

1 A bill to be entitled
2 An act relating to electronic legal documents;
3 providing directives to the Division of Law Revision;
4 amending s. 117.01, F.S.; revising provisions relating
5 to use of the office of notary public; amending s.
6 117.021, F.S.; requiring electronic signatures to
7 include access protection; prohibiting a person from
8 requiring a notary public to perform a notarial act
9 with certain technology; requiring the Department of
10 State, in collaboration with the Agency for State
11 Technology, to adopt rules for certain purposes;
12 amending s. 117.05, F.S.; revising limitations on
13 notary fees to conform to changes made by the act;
14 providing for inclusion of certain information in a
15 jurat or notarial certificate; providing for
16 compliance with online notarization requirements;
17 providing for notarial certification of a printed
18 electronic record; revising statutory forms for jurats
19 and notarial certificates; amending s. 117.107, F.S.;
20 providing applicability; revising prohibited acts;
21 creating s. 117.201, F.S.; providing definitions;
22 creating s. 117.209, F.S.; authorizing online
23 notarizations; providing an exception; creating s.
24 117.215, F.S.; specifying the application of other
25 laws in relation to online notarizations; creating s.

26 | 117.225, F.S.; specifying registration and
27 | qualification requirements for online notaries public;
28 | creating s. 117.235, F.S.; authorizing the performance
29 | of certain notarial acts; creating s. 117.245, F.S.;
30 | requiring a notary public to keep electronic journals
31 | of online notarial acts and certain audio-video
32 | communication recordings; specifying the information
33 | that must be included for each online notarization;
34 | requiring an online notary public to take certain
35 | steps regarding the maintenance and security of the
36 | electronic journal; specifying that the Department of
37 | State maintains jurisdiction for a specified period of
38 | time for purposes of investigating notarial
39 | misconduct; authorizing the use of specified
40 | information for evidentiary purposes; creating s.
41 | 117.255, F.S.; specifying requirements for the use of
42 | electronic journals, signatures, and seals; requiring
43 | an online notary public to provide notification of the
44 | theft, 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
59 impair the validity of a notarial act or the notarized
60 electronic record; authorizing the use of specified
61 information for evidentiary purposes; providing for
62 construction; creating s. 117.275, F.S.; providing
63 fees for online notarizations; creating s. 117.285,
64 F.S.; specifying the manner by which an online notary
65 public may supervise the witnessing of electronic
66 records of online notarizations; creating s. 117.295,
67 F.S.; authorizing the department to adopt rules and
68 standards for online notarizations; providing minimum
69 standards for online notarizations until such rules
70 are adopted; creating s. 117.305, F.S.; superseding
71 certain provisions of federal law regulating
72 electronic signatures; amending s. 28.222, F.S.;
73 requiring the clerk of the circuit court to record
74 certain instruments; amending s. 90.803, F.S.;
75 creating a hearsay exception for certain electronic

76 records created and stored by a qualified custodian;
77 amending s. 92.50, F.S.; revising requirements for
78 oaths, affidavits, and acknowledgements; amending s.
79 95.231, F.S.; providing a limitation period for
80 certain recorded instruments; amending s. 689.01,
81 F.S.; providing for witnessing of documents in
82 connection with real estate conveyances; providing for
83 validation of certain recorded documents; amending s.
84 694.08, F.S.; providing for validation of certain
85 recorded documents; amending s. 695.03, F.S.;
86 providing and revising requirements for making
87 acknowledgments, proofs, and other documents; amending
88 s. 695.04, F.S.; conforming provisions to changes made
89 by the act; amending s. 695.25, F.S.; revising the
90 statutory short form of acknowledgements to include
91 acknowledgement by online notarization; amending s.
92 695.28, F.S.; providing for validity of recorded
93 documents; conforming provisions to changes made by
94 the act; amending s. 709.2119, F.S.; authorizing the
95 acceptance of a power of attorney based upon an
96 electronic journal or electronic record made by a
97 notary public; amending s. 709.2120, F.S.; prohibiting
98 acceptance of a power of attorney if witnessed or
99 notarized remotely; amending s. 709.2202, F.S.;
100 prohibiting certain authority granted through a power

