possible fraud, forgery, or impersonation; or for  
752 other evidentiary purposes.

753 Section 14. Section 117.275, Florida Statutes, is created  
754 to read:

24-00789A-18

20181042\_\_

755       117.275 Fees for online notarization.—An online notary  
756 public or the online notary public’s employer may charge a fee,  
757 not to exceed \$25, for performing an online notarization in  
758 addition to any other fees authorized under part I of this  
759 chapter. Fees for services other than the provision of notarial  
760 acts are not governed by this section.

761       Section 15. Section 117.285, Florida Statutes, is created  
762 to read:

763       117.285 Witnessing of online notarization.—An online notary  
764 public or an official of another state authorized under the laws  
765 of that state to perform online notarization of documents may  
766 supervise the witnessing of electronic records by the same  
767 audio-video communication technology used for online  
768 notarization, as follows:

769       (1) The identity of each witness must be verified in the  
770 same manner as the identity of the principal.

771       (2) A witness may physically be present with the principal  
772 or remote from the principal so long as the witness and the  
773 principal may see and hear one another in real time using audio-  
774 video communication technology.

775       (3) The witness is present in either physical proximity to  
776 the principal or through audio-video communication technology at  
777 the time the principal affixes the electronic signature and  
778 hears the principal make a statement to the effect that the  
779 principal has signed the electronic record.

780       Section 16. Section 117.295, Florida Statutes, is created  
781 to read:

782       117.295 Standards for electronic and online notarization;  
783 rulemaking authority.—

24-00789A-18

20181042\_\_

784       (1) The Legislature intends that the standards applicable  
785 to electronic notarization under s. 117.021 and for online  
786 notarization under this part reflect future improvements in  
787 technology and methods of assuring the identity of principals  
788 and the security of an electronic record. Further, the Executive  
789 Office of the Governor, in collaboration with the Agency for  
790 State Technology, may adopt rules and standards necessary to  
791 implement the requirements of this chapter and such other rules  
792 and standards as may be required to facilitate the integrity,  
793 security, and reliability of online notarization, including  
794 standards regarding identity proofing, credential analysis,  
795 unauthorized interception, remote presentation, tamper-evident  
796 technology, and audio-video communication technology, and may  
797 publish lists of technologies that satisfy the standards and are  
798 approved for use in online notarizations.

799       (2) Identity proofing, credential analysis, unauthorized  
800 interception, remote presentation, tamper-evident technology,  
801 and audio-video communication technology shall be governed by  
802 the following minimum standards:

803       (a) Identity proofing by means of knowledge-based  
804 authentication shall have, at a minimum, the following security  
805 characteristics:

806       1. The principal must be presented with five or more  
807 questions with a minimum of five possible answer choices per  
808 question.

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

24-00789A-18

20181042\_\_

813 records.

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

816 4. The principal must answer a minimum of 80 percent of the  
817 questions correctly.

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

820 6. During the second attempt, the principal may not be  
821 presented with questions from the prior attempt.

822 (b) Credential analysis must include:

823 1. A comparison of the presented government-issued identity  
824 credential and data thereon against public or proprietary data  
825 sources to confirm that one or more data elements conform to the  
826 asserted identity; or

827 2.a. The inspection of one or more readable format features  
828 to verify that they conform to those specified by the issuing  
829 state or country;

830 b. The reading of any bar codes contained on the credential  
831 to verify that they contain data corresponding to the asserted  
832 identity information of the principal; and

833 c. An attempt to verify any micro-printing contained on the  
834 credential.

835 (c) Tamper-evident technology requirements are deemed  
836 satisfied by use of technology that renders any subsequent  
837 change or modification to the electronic record evident.

838 (d) Audio-video communication technology used in completing  
839 online notarizations must meet the following requirements:

840 1. The signal transmission must be secure from interception  
841 or access by anyone other than the participants communicating.

24-00789A-18

20181042\_\_

842       2. The technology must provide sufficient audio clarity and  
843 video resolution to enable the notary to communicate with the  
844 principal and to confirm the identity of the principal using  
845 identification methods described in s. 117.265.

