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

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30 creating s. 117.245, F.S.; requiring a notary public
31 to keep an electronic journal of online notarizations
32 and certain audio-video communication recordings;
33 specifying the information that must be included for
34 each online notarization; requiring an online notary
35 public to take certain steps regarding the maintenance
36 and security of the electronic journal; specifying
37 that the Executive Office of the Governor maintains
38 jurisdiction for a specified period of time for
39 purposes of investigating notarial misconduct;
40 providing for construction; creating s. 117.255, F.S.;
41 specifying requirements for the use of electronic
42 journals, signatures, and seals; requiring an online
43 notary public to provide notification of the theft,
44 vandalism, or loss of an electronic journal,
45 signature, or seal; authorizing an online notary
46 public to make copies of electronic journal entries
47 and to provide access to related recordings under
48 certain circumstances; authorizing an online notary
49 public to charge a fee for making and delivering such
50 copies; providing an exception; creating s. 117.265,
51 F.S.; prescribing online notarization procedures;
52 specifying the manner by which an online notary public
53 must verify the identity of a principal or a witness;
54 requiring an online notary public to take certain
55 measures as to the security of technology used;
56 specifying that an electronic notarial certificate
57 must identify the performance of an online
58 notarization; specifying that noncompliance does not

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59 impair the validity of a notarial act or the notarized
60 electronic record; providing for construction;
61 creating s. 117.275, F.S.; providing fees for online
62 notarizations; creating s. 117.285, F.S.; specifying
63 the manner by which an online notary public may
64 supervise the witnessing of electronic records of
65 online notarizations; creating s. 117.295, F.S.;
66 providing standards for electronic and online
67 notarizations; authorizing the Department of State to
68 approve and periodically review companies that offer
69 online notarization services; authorizing the
70 department to adopt certain rules; prescribing minimum
71 standards for companies that offer online notarization
72 services; creating s. 117.305, F.S.; superseding
73 certain provisions of federal law regulating
74 electronic signatures; amending s. 28.222, F.S.;
75 requiring the clerk of the circuit court to record
76 certain instruments; amending s. 95.231, F.S.;
77 providing a limitation period for certain recorded
78 instruments; amending s. 689.01, F.S.; providing for
79 witnessing of documents in connection with real estate
80 conveyances; providing for validation of certain
81 recorded documents; amending s. 694.08, F.S.;
82 providing for validation of certain recorded
83 documents; amending s. 695.03, F.S.; providing and
84 revising requirements for making acknowledgments,
85 proofs, and other documents; amending ss. 695.04 and
86 695.05, F.S.; conforming provisions to changes made by
87 the act; amending s. 695.28, F.S.; providing for

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88 validity of recorded documents; conforming provisions
89 to changes made by the act; amending s. 709.2202,
90 F.S.; specifying that certain authority granted
91 through a power of attorney requiring separate signed
92 enumeration may not be executed by online notarization
93 or witnessed electronically; amending s. 731.201,
94 F.S.; redefining the term "will" to conform to changes
95 made by the act; amending s. 732.506, F.S.; exempting
96 electronic wills from provisions governing the
97 revocation of wills and codicils; prescribing the
98 manner by which an electronic will or codicil may be
99 revoked; creating s. 740.10, F.S.; specifying that any
100 act taken pursuant to ch. 740, F.S., does not affect
101 the requirement that a will be deposited within a
102 certain timeframe; creating s. 732.521, F.S.;
103 providing definitions; creating s. 732.522, F.S.;
104 prescribing the manner by which an electronic will
105 must be executed; creating s. 732.524, F.S.;
106 specifying requirements for the self-proof of an
107 electronic will; creating s. 732.525, F.S.; specifying
108 conditions by which an electronic will is deemed to be
109 an original will; providing effective dates.

110
111 Be It Enacted by the Legislature of the State of Florida:

112
113 Section 1. The Division of Law Revision and Information is
114 directed to:

115 (1) Create part I of chapter 117, Florida Statutes,
116 consisting of ss. 117.01-117.108, Florida Statutes, to be

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117 entitled "General Provisions."

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

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

123 117.01 Appointment, application, suspension, revocation,
124 application fee, bond, and oath.—

125 (1) The Governor may appoint as many notaries public as he
126 or she deems necessary, each of whom must ~~shall~~ be at least 18
127 years of age and a legal resident of this ~~the~~ state. A permanent
128 resident alien may apply and be appointed and shall file with
129 his or her application a recorded Declaration of Domicile. The
130 residence required for appointment must be maintained throughout
131 the term of appointment. A notary public ~~Notaries public~~ shall
132 be appointed for 4 years and may only ~~shall~~ use and exercise the
133 office of notary public if he or she is within the boundaries of
134 this state. An applicant must be able to read, write, and
135 understand the English language.

136 Section 3. Present subsections (4) and (5) of section
137 117.021, Florida Statutes, are renumbered as subsections (5) and
138 (6), respectively, a new subsection (4) and subsection (7) are
139 added to that section, and subsection (2) of that section is
140 amended, to read:

141 117.021 Electronic notarization.—

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

- 144 (a) Unique to the notary public;
145 (b) Capable of independent verification;

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146 (c) Retained under the notary public's sole control and
147 includes access protection through the use of passwords or codes
148 under control of the notary public; and

149 (d) Attached to or logically associated with the electronic
150 document in a manner that any subsequent alteration to the
151 electronic document displays evidence of the alteration.

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

155 (7) The Department of State, in collaboration with the
156 Agency for State Technology, shall adopt rules establishing
157 standards for tamper-evident technologies that will indicate any
158 alteration or change to an electronic record after completion of
159 an electronic notarial act and shall publish a list of
160 technologies that satisfy those standards and are approved for
161 use in electronic notarizations, effective January 1, 2019. All
162 electronic notarizations performed on or after January 1, 2019,
163 must comply with the adopted standards and use an approved
164 technology.

165 Section 4. Subsection (1), paragraph (a) of subsection (2),
166 subsections (4) and (5), paragraph (a) of subsection (12), and
167 subsections (13) and (14) of section 117.05, Florida Statutes,
168 are amended, and paragraph (c) is added to subsection (12) of
169 that section, to read:

170 117.05 Use of notary commission; unlawful use; notary fee;
171 seal; duties; employer liability; name change; advertising;
172 photocopies; penalties.-

173 (1) A ~~No~~ person may not ~~shall~~ obtain or use a notary public
174 commission in other than his or her legal name, and it is

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175 unlawful for a notary public to notarize his or her own
176 signature. Any person applying for a notary public commission
177 must submit proof of identity to the Department of State ~~if so~~
178 ~~requested~~. Any person who violates ~~the provisions of this~~
179 subsection commits is guilty of a felony of the third degree,
180 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

181 (2) (a) The fee of a notary public may not exceed \$10 for
182 any one notarial act, except as provided in s. 117.045 or s.
183 117.275.