101 of attorney if witnessed or notarized remotely;
102 amending s. 731.201, F.S.; redefining the term "will"
103 to conform to changes made by the act; amending s.
104 732.506, F.S.; exempting electronic wills from
105 provisions governing the revocation of wills and
106 codicils; prescribing the manner by which an
107 electronic will or codicil may be revoked; creating s.
108 732.521, F.S.; providing definitions; creating s.
109 732.522, F.S.; prescribing the manner by which an
110 electronic will must be executed; creating s. 732.523,
111 F.S.; specifying requirements for the self-proof of an
112 electronic will; creating s. 732.524, F.S.; specifying
113 requirements necessary to serve as a qualified
114 custodian of an electronic will; creating s. 732.525,
115 F.S.; requiring a qualified custodian to post and
116 maintain a blanket surety bond of a specified amount
117 and maintain liability insurance; authorizing the
118 Attorney General to petition a court to appoint a
119 receiver to manage electronic records of a qualified
120 custodian; creating s. 732.526, F.S.; specifying
121 conditions by which an electronic will is deemed to be
122 an original will; amending s. 733.201, F.S.; requiring
123 that self-proved electronic wills meet certain
124 requirements for admission to probate; creating s.
125 740.10, F.S.; specifying that any act taken pursuant

126 to ch. 740, F.S., does not affect the requirement that
 127 a will be deposited within a certain timeframe;
 128 providing effective dates.

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

132 Section 1. The Division of Law Revision is directed to:

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

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

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

141 117.01 Appointment, application, suspension, revocation,
 142 application fee, bond, and oath.—

143 (1) The Governor may appoint as many notaries public as he
 144 or she deems necessary, each of whom must ~~shall~~ be at least 18
 145 years of age and a legal resident of this ~~the~~ state. A permanent
 146 resident alien may apply and be appointed and shall file with
 147 his or her application a recorded Declaration of Domicile. The
 148 residence required for appointment must be maintained throughout
 149 the term of appointment. A notary public ~~Notaries public~~ shall
 150 be appointed for 4 years and may only ~~shall~~ use and exercise the

151 office of notary public if he or she is within the boundaries of
152 this state. An applicant must be able to read, write, and
153 understand the English language.

154 Section 3. Subsections (4) and (5) of section 117.021,
155 Florida Statutes, are renumbered as subsections (5) and (6),
156 respectively, subsection (2) of that section is amended, and new
157 subsections (4) and (7) are added to that section, to read:

158 117.021 Electronic notarization.—

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

161 (a) Unique to the notary public;

162 (b) Capable of independent verification;

163 (c) Retained under the notary public's sole control and
164 includes access protection through the use of passwords or codes
165 under control of the notary public; and

166 (d) Attached to or logically associated with the
167 electronic document in a manner that any subsequent alteration
168 to the electronic document displays evidence of the alteration.

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

172 (7) The Department of State, in collaboration with the
173 Agency for State Technology, shall adopt rules establishing
174 standards for tamper-evident technologies that will indicate any
175 alteration or change to an electronic record after completion of

176 an electronic notarial act. All electronic notarizations
 177 performed on or after January 1, 2020, must comply with the
 178 adopted standards.

179 Section 4. Subsection (1), paragraph (a) of subsection
 180 (2), subsections (4) and (5), paragraph (a) of subsection (12),
 181 and subsections (13) and (14) of section 117.05, Florida
 182 Statutes, are amended, and paragraph (c) is added to subsection
 183 (12) of that section, to read:

184 117.05 Use of notary commission; unlawful use; notary fee;
 185 seal; duties; employer liability; name change; advertising;
 186 photocopies; penalties.—

187 (1) A ~~No~~ person may not ~~shall~~ obtain or use a notary
 188 public commission in other than his or her legal name, and it is
 189 unlawful for a notary public to notarize his or her own
 190 signature. Any person applying for a notary public commission
 191 must submit proof of identity to the Department of State ~~if so~~
 192 ~~requested~~. Any person who violates ~~the provisions of this~~
 193 subsection commits ~~is guilty of~~ a felony of the third degree,
 194 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

195 (2) (a) The fee of a notary public may not exceed \$10 for
 196 any one notarial act, except as provided in s. 117.045 or s.
 197 117.275.