846

847 An online notary public is not responsible for the security of  
848 the systems used by the principal or others to access the online  
849 notarization session.

850       Section 17. Section 117.305, Florida Statutes, is created  
851 to read:

852       117.305 Relation to federal law.—This part supersedes the  
853 Electronic Signatures in Global and National Commerce Act as  
854 authorized under 15 U.S.C. s. 7002, but does not modify, limit,  
855 or supersede the requirements set forth in 15 U.S.C. s. 7001(c)  
856 or authorize the electronic delivery of any order, notice, or  
857 document described in 15 U.S.C. s. 7003(b).

858       Section 18. Present paragraph (h) of subsection (3) of  
859 section 28.222, Florida Statutes, is redesignated as paragraph  
860 (i), and a new paragraph (h) is added to that subsection, to  
861 read:

862       28.222 Clerk to be county recorder.—

863       (3) The clerk of the circuit court shall record the  
864 following kinds of instruments presented to him or her for  
865 recording, upon payment of the service charges prescribed by  
866 law:

867       (h) Copies of any instruments originally created and  
868 executed using an electronic signature, as defined in s. 695.27,  
869 and certified to be a true and correct paper printout by a  
870 notary public in accordance with chapter 117 or by a title

24-00789A-18

20181042\_\_

871 agency, an authorized intermediary, or other approved party, if  
872 the county recorder is not prepared to accept electronic  
873 documents for recording electronically.

874 Section 19. Subsection (4) is added to section 92.50,  
875 Florida Statutes, to read:

876 92.50 Oaths, affidavits, and acknowledgments; who may take  
877 or administer; requirements.—

878 (4) DEFINITION.—As used in this section, the term “before”  
879 means:

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

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

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

888 95.231 Limitations where deed or will on record.—

889 (1) Five years after the recording of an instrument  
890 required to be executed in accordance with s. 689.01; 5 years  
891 after the recording of a power of attorney accompanying and used  
892 for an instrument required to be executed in accordance with s.  
893 689.01; or 5 years after the probate of a will purporting to  
894 convey real property, from which it appears that the person  
895 owning the property attempted to convey, affect, or devise it,  
896 the instrument, power of attorney, or will shall be held to have  
897 its purported effect to convey, affect, or devise, the title to  
898 the real property of the person signing the instrument, as if  
899 there had been no lack of seal or seals, witness or witnesses,

24-00789A-18

20181042\_\_

900 defect in, failure of, or absence of acknowledgment or  
901 relinquishment of dower, in the absence of fraud, adverse  
902 possession, or pending litigation. The instrument is admissible  
903 in evidence. A power of attorney validated under this subsection  
904 shall be valid only for the purpose of effectuating the  
905 instrument with which it was recorded.

906 Section 21. Section 689.01, Florida Statutes, is amended to  
907 read:

908 689.01 How real estate conveyed.—

909 (1) No estate or interest of freehold, or for a term of  
910 more than 1 year, or any uncertain interest of, in or out of any  
911 messuages, lands, tenements or hereditaments shall be created,  
912 made, granted, transferred or released in any other manner than  
913 by instrument in writing, signed in the presence of two  
914 subscribing witnesses by the party creating, making, granting,  
915 conveying, transferring or releasing such estate, interest, or  
916 term of more than 1 year, or by the party's lawfully authorized  
917 agent, unless by will and testament, or other testamentary  
918 appointment, duly made according to law; and no estate or  
919 interest, either of freehold, or of term of more than 1 year, or  
920 any uncertain interest of, in, to, or out of any messuages,  
921 lands, tenements or hereditaments, shall be assigned or  
922 surrendered unless it be by instrument signed in the presence of  
923 two subscribing witnesses by the party so assigning or  
924 surrendering, or by the party's lawfully authorized agent, or by  
925 the act and operation of law. No seal shall be necessary to give  
926 validity to any instrument executed in conformity with this  
927 section. Corporations may execute any and all conveyances in  
928 accordance with the provisions of this section or ss. 692.01 and

24-00789A-18

20181042\_\_

929 692.02.