184 (4) When notarizing a signature, a notary public shall
185 complete a jurat or notarial certificate in substantially the
186 same form as those found in subsection (13). The jurat or
187 certificate of acknowledgment shall contain the following
188 elements:

189 (a) The venue stating the location of the notary public at
190 the time of the notarization in the format, "State of Florida,
191 County of"

192 (b) The type of notarial act performed, an oath or an
193 acknowledgment, evidenced by the words "sworn" or
194 "acknowledged."

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

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

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

203 (f) The specific type of identification the notary public

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204 is relying upon in identifying the signer, either based on
205 personal knowledge or satisfactory evidence specified in
206 subsection (5).

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

208 (h) The notary public's ~~notary's~~ name, typed, printed, or
209 stamped below the signature.

210 (i) The notary public's ~~notary's~~ official seal affixed
211 below or to either side of the notary public's ~~notary's~~
212 signature.

213 (5) A notary public may not notarize a signature on a
214 document unless he or she personally knows, or has satisfactory
215 evidence, that the person whose signature is to be notarized is
216 the individual who is described in and who is executing the
217 instrument. A notary public shall certify in the certificate of
218 acknowledgment or jurat the type of identification, either based
219 on personal knowledge or other form of identification, upon
220 which the notary public is relying. In the case of an online
221 notarization, the online notary public shall comply with the
222 requirements set forth in part II of this chapter.

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

227 (b) For the purposes of this subsection, the term
228 "satisfactory evidence" means the absence of any information,
229 evidence, or other circumstances which would lead a reasonable
230 person to believe that the person whose signature is to be
231 notarized is not the person he or she claims to be and any one
232 of the following:

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233 1. The sworn written statement of one credible witness
234 personally known to the notary public or the sworn written
235 statement of two credible witnesses whose identities are proven
236 to the notary public upon the presentation of satisfactory
237 evidence that each of the following is true:

238 a. That the person whose signature is to be notarized is
239 the person named in the document;

240 b. That the person whose signature is to be notarized is
241 personally known to the witnesses;

242 c. That it is the reasonable belief of the witnesses that
243 the circumstances of the person whose signature is to be
244 notarized are such that it would be very difficult or impossible
245 for that person to obtain another acceptable form of
246 identification;

247 d. That it is the reasonable belief of the witnesses that
248 the person whose signature is to be notarized does not possess
249 any of the identification documents specified in subparagraph
250 2.; and

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

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

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

259 b. A passport issued by the Department of State of the
260 United States;

261 c. A passport issued by a foreign government if the

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262 document is stamped by the United States Bureau of Citizenship
263 and Immigration Services;

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

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

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

272 g. An inmate identification card issued on or after January
273 1, 1991, by the Florida Department of Corrections for an inmate
274 who is in the custody of the department;

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

278 i. A sworn, written statement from a sworn law enforcement
279 officer that the forms of identification for an inmate in an
280 institution of confinement were confiscated upon confinement and
281 that the person named in the document is the person whose
282 signature is to be notarized; or

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

285 (12) (a) A notary public may supervise the making of a copy
286 of a tangible or an electronic record or the printing of an
287 electronic record, ~~photocopy of an original document~~ and attest
288 to the trueness of the copy or of the printout, provided the
289 document is neither a vital record in this state, another state,
290 a territory of the United States, or another country, nor a

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291 public record, if a copy can be made by the custodian of the
292 public record.

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

296
297 STATE OF FLORIDA
298 COUNTY OF

299
300 On this day of, ... (year)..., I attest that the
301 preceding or attached document is a true, exact, complete, and
302 unaltered ... (copy of a tangible or an electronic record
303 presented to me by the document's custodian)... or a
304 ... (printout made by me from such record).... If a printout, I
305 further attest that at the time of printing, no security
306 features, if any, present on the electronic record, indicated
307 that the record had been altered since execution.

308
309 ... (Signature of Notary Public - State of Florida)...
310 ... (Print, Type, or Stamp Commissioned Name of Notary Public)...

311
312 (13) The following notarial certificates are sufficient for
313 the purposes indicated, if completed with the information
314 required by this chapter. The specification of forms under this
315 subsection does not preclude the use of other forms.

316 (a) For an oath or affirmation:

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318 STATE OF FLORIDA
319 COUNTY OF

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

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

(b) For an acknowledgment in an individual capacity:

STATE OF FLORIDA
COUNTY OF

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

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

(c) For an acknowledgment in a representative capacity:

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349 STATE OF FLORIDA
350 COUNTY OF

351
352 The foregoing instrument was acknowledged before me by means of
353 [] physical presence or [] online notarization, this day of
354, ... (year) ..., by ... (name of person) ... as ... (type of
355 authority, . . . e.g. officer, trustee, attorney in fact) ... for
356 ... (name of party on behalf of whom instrument was executed)

357
358 ... (Signature of Notary Public - State of Florida) ...
359 ... (Print, Type, or Stamp Commissioned Name of Notary Public) ...
360 Personally Known OR Produced Identification
361

362 Type of Identification Produced.....
363

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

366 (a) A notary public may notarize the signature of a person
367 who is blind after the notary public has read the entire
368 instrument to that person.

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

371 1. The document signing is witnessed by two disinterested
372 persons;

373 2. The notary public prints the person's first name at the
374 beginning of the designated signature line and the person's last
375 name at the end of the designated signature line; and

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

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

380 1. For an oath or affirmation:

381
382 ... (First Name) ... (Last Name) ...
383 ... His (or Her) Mark ...
384

385 STATE OF FLORIDA
386 COUNTY OF

387
388 Sworn to and subscribed before me by means of [] physical
389 presence or [] online notarization, this day of,
390 ...(year) ..., by ...(name of person making statement) ..., who
391 signed with a mark in the presence of these witnesses:

392
393 ... (Signature of Notary Public - State of Florida) ...
394 ... (Print, Type, or Stamp Commissioned Name of Notary Public) ...
395 Personally Known OR Produced Identification
396
397 Type of Identification Produced.....
398

399 2. For an acknowledgment in an individual capacity:

400
401 ... (First Name) ... (Last Name) ...
402 ... His (or Her) Mark ...
403

404 STATE OF FLORIDA
405 COUNTY OF

406

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407 The foregoing instrument was acknowledged before me by means of
 408 [] physical appearance or [] online notarization, this day
 409 of, ... (year) ..., by ... (name of person
 410 acknowledging) ..., who signed with a mark in the presence of
 411 these witnesses:

412
 413 ... (Signature of Notary Public - State of Florida) ...
 414 ... (Print, Type, or Stamp Commissioned Name of Notary Public) ...
 415 Personally Known OR Produced Identification
 416
 417 Type of Identification Produced.....

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

422 1. The person with a disability directs the notary public
 423 to sign in his or her presence, either by verbal, written, or
 424 other means;

425 2. The document signing is witnessed by two disinterested
 426 persons; and

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

432
 433 The notary public must maintain the proof of direction and
 434 authorization to sign on behalf of the person with a disability
 435 for 10 years from the date of the notarial act.