198 (4) When notarizing a signature, a notary public shall
 199 complete a jurat or notarial certificate in substantially the
 200 same form as those found in subsection (13). The jurat or

201 certificate of acknowledgment shall contain the following
 202 elements:

203 (a) The venue stating the location of the notary public at
 204 the time of the notarization in the format, "State of Florida,
 205 County of"

206 (b) The type of notarial act performed, an oath or an
 207 acknowledgment, evidenced by the words "sworn" or
 208 "acknowledged."

209 (c) Whether ~~That~~ the signer personally appeared before the
 210 notary public at the time of the notarization by physical
 211 presence or by means of audio-video communication technology as
 212 authorized under part II of this chapter.

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

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

217 (f) The specific type of identification the notary public
 218 is relying upon in identifying the signer, either based on
 219 personal knowledge or satisfactory evidence specified in
 220 subsection (5).

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

222 (h) The notary public's ~~notary's~~ name, which must be
 223 typed, printed, or stamped below the signature.

224 (i) The notary public's ~~notary's~~ official seal affixed
 225 below or to either side of the notary public's ~~notary's~~

226 signature.

227 (5) A notary public may not notarize a signature on a
 228 document unless he or she personally knows, or has satisfactory
 229 evidence, that the person whose signature is to be notarized is
 230 the individual who is described in and who is executing the
 231 instrument. A notary public shall certify in the certificate of
 232 acknowledgment or jurat the type of identification, either based
 233 on personal knowledge or other form of identification, upon
 234 which the notary public is relying. In the case of an online
 235 notarization, the online notary public shall comply with the
 236 requirements set forth in part II of this chapter.

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

241 (b) For the purposes of this subsection, the term
 242 "satisfactory evidence" means the absence of any information,
 243 evidence, or other circumstances which would lead a reasonable
 244 person to believe that the person whose signature is to be
 245 notarized is not the person he or she claims to be and any one
 246 of the following:

247 1. The sworn written statement of one credible witness
 248 personally known to the notary public or the sworn written
 249 statement of two credible witnesses whose identities are proven
 250 to the notary public upon the presentation of satisfactory

251 | evidence that each of the following is true:

252 | a. That the person whose signature is to be notarized is
253 | the person named in the document;

254 | b. That the person whose signature is to be notarized is
255 | personally known to the witnesses;

256 | c. That it is the reasonable belief of the witnesses that
257 | the circumstances of the person whose signature is to be
258 | notarized are such that it would be very difficult or impossible
259 | for that person to obtain another acceptable form of
260 | identification;

261 | d. That it is the reasonable belief of the witnesses that
262 | the person whose signature is to be notarized does not possess
263 | any of the identification documents specified in subparagraph
264 | 2.; and

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

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

271 | a. A Florida identification card or driver license issued
272 | by the public agency authorized to issue driver licenses;

273 | b. A passport issued by the Department of State of the
274 | United States;

275 | c. A passport issued by a foreign government if the

276 document is stamped by the United States Bureau of Citizenship
277 and Immigration Services;

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

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

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

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

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

292 i. A sworn, written statement from a sworn law enforcement
293 officer that the forms of identification for an inmate in an
294 institution of confinement were confiscated upon confinement and
295 that the person named in the document is the person whose
296 signature is to be notarized; or

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

299 (12) (a) A notary public may supervise the making of a copy
300 of a tangible or an electronic record or the printing of an

301 electronic record, photocopy of an original document and attest
 302 to the trueness of the copy or of the printout, provided the
 303 document is neither a vital record in this state, another state,
 304 a territory of the United States, or another country, nor a
 305 public record, if a copy can be made by the custodian of the
 306 public record.

307 (c) A notary public must use a certificate in
 308 substantially the following form in notarizing a copy of a
 309 tangible or an electronic record or a printout of an electronic
 310 record:

311
 312 STATE OF FLORIDA
 313 COUNTY OF

314
 315 On this day of, ... (year)..., I attest that the
 316 preceding or attached document is a true, exact, complete, and
 317 unaltered ... (copy of a tangible or an electronic record
 318 presented to me by the document's custodian) ... or a
 319 ... (printout made by me from such record).... If a printout, I
 320 further attest that at the time of printing, no security
 321 features, if any, present on the electronic record, indicated
 322 that the record had been altered since execution.