930 (2) For purposes of this chapter:

931 (a) Any requirement that an instrument be signed in the  
932 presence of two subscribing witnesses may be satisfied by  
933 witnesses being present and electronically signing by means of  
934 audio-video communication technology under standards applicable  
935 to online notarization provided in chapter 117 or in conformance  
936 with the laws of other states that authorize online notarization  
937 of instruments.

938 (b) The act of witnessing an electronic signature is  
939 satisfied if a witness is present either in physical proximity  
940 to the principal or by audio-video communication technology at  
941 the time the principal affixes his or her electronic signature  
942 and hears the principal make a statement acknowledging that the  
943 principal has signed the electronic record.

944 (3) All witnesses heretofore made or taken pursuant to  
945 subsection (2) are validated and, upon recording, may not be  
946 denied to have provided constructive notice based on any alleged  
947 failure to have strictly complied with this section, as  
948 currently or previously in effect, or the laws governing  
949 notarization of instruments, including online notarization, in  
950 this state or any other state.

951 Section 22. Section 694.08, Florida Statutes, is amended to  
952 read:

953 694.08 Certain instruments validated, notwithstanding lack  
954 of seals or witnesses, or defect in acknowledgment, ~~etc.~~-

955 (1) Whenever any power of attorney has been executed and  
956 delivered, or any conveyance has been executed and delivered to  
957 any grantee by the person owning the land therein described, or

24-00789A-18

20181042\_\_

958 conveying the same in an official or representative capacity,  
959 and has, for a period of 7 years or more been spread upon the  
960 records of the county wherein the land therein described has  
961 been or was at the time situated, and one or more subsequent  
962 conveyances of said land or parts thereof have been made,  
963 executed, delivered and recorded by parties claiming under such  
964 instrument or instruments, and such power of attorney or  
965 conveyance, or the public record thereof, shows upon its face a  
966 clear purpose and intent of the person executing the same to  
967 authorize the conveyance of said land or to convey the said  
968 land, the same shall be taken and held by all the courts of this  
969 state, in the absence of any showing of fraud, adverse  
970 possession, or pending litigation, to have authorized the  
971 conveyance of, or to have conveyed, the fee simple title, or any  
972 interest therein, of the person signing such instruments, or the  
973 person in behalf of whom the same was conveyed by a person in an  
974 official or representative capacity, to the land therein  
975 described as effectively as if there had been no defect in,  
976 failure of, or absence of the acknowledgment or the certificate  
977 of acknowledgment, if acknowledged, or the relinquishment of  
978 dower, and as if there had been no lack of the word "as"  
979 preceding the title of the person conveying in an official or  
980 representative capacity, of any seal or seals, or of any witness  
981 or witnesses, and shall likewise be taken and held by all the  
982 courts of this state to have been duly recorded so as to be  
983 admissible in evidence;

984 (2) Provided, however, that this section shall not apply to  
985 any conveyance the validity of which shall be contested or have  
986 been contested by suit commenced heretofore or within 1 year of

24-00789A-18

20181042\_\_

987 the effective date of this law.

988 Section 23. Section 695.03, Florida Statutes, is amended to  
989 read:

990 695.03 Acknowledgment and proof; validation of certain  
991 acknowledgments; legalization or authentication before foreign  
992 officials.—

993 (1) To entitle any instrument concerning real property to  
994 be recorded, the execution must be acknowledged by the party  
995 executing it, proved by a subscribing witness to it, or  
996 legalized or authenticated by a civil-law notary or notary  
997 public who affixes her or his official seal, before the officers  
998 and in the following form and manner ~~following~~:

999 (a) Within this state.—~~(1) WITHIN THIS STATE.~~—An  
1000 acknowledgment or a proof made within this state may be made  
1001 before a judge, clerk, or deputy clerk of any court; a United  
1002 States commissioner or magistrate; or a notary public or civil-  
1003 law notary of this state, and the certificate of acknowledgment  
1004 or proof must be under the seal of the court or officer, as the  
1005 case may be. ~~All affidavits and acknowledgments heretofore made~~  
1006 ~~or taken in this manner are hereby validated.~~