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

439 1. For an oath or affirmation:
440

441 STATE OF FLORIDA
442 COUNTY OF

443
444 Sworn to (or affirmed) before me by means of [] physical
445 presence or [] online notarization, this day of,
446 ...(year)..., by ...(name of person making statement)..., and
447 subscribed by ...(name of notary)... at the direction of ~~and in~~
448 ~~the presence of~~ ...(name of person making statement)... by
449 ...(written, verbal, or other means)..., and in the presence of
450 these witnesses:
451

452 ... (Signature of Notary Public - State of Florida)...
453 ... (Print, Type, or Stamp Commissioned Name of Notary Public)...
454 Personally Known OR Produced Identification
455

456 Type of Identification Produced.....
457

458 2. For an acknowledgment in an individual capacity:
459

460 STATE OF FLORIDA
461 COUNTY OF

462
463 The foregoing instrument was acknowledged before me by means of
464 [] physical presence or [] online notarization, this day of

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465 , ... (year) ..., by ... (name of person acknowledging) ...
466 and subscribed by ... (name of notary) ... at the direction of ~~and~~
467 ~~in the presence of~~ ... (name of person acknowledging) ..., and in
468 the presence of these witnesses:

469
470 ... (Signature of Notary Public - State of Florida) ...
471 ... (Print, Type, or Stamp Commissioned Name of Notary Public) ...
472 Personally Known OR Produced Identification
473
474 Type of Identification Produced.....

475
476 Section 5. Subsections (2) and (9) of section 117.107,
477 Florida Statutes, are amended to read:

478 117.107 Prohibited acts.—

479 (2) A notary public may not sign notarial certificates
480 using a facsimile signature stamp unless the notary public has a
481 physical disability that limits or prohibits his or her ability
482 to make a written signature and unless the notary public has
483 first submitted written notice to the Department of State with
484 an exemplar of the facsimile signature stamp. This subsection
485 does not apply to or prohibit the use of an electronic signature
486 and seal by a notary public who is registered as an online
487 notary public to perform an electronic or online notarization in
488 accordance with this chapter.

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

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494 ~~of the notary public~~ at the time the signature is notarized. Any
495 notary public who violates this subsection is guilty of a civil
496 infraction, punishable by penalty not exceeding \$5,000, and such
497 violation constitutes malfeasance and misfeasance in the conduct
498 of official duties. It is no defense to the civil infraction
499 specified in this subsection that the notary public acted
500 without intent to defraud. A notary public who violates this
501 subsection with the intent to defraud is guilty of violating s.
502 117.105.

503 Section 6. Section 117.201, Florida Statutes, is created to
504 read:

505 117.201 Definitions.—As used in this part, the term:

506 (1) "Appear before," "before," "appear personally before,"
507 or "in the presence of" mean:

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

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

514 (2) "Audio-video communication technology" means technology
515 in compliance with this chapter which enables real-time, two-way
516 communication using electronic means in which participants are
517 able to see, hear, and communicate with one another.

518 (3) "Credential analysis" means a process or service, in
519 compliance with this chapter, in which a third party affirms the
520 validity of a government-issued identification credential and
521 data thereon through review of public or proprietary data
522 sources.

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523 (4) "Errors and omissions insurance" means a type of
524 insurance that provides coverage for potential errors or
525 omissions in or relating to the notarial act and is maintained,
526 as applicable, by the online notary public or a provider of
527 software services used to directly facilitate the performance of
528 the online notarial act.

529 (5) "Government-issued identification credential" means any
530 approved credential for verifying identity under s.
531 117.05(5)(b)2.

532 (6) "Identity proofing" means a process or service in
533 compliance with this chapter in which a third party affirms the
534 identity of an individual through use of public or proprietary
535 data sources, which may include by means of knowledge-based
536 authentication or biometric verification.

537 (7) "Knowledge-based authentication" means a form of
538 identity proofing based on a set of questions which pertain to
539 an individual and are formulated from public or proprietary data
540 sources.

541 (8) "Online notarization" means the performance of an
542 electronic notarization by means of audio-video communication
543 technology in compliance with this chapter.

544 (9) "Online notary public" means a notary public
545 commissioned under part I of this chapter, a civil-law notary
546 appointed under chapter 118, or a commissioner of deeds
547 appointed under part IV of chapter 721, who has registered with
548 the Executive Office of the Governor and the Department of State
549 to perform online notarizations under this part.

550 (10) "Principal" means an individual whose electronic
551 signature is acknowledged, witnessed, or attested to in an

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552 online notarization or who takes an oath or affirmation from the
553 online notary public.

554 (11) "Remote presentation" means transmission of an image
555 of a government-issued identification credential that is of
556 sufficient quality to enable the online notary public to
557 identify the individual seeking the notary's services and to
558 perform credential analysis through audio-video communication
559 technology.

560

561 Except where the context otherwise requires, any term defined in
562 s. 668.50 has the same meaning when used in this part.

563 Section 7. Section 117.209, Florida Statutes, is created to
564 read:

565 117.209 Authority to perform online notarizations.—

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

569 (2) If a notarial act requires a principal to appear before
570 or in the presence of the online notary public, the principal
571 may appear before the online notary public by means of audio-
572 video communication technology that meets the requirements of
573 this chapter and any rules adopted by the Department of State
574 under s. 117.295.

575 (3) An online notary public may perform an online
576 notarization as authorized under this part, regardless of the
577 physical location of the principal at the time of the notarial
578 act, provided the notary public, other than a civil-law notary
579 or a commissioner of deeds, is physically located in this state
580 while performing the online notarization.

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581 (4) The validity of an online notarization performed by an
582 online notary public registered in this state shall be
583 determined by applicable laws of this state regardless of the
584 physical location of the principal at the time of the notarial
585 act.

586 Section 8. Section 117.215, Florida Statutes, is created to
587 read:

588 117.215 Relation to other laws.—

589 (1) If a provision of law requires a notary public or other
590 authorized official of this state to notarize a signature or a
591 statement, to take an acknowledgement of an instrument, or to
592 administer an oath or affirmation so that a document may be
593 sworn, affirmed, made under oath, or subject to penalty of
594 perjury, an online notarization performed in accordance with the
595 provisions of this part and any rules adopted hereunder
596 satisfies such requirement.

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

601 Section 9. Section 117.225, Florida Statutes, is created to
602 read:

603 117.225 Registration; qualifications.—A notary public, a
604 civil-law notary appointed under chapter 118, or a commissioner
605 of deeds appointed under part IV of chapter 721 may complete
606 registration as an online notary public with the Executive
607 Office of the Governor and the Department of State by:

608 (1) Holding a current commission as a notary public under
609 part I of this chapter, an appointment as a civil-law notary

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610 under chapter 118, or an appointment as a commissioner of deeds
611 under part IV of chapter 721, and submitting a copy of such
612 commission or proof of such appointment with his or her
613 registration.