323
 324 ... (Signature of Notary Public - State of Florida)...
 325 ... (Print, Type, or Stamp Commissioned Name of Notary Public)...

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

(a) For an oath or affirmation:

STATE OF FLORIDA
COUNTY OF

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

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 acknowledging)....

355
 356 ...(Signature of Notary Public - State of Florida)...
 357 ...(Print, Type, or Stamp Commissioned Name of Notary Public)...
 358 Personally Known OR Produced Identification
 359
 360 Type of Identification Produced.....

361
 362 (c) For an acknowledgment in a representative capacity:

363
 364 STATE OF FLORIDA
 365 COUNTY OF

366
 367 The foregoing instrument was acknowledged before me by means of
 368 [] physical presence or [] online notarization, this day of
 369, ...(year)..., by ...(name of person)... as ...(type of
 370 authority, . . . e.g. officer, trustee, attorney in fact)...
 371 for ...(name of party on behalf of whom instrument was
 372 executed)....

373
 374 ...(Signature of Notary Public - State of Florida)...
 375 ...(Print, Type, or Stamp Commissioned Name of Notary Public)...

376 Personally Known OR Produced Identification
 377
 378 Type of Identification Produced.....
 379

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

382 (a) A notary public may notarize the signature of a person
 383 who is blind after the notary public has read the entire
 384 instrument to that person.

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

387 1. The document signing is witnessed by two disinterested
 388 persons;

389 2. The notary public prints the person's first name at the
 390 beginning of the designated signature line and the person's last
 391 name at the end of the designated signature line; and

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

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

396 1. For an oath or affirmation:

397
 398 ... (First Name) (Last Name) ...

399 ... His (or Her) Mark ...

400

401 STATE OF FLORIDA
402 COUNTY OF

403
404 Sworn to and subscribed before me by means of [] physical
405 presence or [] online notarization, this day of,
406 ...(year)..., by ...(name of person making statement)..., who
407 signed with a mark in the presence of these witnesses:

408
409 ...(Signature of Notary Public - State of Florida)...
410 ...(Print, Type, or Stamp Commissioned Name of Notary Public)...

411 Personally Known OR Produced Identification
412

413 Type of Identification Produced.....

414
415 2. For an acknowledgment in an individual capacity:

416
417 ...(First Name)... ...(Last Name)...
418 ...His (or Her) Mark...

419
420 STATE OF FLORIDA
421 COUNTY OF

422
423 The foregoing instrument was acknowledged before me by means of
424 [] physical presence or [] online notarization, this day of
425, ...(year)..., by ...(name of person acknowledging)...

426 | who signed with a mark in the presence of these witnesses:

427 |
 428 | ...(Signature of Notary Public - State of Florida)...

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

430 | Personally Known OR Produced Identification

431 |

432 | Type of Identification Produced.....

433 |

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

437 | 1. The person with a disability directs the notary public
 438 | to sign in his or her presence by verbal, written, or other
 439 | means;

440 | 2. The document signing is witnessed by two disinterested
 441 | persons; and

442 | 3. The notary public writes below the signature the
 443 | following statement: "Signature affixed by notary, pursuant to
 444 | s. 117.05(14), Florida Statutes," and states the circumstances
 445 | and the means by which the notary public was directed to sign ~~of~~
 446 | ~~the signing in~~ the notarial certificate.

447 |

448 | The notary public must maintain the proof of direction and
 449 | authorization to sign on behalf of the person with a disability
 450 | for 10 years from the date of the notarial act.