1007 (b) Outside of State but within the United States.—~~(2)~~  
1008 ~~WITHOUT THIS STATE BUT WITHIN THE UNITED STATES.~~—An  
1009 acknowledgment or a proof of a person located outside ~~made out~~  
1010 of this state but within the United States may be made before a  
1011 notary public, a civil-law notary, ~~of this state~~ or by a  
1012 commissioner of deeds appointed by the Governor of this state; a  
1013 judge or clerk of any court of the United States or of any  
1014 state, territory, or district; a United States commissioner or  
1015 magistrate; or a notary public, justice of the peace, master in

24-00789A-18

20181042\_\_

1016 chancery, or registrar or recorder of deeds of any state,  
 1017 territory, or district having a seal, and the certificate of  
 1018 acknowledgment or proof must be under the seal of the court or  
 1019 officer, as the case may be. If the acknowledgment or proof is  
 1020 made before a notary public who does not affix a seal, it is  
 1021 sufficient for the notary public to type, print, or write by  
 1022 hand on the instrument, "I am a Notary Public of the State of  
 1023 ...(state)..., and my commission expires on ...(date)...."

1024 (c) Within Foreign Countries. ~~(3) WITHIN FOREIGN~~  
 1025 ~~COUNTRIES.~~—If the acknowledgment, affidavit, oath, legalization,  
 1026 authentication, or proof of a person is made in a foreign  
 1027 country, it may be made before a commissioner of deeds appointed  
 1028 by the Governor of this state to act in such country; before a  
 1029 notary public of such foreign country or a civil-law notary of  
 1030 this state or of such foreign country who has an official seal;  
 1031 before an ambassador, envoy extraordinary, minister  
 1032 plenipotentiary, minister, commissioner, charge d'affaires,  
 1033 consul general, consul, vice consul, consular agent, or other  
 1034 diplomatic or consular officer of the United States appointed to  
 1035 reside in such country; or before a military or naval officer  
 1036 authorized by the Laws or Articles of War of the United States  
 1037 to perform the duties of notary public, and the certificate of  
 1038 acknowledgment, legalization, authentication, or proof must be  
 1039 under the seal of the officer. A certificate legalizing or  
 1040 authenticating the signature of a person executing an instrument  
 1041 concerning real property and to which a civil-law notary or  
 1042 notary public of that country has affixed her or his official  
 1043 seal is sufficient as an acknowledgment. For the purposes of  
 1044 this section, the term "civil-law notary" means a civil-law

24-00789A-18

20181042\_\_

1045 notary as defined in chapter 118 or an official of a foreign  
1046 country who has an official seal and who is authorized to make  
1047 legal or lawful the execution of any document in that  
1048 jurisdiction, in which jurisdiction the affixing of her or his  
1049 official seal is deemed proof of the execution of the document  
1050 or deed in full compliance with the laws of that jurisdiction.

1051 (d) Validation.—All affidavits, oaths, acknowledgments,  
1052 legalizations, authentications, or proofs made or taken in any  
1053 manner as set forth in paragraphs (a)-(c) are validated and upon  
1054 recording may not be denied to have provided constructive notice  
1055 based on any alleged failure to have strictly complied with this  
1056 section, as currently or previously in effect, or the laws  
1057 governing notarization of instruments in chapter 117 or in the  
1058 place where such notary public or other authorized person is  
1059 commissioned or authorized to act.

1060 (2) As used in this section, the term "before" means:

1061 (a) In the same physical location as another person and  
1062 close enough to see, hear, communicate with, and exchange  
1063 credentials with that person; or

1064 (b) In a different physical location from another person  
1065 but able to see, hear, and communicate with the person by means  
1066 of audio-video communication technology.