614 (2) Certifying that the notary public, civil-law notary, or
615 commissioner of deeds registering as an online notary public has
616 completed a classroom or online course covering the duties,
617 obligations, and technology requirements for serving as an
618 online notary public.

619 (3) Paying an online notary public commission fee in the
620 amount of \$10, as required by s. 113.01.

621 (4) Submitting a registration as an online notary public to
622 the Executive Office of the Governor and the Department of
623 State, signed and sworn to by the registrant.

624 (5) Confirming in a statement that the audio-video
625 communication and identity proofing technologies the registrant
626 intends to use in performing online notarizations satisfy the
627 requirements of this chapter.

628 (6) Providing evidence satisfactory to the Executive Office
629 of the Governor and the Department of State that the registrant
630 has obtained a bond, payable to any individual harmed as a
631 result of a breach of duty by the registrant acting in his or
632 her official capacity as an online notary public, conditioned
633 for the due discharge of the office, in the minimum amount of
634 \$25,000 and on such terms as are specified by rule by the
635 Department of State as reasonably necessary to protect the
636 public. The bond shall be approved and filed with the Department
637 of State and executed by a surety company duly authorized to
638 transact business in this state. Compliance by an online notary

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639 public with this requirement shall satisfy the requirement of
640 obtaining a bond under s. 117.01(7).

641 (7) Providing evidence satisfactory to the Executive Office
642 of the Governor and the Department of State that the registrant
643 acting in his or her capacity as an online notary public is
644 covered by an errors and omissions insurance policy from an
645 insurer authorized to transact business in this state, in the
646 minimum amount of \$25,000 and on such terms as are specified by
647 rule by the Department of State as reasonably necessary to
648 protect the public.

649 Section 10. Section 117.235, Florida Statutes, is created
650 to read:

651 117.235 Performance of notarial acts.-

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

656 (2) An online notary public may perform notarial acts as
657 provided by part I of this chapter in addition to performing
658 online notarizations as authorized and pursuant to the
659 provisions of this part.

660 Section 11. Section 117.245, Florida Statutes, is created
661 to read:

662 117.245 Electronic journal of online notarizations.-

663 (1) An online notary public shall keep a secure electronic
664 journal of electronic records notarized by the online notary
665 public. For each online notarization, the electronic journal
666 entry must contain all of the following:

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

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- 668 (b) The type of notarial act.
- 669 (c) The type, the title, or a description of the electronic
670 record or proceeding.
- 671 (d) The printed name and address of each principal involved
672 in the transaction or proceeding.
- 673 (e) Evidence of identity of each principal involved in the
674 transaction or proceeding in any of the following forms:
- 675 1. A statement that the person is personally known to the
676 online notary public.
- 677 2. A notation of the type of government-issued
678 identification credential provided to the online notary public.
- 679 3. A copy of the government-issued identification
680 credential provided.
- 681 4. A copy of any other identification credential or
682 information provided.
- 683 (f) An indication that the principal satisfactorily passed
684 the identity proofing.
- 685 (g) An indication that the government-issued identification
686 credential satisfied the credential analysis.
- 687 (h) The fee, if any, charged for the notarization.
- 688 (2) The online notary public shall retain a copy of the
689 recording of the audio-video communication in which:
- 690 (a) The principal and any witnesses appeared before the
691 notary public.
- 692 (b) The identity of each was confirmed.
- 693 (c) Electronic records were signed by the principal and any
694 witnesses.
- 695 (d) The notarial act was performed.
- 696 (3) The online notary public shall take reasonable steps

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697 to:

698 (a) Ensure the integrity, security, and authenticity of
699 online notarizations.

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

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

705 (4) The electronic journal required under subsection (1)
706 and the recordings of audio-video communications required under
707 subsection (2) shall be maintained for at least 10 years after
708 the date of the notarial act. The Executive Office of the
709 Governor maintains jurisdiction over the electronic journal and
710 audio-video communication recordings to investigate notarial
711 misconduct for a period of 10 years after the date of the
712 notarial act. The online notary public, a guardian of an
713 incapacitated online notary public, or the personal
714 representative of a deceased online notary public, may, by
715 contract with a secure repository in accordance with any rules
716 established under this chapter, delegate to the repository the
717 online notary public's duty to retain the electronic journal and
718 the required recordings of audio-video communications.

719 (5) An omitted or incomplete entry in the electronic
720 journal does not impair the validity of the notarial act or of
721 the electronic record which was notarized, but may be introduced
722 as evidence to establish violations of this chapter as an
723 indication of possible fraud, forgery, or impersonation or for
724 other evidentiary purposes.

725 Section 12. Section 117.255, Florida Statutes, is created

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726 to read:

727 117.255 Use of electronic journal, signature, and seal.—An
728 online notary public shall:

729 (1) Take reasonable steps to ensure that any registered
730 device used to create an electronic signature is current and has
731 not been revoked or terminated by the issuing or registering
732 authority of the device.

733 (2) Keep the electronic journal, electronic signature, and
734 electronic seal secure and under his or her sole control, which
735 includes access protection using passwords or codes under
736 control of the online notary public. The online notary public
737 may not allow another person to use the online notary public's
738 electronic journal, electronic signature, or electronic seal.

739 (3) Only use an electronic signature for performing online
740 notarization.

741 (4) Attach or logically associate the electronic signature
742 and seal to the electronic notarial certificate of an electronic
743 record in a manner that is capable of independent verification
744 using tamper-evident technology that renders any subsequent
745 change or modification to the electronic record evident.

746 (5) Within 7 days, notify an appropriate law enforcement
747 agency and the Department of State of theft or vandalism of the
748 electronic journal, electronic signature, or electronic seal. An
749 online notary public shall within 7 days notify the Department
750 of State of the loss or use by another person of the online
751 notary public's electronic journal, electronic signature, or
752 electronic seal.

753 (6) Make electronic copies, upon request, of the pertinent
754 entries in the electronic journal and provide access to the

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755 related audio-video communication recordings to the parties to
756 the electronic records notarized, and to the title agent,
757 settlement agent, or title insurer who engaged the online notary
758 with regard to a real estate transaction. The online notary
759 public may charge a fee not to exceed \$20 per transaction record
760 for making and delivering electronic copies of a given series of
761 related electronic records, except if required by the Executive
762 Office of the Governor or the Department of State to submit
763 copies pursuant to a notary misconduct investigation. If the
764 online notary public does charge a fee, the online notary public
765 shall disclose the amount of such fee to the requester before
766 making the electronic copies.

767 Section 13. Section 117.265, Florida Statutes, is created
768 to read:

769 117.265 Online notarization procedures.-

770 (1) An online notary public physically located in this
771 state may perform an online notarization that meets the
772 requirements of this part regardless of whether the principal or
773 any witnesses are physically located in this state at the time
774 of the online notarization. A civil-law notary or a commissioner
775 of deeds registered as an online notary public may perform an
776 online notarization while physically located outside of this
777 state. An online notarial act performed in accordance with this
778 chapter is deemed to have been performed within this state and
779 is governed by the applicable laws of this state.

