

By Senator Bradley

7-00437-16

2016352__

1 A bill to be entitled

2 An act relating to self-authentication of documents;
3 amending s. 90.902, F.S.; allowing certified copies of
4 official public documents to be filed electronically;
5 providing a method for authenticating public documents
6 other than by certified copies; amending s. 90.803,
7 F.S.; conforming a cross-reference; providing an
8 effective date.

9
10 Be It Enacted by the Legislature of the State of Florida:

11
12 Section 1. Subsection (4) of section 90.902, Florida
13 Statutes, is amended, subsections (5) through (11) of that
14 section are renumbered as subsections (6) through (12),
15 respectively, and a new subsection (5) is added to that section,
16 to read:

17 90.902 Self-authentication.—Extrinsic evidence of
18 authenticity as a condition precedent to admissibility is not
19 required for:

20 (4) A copy of an official public record, report, or entry,
21 or of a document authorized by law to be recorded or filed and
22 actually recorded or filed in a public office, including data
23 compilations in any form, certified as correct by the custodian
24 or other person authorized to make the certification by
25 certificate complying with subsection (1), subsection (2), or
26 subsection (3) or complying with any act of the Legislature or
27 rule adopted by the Supreme Court, which certified copy may be
28 filed electronically pursuant to s. 28.22205. An electronically
29 filed certified copy is admissible to the same extent as the

7-00437-16

2016352__

30 original would be if it complies with this subsection.

31 (5) A copy of:

32 (a) Any pleading, order, or other filing in any court
33 sitting in the United States or a United States territory; or

34 (b) Any document or record entry filed with or retained by
35 the United States or any state, municipality, district,
36 commonwealth, territory, or governmental department or agency of
37 such an entity which is available to the public from an Internet
38 website operated by a governmental agency or authorized by a
39 governmental agency if the party seeking authentication of the
40 document files a Notice of Reliance on Electronic Records which:

41 1. Attaches a copy of the document to be admitted.

42 2. Discloses the website and web address on the Internet
43 where said document can be located.

44 3. Serves written notice not less than 20 days before a
45 hearing at which the authenticity of the document or its
46 acceptance by a court as an authentic document is at issue. The
47 court may waive or shorten the time period for filing the notice
48 set forth in this subparagraph.

49 a. If a party desires to object to the authenticity of a
50 document which is the subject of a Notice of Reliance on
51 Electronic Records, such party shall file and serve on every
52 other party an affidavit within 5 days before a hearing, which
53 time period may be waived or shortened by the court, challenging
54 either the authenticity of said document by attaching a copy of
55 what the challenging party asserts is the true, correct, and
56 authentic document, and detailing in writing the portion of said
57 document which is not authentic; or that said document does not
58 exist on the website or web address as specified in the notice.

7-00437-16

2016352__

59 b. After review and consideration by the court, the court
60 shall deem authentic the document that is the subject of the
61 Notice of Reliance on Electronic Records unless:

62 (I) The document does not satisfy the requirements of this
63 paragraph;

64 (II) An objection is filed pursuant to sub-subparagraph a.,
65 and the court sustains the objection or otherwise determines the
66 document to not be authentic; or

67 (III) The document does not have the same content or text,
68 in all material respects, as the document that appears on the
69 website identified in the Notice of Reliance on Electronic
70 Records.

71
72 This subsection does not prohibit a party from authenticating a
73 document under s. 90.901 or as otherwise provided in subsection
74 (4) or this subsection, all of which are alternative methods of
75 authentication.

76 Section 2. Paragraph (a) of subsection (6) of section
77 90.803, Florida Statutes, is amended to read:

78 90.803 Hearsay exceptions; availability of declarant
79 immaterial.—The provision of s. 90.802 to the contrary
80 notwithstanding, the following are not inadmissible as evidence,
81 even though the declarant is available as a witness:

82 (6) RECORDS OF REGULARLY CONDUCTED BUSINESS ACTIVITY.—

83 (a) A memorandum, report, record, or data compilation, in
84 any form, of acts, events, conditions, opinion, or diagnosis,
85 made at or near the time by, or from information transmitted by,
86 a person with knowledge, if kept in the course of a regularly
87 conducted business activity and if it was the regular practice

7-00437-16

2016352__

88 of that business activity to make such memorandum, report,
89 record, or data compilation, all as shown by the testimony of
90 the custodian or other qualified witness, or as shown by a
91 certification or declaration that complies with paragraph (c)
92 and s. 90.902(12) ~~90.902(11)~~, unless the sources of information
93 or other circumstances show lack of trustworthiness. The term
94 "business" as used in this paragraph includes a business,
95 institution, association, profession, occupation, and calling of
96 every kind, whether or not conducted for profit.

97 Section 3. This act shall take effect upon becoming a law.