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

454 1. For an oath or affirmation:

455

456 STATE OF FLORIDA

457 COUNTY OF

458

459 Sworn to (or affirmed) before me by means of [] physical
460 presence or [] online notarization, this day of,
461 ...(year)..., by ...(name of person making statement)..., and
462 subscribed by ...(name of notary)... at the direction of ~~and in~~
463 ~~the presence of~~ ...(name of person making statement)... by
464 ...(written, verbal, or other means)..., and in the presence of
465 these witnesses:

466

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

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

469 Personally Known OR Produced Identification

470

471 Type of Identification Produced.....

472

473 2. For an acknowledgment in an individual capacity:

474

475 STATE OF FLORIDA

476 COUNTY OF

477

478 The foregoing instrument was acknowledged before me by means of
 479 [] physical presence or [] online notarization, this day of
 480, ... (year) ..., by ... (name of person acknowledging) ...
 481 and subscribed by ... (name of notary) ... at the direction of ~~and~~
 482 ~~in the presence of~~ ... (name of person acknowledging) ..., and in
 483 the presence of these witnesses:

484

485 ... (Signature of Notary Public - State of Florida) ...
 486 ... (Print, Type, or Stamp Commissioned Name of Notary Public) ...
 487 Personally Known OR Produced Identification
 488

489 Type of Identification Produced.....

490

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

493 117.107 Prohibited acts.—

494 (2) A notary public may not sign notarial certificates
 495 using a facsimile signature stamp unless the notary public has a
 496 physical disability that limits or prohibits his or her ability
 497 to make a written signature and unless the notary public has
 498 first submitted written notice to the Department of State with
 499 an exemplar of the facsimile signature stamp. This subsection
 500 does not apply to or prohibit the use of an electronic signature

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

501 and seal by a notary public who is registered as an online
502 notary public to perform an electronic or online notarization in
503 accordance with this chapter.

504 (9) A notary public may not notarize a signature on a
505 document if the person whose signature is being notarized does
506 not appear before the notary public either by means of physical
507 presence or by means of audio-video communication technology as
508 authorized under part II of this chapter ~~is not in the presence~~
509 ~~of the notary public~~ at the time the signature is notarized. Any
510 notary public who violates this subsection is guilty of a civil
511 infraction, punishable by penalty not exceeding \$5,000, and such
512 violation constitutes malfeasance and misfeasance in the conduct
513 of official duties. It is no defense to the civil infraction
514 specified in this subsection that the notary public acted
515 without intent to defraud. A notary public who violates this
516 subsection with the intent to defraud is guilty of violating s.
517 117.105.

518 Section 6. Section 117.201, Florida Statutes, is created
519 to read:

520 117.201 Definitions.—As used in this part, the term:

521 (1) "Appear before," "before," or "in the presence of"
522 mean:

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

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

529 (2) "Audio-video communication technology" means
530 technology in compliance with applicable law which enables real-
531 time, two-way communication using electronic means in which
532 participants are able to see, hear, and communicate with one
533 another.

534 (3) "Credential analysis" means a process or service, in
535 compliance with applicable law, in which a third party aids a
536 public notary in affirming the validity of a government-issued
537 identification credential and data thereon through review of
538 public or proprietary data sources.

539 (4) "Electronic," "electronic record," or "electronic
540 signature" has the same meaning as provided in s. 668.50.

541 (5) "Errors and omissions insurance" means a type of
542 insurance that provides coverage for potential errors or
543 omissions in or relating to the notarial act and is maintained,
544 as applicable, by the online notary public or his or her
545 employer, or a Remote Online Notarization service provider.

546 (6) "Government-issued identification credential" means
547 any approved credential for verifying identity under s.
548 117.05(5)(b)2.

549 (7) "Identity proofing" means a process or service in
550 compliance with applicable law in which a third party affirms

551 the identity of an individual through use of public or
552 proprietary data sources, which may include by means of
553 knowledge-based authentication or biometric verification.

554 (8) "Knowledge-based authentication" means a form of
555 identity proofing based on a set of questions which pertain to
556 an individual and are formulated from public or proprietary data
557 sources.

558 (9) "Online notarization" means the performance of a
559 notarial act using electronic means in which the principal
560 appears before the notary public by means of audio-video
561 communication technology.

562 (10) "Online notary public" means a notary public
563 commissioned under part I of this chapter, a civil-law notary
564 appointed under chapter 118, or a commissioner of deeds
565 appointed under part IV of chapter 721, who has registered with
566 the Department of State to perform online notarizations under
567 this part.