780 (2) In performing an online notarization, an online notary
781 public shall confirm the identity of a principal and any witness
782 appearing online, at the time that the signature is taken, by
783 using audio-video communication technology and processes that

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784 meet the requirements of this part and of any rules adopted
785 hereunder and record the entire two-way audio-video conference
786 session between the notary public and the principal and any
787 subscribing witnesses. A principal may not act in the capacity
788 of a witness for his or her own signature in an online
789 notarization.

790 (3) In performing an online notarization of a principal not
791 located within this state, an online notary public must confirm
792 that the principal desires for the notarial act to be performed
793 by a Florida notary public and under the general law of this
794 state.

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

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

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

800 1. Remote presentation of a government-issued
801 identification credential by each individual;

802 2. Credential analysis of each government-issued
803 identification credential; and

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

807
808 If the online notary public is unable to satisfy subparagraphs
809 (b)1.-3., or if the databases consulted for identity proofing do
810 not contain sufficient information to permit authentication, the
811 online notary public may not perform the online notarization.

812 (5) The online notary public shall take reasonable steps to

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813 ensure that the audio-video communication technology used in an
814 online notarization is secure from unauthorized interception.

815 (6) The electronic notarial certificate for an online
816 notarization must include a notation that the notarization is an
817 online notarization.

818 (7) Except where otherwise expressly provided in this part,
819 the provisions of part I of this chapter apply to an online
820 notarization and an online notary public.

821 (8) Any failure to comply with the online notarization
822 procedures set forth in this section does not impair the
823 validity of the notarial act or the electronic record that was
824 notarized, but may be introduced as evidence to establish
825 violations of this chapter or as an indication of possible
826 fraud, forgery, or impersonation or for other evidentiary
827 purposes. This subsection may not be construed to alter the duty
828 of an online notary public to comply with this chapter and any
829 rules adopted hereunder.

830 Section 14. Section 117.275, Florida Statutes, is created
831 to read:

832 117.275 Fees for online notarization.—An online notary
833 public or the employer of such online notary public may charge a
834 fee, not to exceed \$25, for performing an online notarization in
835 addition to any other fees authorized under part I of this
836 chapter. Fees for services other than notarial acts are not
837 governed by this section.

838 Section 15. Section 117.285, Florida Statutes, is created
839 to read:

840 117.285 Supervising the witnessing of electronic records.—
841 An online notary public may supervise the witnessing of

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842 electronic records by the same audio-video communication
843 technology used for online notarization, as follows:

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

846 (2) The witness may physically be present with the
847 principal or remote from the principal provided the witness and
848 principal are using audio-video communication technology.

849 (3) The witness is present in either physical proximity to
850 the principal or through audio-video communication technology at
851 the time the principal affixes the electronic signature and
852 hears the principal make a statement to the effect that the
853 principal has signed the electronic record.

854 Section 16. Section 117.295, Florida Statutes, is created
855 to read:

856 117.295 Standards for electronic and online notarization;
857 rulemaking authority.-

858 (1) The Legislature intends that the standards applicable
859 to electronic notarization under s. 117.021 and for online
860 notarization under this part reflect future improvements in
861 technology and in methods of assuring the identity of principals
862 and the security of an electronic record. The Department of
863 State may approve companies that meet the minimum standards for
864 online notarizations as described in subsection (2). The
865 Department of State may, at its discretion, periodically review
866 approved companies to ensure ongoing compliance with the minimum
867 standards for online notarization. The Department of State may
868 adopt rules and standards necessary to implement the
869 requirements of this chapter and such other rules and standards
870 as may be required to facilitate the integrity, security, and

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871 reliability of online notarization, including education
872 requirements for online notaries public; the required terms of
873 bonds and errors and omissions insurance, but not including the
874 amounts of such policies; standards regarding identity proofing,
875 credential analysis, unauthorized interception, remote
876 presentation, tamper-evident technology, audio-video
877 communication technology, and retention of the electronic
878 journal and copies of audio-video communications recordings in a
879 secure repository; and may publish lists of technologies that
880 satisfy the standards and are approved for use in online
881 notarizations.

882 (2) Companies that offer online notarization services must
883 meet the following minimum standards:

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

887 1. The principal must be presented with five or more
888 questions with a minimum of five possible answer choices per
889 question.

890 2. Each question must be drawn from a third-party provider
891 of public and proprietary data sources and be identifiable to
892 the principal's social security number or other identification
893 information, or the principal's identity and historical events
894 records.

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

897 4. The principal must answer a minimum of 80 percent of the
898 questions correctly.

899 5. The principal may be offered one additional attempt in

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900 the event of a failed attempt.

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

903 (b) Use of credential analysis that must confirm that the
904 credential is valid and matches the signer's claimed identity
905 using one or more automated software or hardware processes which
906 scan the credential, including its format features, data,
907 barcodes, or other security elements.

908 (c) A company is deemed to have satisfied tamper-evident
909 technology requirements by use of technology that renders any
910 subsequent change or modification to the electronic record
911 evident.

912 (d) Use of audio-video communication technology in
913 completing online notarizations which must meet the following
914 requirements:

915 1. The signal transmission must be reasonably secure from
916 interception, access, or viewing by anyone other than the
917 participants communicating.

918 2. The technology must provide sufficient audio clarity and
919 video resolution to enable the notary to communicate with the
920 principal and to confirm the identity of the principal using
921 identification methods described in s. 117.265.

922 (e) A company which provides software services that
923 facilitate performance of online notarial acts by online
924 notaries public as provided for in this part shall maintain
925 errors and omissions insurance coverage in a total amount of at
926 least \$250,000 in the annual aggregate with respect to potential
927 errors or omissions in or relating to such software services.

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929 An online notary public is not responsible for the security of
930 the systems used by the principal or others to access the online
931 notarization session.

932 Section 17. Section 117.305, Florida Statutes, is created
933 to read:

934 117.305 Relation to federal law.—This part supersedes the
935 Electronic Signatures in Global and National Commerce Act as
936 authorized under 15 U.S.C. s. 7001 et seq., but does not modify,
937 limit, or supersede s. 101(c) of that act, 15 U.S.C. s. 7001(c),
938 or authorize the electronic delivery of the notices described in
939 15 U.S.C. s. 7003(b).