1067  
1068 ~~All affidavits, legalizations, authentications, and~~  
1069 ~~acknowledgments heretofore made or taken in the manner set forth~~  
1070 ~~above are hereby validated.~~

1071 Section 24. Section 695.04, Florida Statutes, is amended to  
1072 read:

1073 695.04 Requirements of certificate.—The certificate of the

24-00789A-18

20181042\_\_

1074 officer before whom the acknowledgment or proof is taken, except  
1075 for a certificate legalizing or authenticating the signature of  
1076 a person executing an instrument concerning real property  
1077 pursuant to s. 695.03(1)(c) ~~s. 695.03(3)~~, shall contain and set  
1078 forth substantially the matter required to be done or proved to  
1079 make such acknowledgment or proof effectual as set forth in s.  
1080 117.05.

1081 Section 25. Section 695.05, Florida Statutes, is amended to  
1082 read:

1083 695.05 Certain defects cured as to acknowledgments and  
1084 witnesses.—All deeds, conveyances, bills of sale, mortgages or  
1085 other transfers of real or personal property within the limits  
1086 of this state, heretofore or hereafter made and received bona  
1087 fide and upon good consideration by any corporation, and  
1088 acknowledged for record by ~~before~~ some officer, stockholder or  
1089 other person interested in the corporation, grantee, or  
1090 mortgagee as a notary public or other officer authorized to take  
1091 acknowledgments of instruments for record within this state,  
1092 shall be held, deemed and taken as valid as if acknowledged by  
1093 the proper notary public or other officer authorized to take  
1094 acknowledgments of instruments for record in this state not so  
1095 interested in said corporation, grantee or mortgagee; and said  
1096 instrument whenever recorded shall be deemed notice to all  
1097 persons; provided, however, that this section shall not apply to  
1098 any instrument heretofore made, the validity of which shall be  
1099 contested by suit commenced within 1 year of the effective date  
1100 of this law.

1101 Section 26. Section 695.09, Florida Statutes, is amended to  
1102 read:

24-00789A-18

20181042\_\_

1103           695.09 Identity of grantor.—No acknowledgment or proof  
1104 shall be taken, except as set forth in s. 695.03(1)(c) ~~s.~~  
1105 ~~695.03(3)~~, by any officer within or without the United States  
1106 unless the officer knows, or has satisfactory proof, that the  
1107 person making the acknowledgment is the individual described in,  
1108 and who executed, such instrument or that the person offering to  
1109 make proof is one of the subscribing witnesses to such  
1110 instrument.

1111           Section 27. Section 695.28, Florida Statutes, is amended to  
1112 read:

1113           695.28 Validity of recorded electronic documents.—

1114           (1) A document that is otherwise entitled to be recorded  
1115 and that was or is submitted to the clerk of the court or county  
1116 recorder by electronic or other means and accepted for  
1117 recordation is deemed validly recorded and provides notice to  
1118 all persons notwithstanding:

1119           (a) That the document was received and accepted for  
1120 recordation before the Department of State adopted standards  
1121 implementing s. 695.27; ~~or~~

1122           (b) Any defects in, deviations from, or the inability to  
1123 demonstrate strict compliance with any statute, rule, or  
1124 procedure relating to electronic signatures, electronic  
1125 witnesses, electronic notarization, or online notarization, or  
1126 for submitting or recording ~~to submit or record~~ an electronic  
1127 document in effect at the time the electronic document was  
1128 executed or was submitted for recording;

1129           (c) That the document was signed, witnessed, or notarized  
1130 electronically or that witnessing or notarization may have been  
1131 done outside the physical presence of the notary public or

24-00789A-18

20181042\_\_

1132 principal in accordance with chapter 117 or the laws of another  
1133 state regarding the notarization of documents; or

1134 (d) That the document recorded was a certified printout of  
1135 a document to which one or more electronic signatures have been  
1136 affixed.

1137 (2) This section does not alter the duty of the clerk or  
1138 recorder to comply with s. 28.222, s. 695.27, or any rules  
1139 adopted pursuant to those sections ~~that section.~~

1140 (3) This section does not preclude a challenge to the  
1141 validity or enforceability of an instrument or electronic record  
1142 based upon fraud, forgery, impersonation, duress, undue  
1143 influence, minority, illegality, unconscionability, or any other  
1144 basis not in the nature of those matters described in subsection  
1145 (1).

1146 Section 28. This act shall take effect July 1, 2018.