568 (11) "Physical presence" means being in the same physical
569 location as another person and close enough to see, hear,
570 communicate with, and exchange credentials with that person.

571 (12) "Principal" means an individual whose electronic
572 signature is acknowledged, witnessed, or attested to in an
573 online notarization or who takes an oath or affirmation from the
574 online notary public.

575 (13) "Record" means information that is inscribed on a

576 tangible medium or that is stored in an electronic or other
577 medium and is retrievable in perceivable form, including public
578 records as defined in s. 119.011.

579 (14) "Remote Online Notarization service provider" or "RON
580 service provider" means a person that provides audio-video
581 communication technology and related processes, services,
582 software, data storage, or other services to online notaries
583 public for the purpose of directly facilitating their
584 performance of online notarizations in compliance with this
585 chapter and any rules adopted by the Department of State
586 pursuant to s. 117.295.

587 (15) "Remote presentation" means transmission of an image
588 of a government-issued identification credential that is of
589 sufficient quality to enable the online notary public to
590 identify the individual seeking the notary's services and to
591 perform credential analysis through audio-video communication
592 technology.

593 Section 7. Section 117.209, Florida Statutes, is created
594 to read:

595 117.209 Authority to perform online notarizations.—

596 (1) An online notary public may perform any of the
597 functions authorized under part I of this chapter as an online
598 notarization by complying with the requirements of this part and
599 any rules adopted by the Department of State pursuant to s.
600 117.295, excluding solemnizing the rites of matrimony.

601 (2) If a notarial act requires a principal to appear
602 before or in the presence of the online notary public, the
603 principal may appear before the online notary public by means of
604 audio-video communication technology that meets the requirements
605 of this part and any rules adopted by the Department of State
606 pursuant to s. 117.295.

607 (3) An online notary public physically located in this
608 state may perform an online notarization as authorized under
609 this part, regardless of whether the principal or any witnesses
610 are physically located in this state at the time of the online
611 notarization. A commissioner of deeds registered as an online
612 notary public may perform an online notarization while
613 physically located within or outside the state in accordance
614 with the territorial limits of its jurisdiction and other
615 limitations and requirements otherwise applicable to acts by
616 commissioners of deeds.

617 (4) The validity of an online notarization performed by an
618 online notary public registered in this state shall be
619 determined by applicable laws of this state regardless of the
620 physical location of the principal or any witnesses at the time
621 of the notarial act.

622 Section 8. Section 117.215, Florida Statutes, is created
623 to read:

624 117.215 Relation to other laws.—

625 (1) If a provision of law requires a notary public or

626 other authorized official of this state to notarize a signature
627 or a statement, to take an acknowledgement of an instrument, or
628 to administer an oath or affirmation so that a document may be
629 sworn, affirmed, made under oath, or subject to penalty of
630 perjury, an online notarization performed in accordance with the
631 provisions of this part and any rules adopted hereunder
632 satisfies such requirement.

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

637 Section 9. Section 117.225, Florida Statutes, is created
638 to read:

639 117.225 Registration; qualifications.—A notary public, a
640 civil-law notary appointed under chapter 118, or a commissioner
641 of deeds appointed under part IV of chapter 721 may complete
642 registration as an online notary public with the Department of
643 State by:

644 (1) Holding a current commission as a notary public under
645 part I of this chapter, an appointment as a civil-law notary
646 under chapter 118, or an appointment as a commissioner of deeds
647 under part IV of chapter 721, and submitting a copy of such
648 commission or proof of such appointment with his or her
649 registration.

650 (2) Certifying that the notary public, civil-law notary,

651 or commissioner of deeds registering as an online notary public
652 has completed a classroom or online course covering the duties,
653 obligations, and technology requirements for serving as an
654 online notary public.

655 (3) Paying a notary public registration fee as required by
656 s. 113.01.

657 (4) Submitting a registration as an online notary public
658 to the Department of State, signed and sworn to by the
659 registrant.