940 Section 18. Present paragraph (h) of subsection (3) of
941 section 28.222, Florida Statutes, is redesignated as paragraph
942 (i), and a new paragraph (h) is added to that subsection, to
943 read:

944 28.222 Clerk to be county recorder.—

945 (3) The clerk of the circuit court shall record the
946 following kinds of instruments presented to him or her for
947 recording, upon payment of the service charges prescribed by
948 law:

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

955 Section 19. Subsection (1) of section 95.231, Florida
956 Statutes, is amended to read:

957 95.231 Limitations where deed or will on record.—

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958 (1) Five years after the recording of an instrument
959 required to be executed in accordance with s. 689.01; 5 years
960 after the recording of a power of attorney accompanying and used
961 for an instrument required to be executed in accordance with s.
962 689.01; or 5 years after the probate of a will purporting to
963 convey real property, from which it appears that the person
964 owning the property attempted to convey, affect, or devise it,
965 the instrument, power of attorney, or will shall be held to have
966 its purported effect to convey, affect, or devise, the title to
967 the real property of the person signing the instrument, as if
968 there had been no lack of seal or seals, witness or witnesses,
969 defect in, failure of, or absence of acknowledgment or
970 relinquishment of dower, in the absence of fraud, adverse
971 possession, or pending litigation. The instrument is admissible
972 in evidence. A power of attorney validated under this subsection
973 shall be valid only for the purpose of effectuating the
974 instrument with which it was recorded.

975 Section 20. Section 689.01, Florida Statutes, is amended to
976 read:

977 689.01 How real estate conveyed.—

978 (1) No estate or interest of freehold, or for a term of
979 more than 1 year, or any uncertain interest of, in or out of any
980 messuages, lands, tenements or hereditaments shall be created,
981 made, granted, transferred or released in any other manner than
982 by instrument in writing, signed in the presence of two
983 subscribing witnesses by the party creating, making, granting,
984 conveying, transferring or releasing such estate, interest, or
985 term of more than 1 year, or by the party's lawfully authorized
986 agent, unless by will and testament, or other testamentary

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987 appointment, duly made according to law; and no estate or
988 interest, either of freehold, or of term of more than 1 year, or
989 any uncertain interest of, in, to, or out of any messuages,
990 lands, tenements or hereditaments, shall be assigned or
991 surrendered unless it be by instrument signed in the presence of
992 two subscribing witnesses by the party so assigning or
993 surrendering, or by the party's lawfully authorized agent, or by
994 the act and operation of law. No seal shall be necessary to give
995 validity to any instrument executed in conformity with this
996 section. Corporations may execute any and all conveyances in
997 accordance with the provisions of this section or ss. 692.01 and
998 692.02.

999 (2) For purposes of this chapter:

1000 (a) Any requirement that an instrument be signed in the
1001 presence of two subscribing witnesses may be satisfied by
1002 witnesses being present and electronically signing by means of
1003 audio-video communication technology that meets the requirements
1004 of part II of chapter 117 and any rules adopted thereunder.

1005 (b) The act of witnessing an electronic signature is
1006 satisfied if a witness is present either in physical proximity
1007 to the principal or by audio-video communication technology at
1008 the time the principal affixes his or her electronic signature
1009 and hears the principal make a statement acknowledging that the
1010 principal has signed the electronic record.

1011 (3) All acts of witnessing heretofore made or taken
1012 pursuant to subsection (2) are validated and, upon recording,
1013 may not be denied to have provided constructive notice based on
1014 any alleged failure to have strictly complied with this section,
1015 as currently or previously in effect, or the laws governing

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1016 notarization of instruments, including online notarization, in
1017 this state.

1018 Section 21. Section 694.08, Florida Statutes, is amended to
1019 read:

1020 694.08 Certain instruments validated, notwithstanding lack
1021 of seals or witnesses, or defect in acknowledgment, ~~etc.~~—

1022 (1) Whenever any power of attorney has been executed and
1023 delivered, or any conveyance has been executed and delivered to
1024 any grantee by the person owning the land therein described, or
1025 conveying the same in an official or representative capacity,
1026 and has, for a period of 7 years or more been spread upon the
1027 records of the county wherein the land therein described has
1028 been or was at the time situated, and one or more subsequent
1029 conveyances of said land or parts thereof have been made,
1030 executed, delivered and recorded by parties claiming under such
1031 instrument or instruments, and such power of attorney or
1032 conveyance, or the public record thereof, shows upon its face a
1033 clear purpose and intent of the person executing the same to
1034 authorize the conveyance of said land or to convey the said
1035 land, the same shall be taken and held by all the courts of this
1036 state, in the absence of any showing of fraud, adverse
1037 possession, or pending litigation, to have authorized the
1038 conveyance of, or to have conveyed, the fee simple title, or any
1039 interest therein, of the person signing such instruments, or the
1040 person in behalf of whom the same was conveyed by a person in an
1041 official or representative capacity, to the land therein
1042 described as effectively as if there had been no defect in,
1043 failure of, or absence of the acknowledgment or the certificate
1044 of acknowledgment, if acknowledged, or the relinquishment of

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1045 dower, and as if there had been no lack of the word "as"
1046 preceding the title of the person conveying in an official or
1047 representative capacity, of any seal or seals, or of any witness
1048 or witnesses, and shall likewise be taken and held by all the
1049 courts of this state to have been duly recorded so as to be
1050 admissible in evidence;

1051 (2) Provided, however, that this section shall not apply to
1052 any conveyance the validity of which shall be contested or have
1053 been contested by suit commenced heretofore or within 1 year of
1054 the effective date of this law.

1055 Section 22. Section 695.03, Florida Statutes, is amended to
1056 read:

1057 695.03 Acknowledgment and proof; validation of certain
1058 acknowledgments; legalization or authentication before foreign
1059 officials.—To entitle any instrument concerning real property to
1060 be recorded, the execution must be acknowledged by the party
1061 executing it, proved by a subscribing witness to it, or
1062 legalized or authenticated by a civil-law notary or notary
1063 public who affixes her or his official seal, before the officers
1064 and in the following form and manner ~~following~~:

1065 (1) WITHIN THIS STATE.—An acknowledgment or a proof made
1066 within this state may be made before a judge, clerk, or deputy
1067 clerk of any court; a United States commissioner or magistrate;
1068 or any ~~a~~ notary public or civil-law notary of this state, and
1069 the certificate of acknowledgment or proof must be under the
1070 seal of the court or officer, as the case may be. If the
1071 acknowledgment or proof is made before a notary public who does
1072 not affix a seal, it is sufficient for the notary public to
1073 type, print, or write by hand on the instrument, "I am a Notary

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1074 Public of the State of ...(state)..., and my commission expires
1075 ...(date)... ." All affidavits and acknowledgments heretofore
1076 made or taken in this manner are hereby validated.

1077 (2) OUTSIDE WITHOUT THIS STATE BUT WITHIN THE UNITED
1078 STATES.—An acknowledgment or a proof made outside ~~out~~ of this
1079 state but within the United States may be made before a civil-
1080 law notary of this state or a commissioner of deeds appointed by
1081 the Governor of this state; a judge or clerk of any court of the
1082 United States or of any state, territory, or district; a United
1083 States commissioner or magistrate; or any a notary public,
1084 justice of the peace, master in chancery, or registrar or
1085 recorder of deeds of any state, territory, or district having a
1086 seal, and the certificate of acknowledgment or proof must be
1087 under the seal of the court or officer, as the case may be. If
1088 the acknowledgment or proof is made before a notary public who
1089 does not affix a seal, it is sufficient for the notary public to
1090 type, print, or write by hand on the instrument, "I am a Notary
1091 Public of the State of ...(state)..., and my commission expires
1092 on ...(date)...."

1093 (3) OUTSIDE OF THE UNITED STATES OR WITHIN FOREIGN
1094 COUNTRIES.—~~An If the~~ acknowledgment, an affidavit, an oath, a
1095 legalization, an authentication, or a proof made outside the
1096 United States or is made in a foreign country, ~~it~~ may be made
1097 before a commissioner of deeds appointed by the Governor of this
1098 state to act in such country; before any a notary public of such
1099 foreign country or a civil-law notary of this state or of such
1100 foreign country who has an official seal; before an ambassador,
1101 envoy extraordinary, minister plenipotentiary, minister,
1102 commissioner, charge d'affaires, consul general, consul, vice

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1103 consul, consular agent, or other diplomatic or consular officer
1104 of the United States appointed to reside in such country; or
1105 before a military or naval officer authorized by 10 U.S.C. s.
1106 1044a ~~the Laws or Articles of War of the United States~~ to
1107 perform the duties of notary public, and the certificate of
1108 acknowledgment, legalization, authentication, or proof must be
1109 under the seal of the officer. A certificate legalizing or
1110 authenticating the signature of a person executing an instrument
1111 concerning real property and to which a civil-law notary or
1112 notary public of that country has affixed her or his official
1113 seal is sufficient as an acknowledgment. For the purposes of
1114 this section, the term "civil-law notary" means a civil-law
1115 notary as defined in chapter 118 or an official of a foreign
1116 country who has an official seal and who is authorized to make
1117 legal or lawful the execution of any document in that
1118 jurisdiction, in which jurisdiction the affixing of her or his
1119 official seal is deemed proof of the execution of the document
1120 or deed in full compliance with the laws of that jurisdiction.

1121 (4) COMPLIANCE AND VALIDATION.—The affixing of the official
1122 seal or the electronic equivalent thereof under s. 117.021 or
1123 other applicable law, including part II of chapter 117,
1124 conclusively establishes that the acknowledgement or proof was
1125 made in full compliance with the laws of this state or, as
1126 applicable, the laws of the other state, or of the foreign
1127 country governing notarial acts. All affidavits, oaths,
1128 acknowledgments, legalizations, authentications, or proofs made
1129 or taken in any manner as set forth in subsections (1), (2), and
1130 (3) are validated and upon recording may not be denied to have
1131 provided constructive notice based on any alleged failure to

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1132 have strictly complied with this section, as currently or
1133 previously in effect, or the laws governing notarization of
1134 instruments.

1135
1136 ~~All affidavits, legalizations, authentications, and~~
1137 ~~acknowledgments heretofore made or taken in the manner set forth~~
1138 ~~above are hereby validated.~~

1139 Section 23. Section 695.04, Florida Statutes, is amended to
1140 read:

1141 695.04 Requirements of certificate.—The certificate of the
1142 officer before whom the acknowledgment or proof is taken, except
1143 for a certificate legalizing or authenticating the signature of
1144 a person executing an instrument concerning real property
1145 pursuant to s. 695.03(3), shall contain and set forth
1146 substantially the matter required to be done or proved to make
1147 such acknowledgment or proof effectual as set forth in s.
1148 117.05.

1149 Section 24. Section 695.05, Florida Statutes, is amended to
1150 read:

1151 695.05 Certain defects cured as to acknowledgments and
1152 witnesses.—All deeds, conveyances, bills of sale, mortgages or
1153 other transfers of real or personal property within the limits
1154 of this state, heretofore or hereafter made and received bona
1155 fide and upon good consideration by any corporation, and
1156 acknowledged for record by ~~before~~ some officer, stockholder or
1157 other person interested in the corporation, grantee, or
1158 mortgagee as a notary public or other officer authorized to take
1159 acknowledgments of instruments for record within this state,
1160 shall be held, deemed and taken as valid as if acknowledged by

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1161 the proper notary public or other officer authorized to take
1162 acknowledgments of instruments for record in this state not so
1163 interested in said corporation, grantee or mortgagee; and said
1164 instrument whenever recorded shall be deemed notice to all
1165 persons; provided, however, that this section shall not apply to
1166 any instrument heretofore made, the validity of which shall be
1167 contested by suit commenced within 1 year of the effective date
1168 of this law.

1169 Section 25. Section 695.28, Florida Statutes, is amended to
1170 read:

1171 695.28 Validity of recorded electronic documents.—

1172 (1) A document that is otherwise entitled to be recorded
1173 and that was or is submitted to the clerk of the court or county
1174 recorder by electronic or other means and accepted for
1175 recordation is deemed validly recorded and provides notice to
1176 all persons notwithstanding:

1177 (a) That the document was received and accepted for
1178 recordation before the Department of State adopted standards
1179 implementing s. 695.27; ~~or~~

1180 (b) Any defects in, deviations from, or the inability to
1181 demonstrate strict compliance with any statute, rule, or
1182 procedure relating to electronic signatures, electronic
1183 witnesses, electronic notarization, or online notarization, or
1184 for submitting or recording ~~to submit or record~~ an electronic
1185 document in effect at the time the electronic document was
1186 executed or was submitted for recording;

1187 (c) That the document was signed, witnessed, or notarized
1188 electronically or that witnessing or notarization may have been
1189 done outside the physical presence of the notary public or

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1190 principal; or

1191 (d) That the document recorded was a certified printout of
1192 a document to which one or more electronic signatures have been
1193 affixed.

1194 (2) This section does not alter the duty of the clerk or
1195 recorder to comply with s. 28.222, s. 695.27, or any rules
1196 adopted pursuant to those sections ~~that section.~~

1197 (3) This section does not preclude a challenge to the
1198 validity or enforceability of an instrument or electronic record
1199 based upon fraud, forgery, impersonation, duress, undue
1200 influence, minority, illegality, unconscionability, or any other
1201 basis not in the nature of those matters described in subsection
1202 (1).