660 (5) Identifying the RON service provider whose audio-video
661 communication technology and processes for credential analysis
662 and identity proofing technologies the registrant intends to use
663 for online notarizations, and confirming that such technology
664 and processes satisfy the requirements of this chapter and any
665 rules adopted by the Department of State pursuant to s. 117.295.

666 (6) Providing evidence satisfactory to the Department of
667 State that the registrant has obtained a bond in the amount of
668 \$25,000, payable to any individual harmed as a result of a
669 breach of duty by the registrant acting in his or her official
670 capacity as an online notary public, conditioned for the due
671 discharge of the office, and on such terms as are specified in
672 rule by the Department of State as reasonably necessary to
673 protect the public. The bond shall be approved and filed with
674 the Department of State and executed by a surety company duly
675 authorized to transact business in this state. Compliance by an

676 online notary public with this requirement shall satisfy the
677 requirement of obtaining a bond under s. 117.01(7).

678 (7) Providing evidence satisfactory to the Department of
679 State that the registrant acting in his or her capacity as an
680 online notary public is covered by an errors and omissions
681 insurance policy from an insurer authorized to transact business
682 in this state, in the minimum amount of \$25,000 and on such
683 terms as are specified by rule by the Department of State as
684 reasonably necessary to protect the public.

685 Section 10. Section 117.235, Florida Statutes, is created
686 to read:

687 117.235 Performance of notarial acts.-

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

692 (2) An online notary public may perform notarial acts as
693 provided by part I of this chapter in addition to performing
694 online notarizations as authorized and pursuant to the
695 provisions of this part.

696 Section 11. Section 117.245, Florida Statutes, is created
697 to read:

698 117.245 Electronic journal of online notarizations.-

699 (1) An online notary public shall keep one or more secure
700 electronic journals of online notarial acts performed by the

701 online notary public. For each online notarization, the
702 electronic journal entry must contain all of the following:
703 (a) The date and time of the notarization.
704 (b) The type of notarial act.
705 (c) The type, the title, or a description of the
706 electronic record or proceeding.
707 (d) The name and address of each principal involved in the
708 transaction or proceeding.
709 (e) Evidence of identity of each principal involved in the
710 transaction or proceeding in any of the following forms:
711 1. A statement that the person is personally known to the
712 online notary public.
713 2. A notation of the type of government-issued
714 identification credential provided to the online notary public.
715 (f) An indication that the principal satisfactorily passed
716 the identity proofing.
717 (g) An indication that the government-issued
718 identification credential satisfied the credential analysis.
719 (h) The fee, if any, charged for the notarization.
720 (2) The online notary public shall retain a copy of the
721 recording of the audio-video communication in which:
722 (a) The principal and any witnesses appeared before the
723 notary public.
724 (b) The identities of the principal and each witness were
725 confirmed.

726 (c) Electronic records were signed by the principal and
 727 any witnesses.

728 (d) The notarial act was performed.

729 (3) The online notary public shall take reasonable steps
 730 to:

731 (a) Ensure the integrity, security, and authenticity of
 732 online notarizations.

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

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

738 (4) The electronic journal required under subsection (1)
 739 and the recordings of audio-video communications required under
 740 subsection (2) shall be maintained for at least 10 years after
 741 the date of the notarial act. However, any records relating to
 742 an online notarization session that involves the signing of an
 743 electronic will must be maintained in accordance with s.
 744 732.524. The Department of State maintains jurisdiction over the
 745 electronic journal and audio-video communication recordings to
 746 investigate notarial misconduct for a period of 10 years after
 747 the date of the notarial act. The online notary public, a
 748 guardian of an incapacitated online notary public, or the
 749 personal representative of a deceased online notary public may,
 750 by contract with a secure repository in accordance with any

751 rules established under this chapter, delegate to the repository
752 the online notary public's duty to retain the electronic journal
753 and the required recordings of audio-video communications,
754 provided that the Department of State is notified of such
755 delegation of retention duties to the repository within 30 days
756 thereafter, including the address and contact information for
757 the repository.

758 (5) An omitted or incomplete entry in the electronic
759 journal does not impair the validity of the notarial act or of
760 the electronic record which was notarized, but may be introduced
761 as evidence to establish violations of this chapter; as evidence
762 of possible fraud, forgery, impersonation, duress, incapacity,
763 undue influence, minority, illegality, unconscionability; or for
764 other evidentiary purposes.