1203 Section 26. Subsection (1) of section 709.2202, Florida
1204 Statutes, is amended to read:

1205 709.2202 Authority that requires separate signed
1206 enumeration.-

1207 (1) Notwithstanding s. 709.2201, an agent may exercise the
1208 following authority in this subsection only if the principal
1209 signed or initialed next to each specific enumeration of the
1210 authority, the exercise of the authority is consistent with the
1211 agent's duties under s. 709.2114, the power of attorney was
1212 witnessed and notarized in person without the use of online
1213 witnessing of electronic records pursuant to s. 117.285 or
1214 online notarization under part II of chapter 117, and the
1215 exercise is not otherwise prohibited by another agreement or
1216 instrument. A power of attorney or any authority granted therein
1217 to an agent, including where such authority is witnessed and
1218 notarized online through the use of online witnessing of

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1219 electronic records pursuant to s. 117.285 or online notarization
1220 under part II of chapter 117, is not affected by this section
1221 except that a power of attorney or other authority notarized and
1222 witnessed is not effective to grant powers pursuant to the
1223 following:

- 1224 (a) Create an inter vivos trust;
- 1225 (b) With respect to a trust created by or on behalf of the
1226 principal, amend, modify, revoke, or terminate the trust, but
1227 only if the trust instrument explicitly provides for amendment,
1228 modification, revocation, or termination by the settlor's agent;
- 1229 (c) Make a gift, subject to subsection (4);
- 1230 (d) Create or change rights of survivorship;
- 1231 (e) Create or change a beneficiary designation;
- 1232 (f) Waive the principal's right to be a beneficiary of a
1233 joint and survivor annuity, including a survivor benefit under a
1234 retirement plan; or
- 1235 (g) Disclaim property and powers of appointment.

1236 Section 27. Effective July 1, 2019, subsection (40) of
1237 section 731.201, Florida Statutes, is amended to read:

1238 731.201 General definitions.—Subject to additional
1239 definitions in subsequent chapters that are applicable to
1240 specific chapters or parts, and unless the context otherwise
1241 requires, in this code, in s. 409.9101, and in chapters 736,
1242 738, 739, and 744, the term:

1243 (40) "Will" means an instrument, including a codicil,
1244 executed by a person in the manner prescribed by this code,
1245 which disposes of the person's property on or after his or her
1246 death and includes an instrument which merely appoints a
1247 personal representative or revokes or revises another will. The

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1248 term includes an electronic will as defined in s. 732.521.

1249 Section 28. Effective July 1, 2019, section 732.506,
1250 Florida Statutes, is amended to read:

1251 732.506 Revocation by act.—A will or codicil, other than an
1252 electronic will, is revoked by the testator, or some other
1253 person in the testator's presence and at the testator's
1254 direction, by burning, tearing, canceling, defacing,
1255 obliterating, or destroying it with the intent, and for the
1256 purpose, of revocation. An electronic will or codicil is revoked
1257 by the testator, or some other person in the testator's presence
1258 and at the testator's direction, by deleting, canceling,
1259 rendering unreadable, or obliterating the electronic will or
1260 codicil, with the intent, and for the purpose, of revocation, as
1261 proved by clear and convincing evidence.

1262 Section 29. Effective July 1, 2019, section 740.10, Florida
1263 Statutes, is created to read:

1264 740.10 Relation to wills.—No act taken pursuant to this
1265 chapter is valid to affect the obligation of a person to deposit
1266 a will of a decedent as required under s. 732.901.

1267 Section 30. Effective July 1, 2019, section 732.521,
1268 Florida Statutes, is created to read:

1269 732.521 Definitions.—As used in ss. 732.521–732.525, the
1270 term:

1271 (1) "Audio-video communication technology" has the same
1272 meaning as provided in s. 117.201.

1273 (2) "Electronic signature" means an electronic mark visibly
1274 manifested in a record as a signature and executed or adopted by
1275 a person with the intent to sign the record.

1276 (3) "Electronic will" means an instrument, including a

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1277 codicil, executed with an electronic signature by a person in
1278 the manner prescribed by this code, which disposes of the
1279 person's property on or after his or her death and includes an
1280 instrument which merely appoints a personal representative or
1281 revokes or revises another will.

1282 (4) "Online notarization" has the same meaning as provided
1283 in s. 117.201.

1284 (5) "Online notary public" has the same meaning as provided
1285 in s. 117.201.

1286 Section 31. Effective July 1, 2019, section 732.522,
1287 Florida Statutes, is created to read:

1288 732.522 Method and place of execution.—For purposes of the
1289 execution or filing of an electronic will, the acknowledgment of
1290 an electronic will by the testator and the affidavits of
1291 witnesses under s. 732.503, or any other instrument under the
1292 Florida Probate Code:

1293 (1) Any requirement that an instrument be signed may be
1294 satisfied by an electronic signature.

1295 (2) Any requirement that individuals sign an instrument in
1296 the presence of one another may be satisfied by witnesses being
1297 present and electronically signing by means of audio-video
1298 communication technology that meets the requirements of part II
1299 of chapter 117 and any rules adopted thereunder.

1300 (3) The act of witnessing an electronic signature is
1301 satisfied if:

1302 (a) An individual is present either in physical proximity
1303 to the signer or by audio-video communication technology at the
1304 time the signer affixes his or her electronic signature and
1305 hears the signer make a statement acknowledging that the signer

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1306 has signed the electronic record; and

1307 (b) The individuals are supervised in accordance with s.
1308 117.285 and, in the case of an electronic will, the testator
1309 provides, to the satisfaction of the online notary public during
1310 the online notarization, verbal answers to all of the following
1311 questions:

1312 1. Are you over the age of 18?

1313 2. Are you of sound mind?

1314 3. Are you signing this will voluntarily?

1315 4. Are you under the influence of any drugs or alcohol that
1316 impairs your ability to make decisions?

1317 5. Has anyone forced or influenced you to include anything
1318 in this will which you do not wish to include?

1319 6. Did anyone assist you in accessing this video
1320 conference? If so, who?

1321 7. Where are you? Name everyone you know in the room with
1322 you.

1323 (c) The execution of an electronic will of a testator who
1324 is a vulnerable adult, as defined in s. 415.102, may not be
1325 witnessed by means of audio-video communication technology. The
1326 contestant of the electronic will has the burden of proving that
1327 the testator was a vulnerable adult at the time of executing the
1328 electronic will.

1329 (4) An instrument that is signed electronically is deemed
1330 to be executed in this state if the instrument states that the
1331 person creating the instrument intends to execute and
1332 understands that he or she is executing the instrument in, and
1333 pursuant to the laws of, this state.

1334 Section 32. Effective July 1, 2019, section 732.524,

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1335 Florida Statutes, is created to read:

1336 732.524 Self-proof of electronic will.-An electronic will
1337 is self-proved if the acknowledgment of the electronic will by
1338 the testator and the affidavits of the witnesses are made in
1339 accordance with s. 732.503 and are part of the electronic record
1340 containing the electronic will, or are attached to, or are
1341 logically associated with, the electronic will.

1342 Section 33. Effective July 1, 2019, section 732.525,
1343 Florida Statutes, is created to read:

1344 732.525 Probate.-

1345 (1) An electronic will that is filed electronically with
1346 the clerk of the court through the Florida Courts E-Filing
1347 Portal is deemed to have been deposited with the clerk as an
1348 original of the electronic will.

1349 (2) A paper copy of an electronic will which is certified
1350 by a notary public to be a true and correct copy of the
1351 electronic will may be offered for and admitted to probate and
1352 shall constitute an original of the electronic will.

1353 Section 34. Except as otherwise expressly provided in this
1354 act, this act shall take effect January 1, 2019.