765 Section 12. Section 117.255, Florida Statutes, is created
766 to read:

767 117.255 Use of electronic journal, signature, and seal.—An
768 online notary public shall:

769 (1) Take reasonable steps to ensure that any registered
770 device used to create an electronic seal is current and has not
771 been revoked or terminated by the issuing or registering
772 authority of the device.

773 (2) Keep the electronic journal and electronic seal secure
774 and under his or her sole control, which includes access
775 protection using passwords or codes under control of the online

776 notary public. The online notary public may not allow another
777 person to use the online notary public's electronic journal,
778 electronic signature, or electronic seal, other than a RON
779 service provider or other authorized person providing services
780 to an online notary public to facilitate performance of online
781 notarizations.

782 (3) Attach or logically associate the electronic signature
783 and seal to the electronic notarial certificate of an electronic
784 record in a manner that is capable of independent verification
785 using tamper-evident technology that renders any subsequent
786 change or modification to the electronic record evident.

787 (4) Notify an appropriate law enforcement agency and the
788 Department of State of any unauthorized use of or compromise to
789 the security of the electronic journal, official electronic
790 signature, or electronic seal within 7 days after discovery of
791 such unauthorized use or compromise to security.

792 (5) Make electronic copies, upon request, of the pertinent
793 entries in the electronic journal and provide access to the
794 related audio-video communication recordings to the following
795 persons:

796 (a) The parties to an electronic record notarized by the
797 online notary public;

798 (b) The title agent, settlement agent, or title insurer
799 who insured the electronic record or engaged the online notary
800 public with regard to a real estate transaction;

801 (c) The online notary public's RON service provider whose
802 services were used by the online notary public to notarize the
803 electronic record;

804 (d) Any person who is asked to accept a power of attorney
805 that was notarized by the online notary public; and

806 (e) The Department of State pursuant to a notary
807 misconduct investigation.

808 (6) The online notary public may charge a fee not to
809 exceed \$20 per transaction record for making and delivering
810 electronic copies of a given series of related electronic
811 records, except if requested by:

812 (a) A party to the transaction record;

813 (b) In a real estate transaction, the title agent,
814 settlement agent, or title insurer who insured the transaction
815 record or engaged the online notary public with regard to such
816 transaction; or

817 (c) The Department of State pursuant to an investigation
818 relating to the official misconduct of an online notary public.

819
820 If the online notary public does charge a fee, the online notary
821 public shall disclose the amount of such fee to the requester
822 before making the electronic copies.

823 Section 13. Section 117.265, Florida Statutes, is created
824 to read:

825 117.265 Online notarization procedures.—

826 (1) An online notary public physically located in this
827 state may perform an online notarization that meets the
828 requirements of this part regardless of whether the principal or
829 any witnesses are physically located in this state at the time
830 of the online notarization. A commissioner of deeds registered
831 as an online notary public may perform an online notarization
832 while physically located within or outside of this state in
833 accordance with the territorial limits of its jurisdiction and
834 other limitations and requirements otherwise applicable to acts
835 by commissioners of deeds. An online notarial act performed in
836 accordance with this chapter is deemed to have been performed
837 within this state and is governed by the applicable laws of this
838 state.

839 (2) In performing an online notarization, an online notary
840 public shall confirm the identity of a principal and any witness
841 appearing online, at the time that the signature is taken, by
842 using audio-video communication technology and processes that
843 meet the requirements of this part and of any rules adopted
844 hereunder and record the two-way audio-video conference session
845 between the notary public and the principal and any witnesses. A
846 principal may not act in the capacity of a witness for his or
847 her own signature in an online notarization.

848 (3) In performing an online notarization of a principal
849 not located within this state, an online notary public must
850 confirm, either verbally or through the principal's written

851 consent, that the principal desires for the notarial act to be
852 performed by a Florida notary public and under the general law
853 of this state.

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

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

857 (b) All of the following, as such criteria may be modified
858 or supplemented in rules adopted by the Department of State
859 pursuant to s. 117.295:

860 1. Remote presentation of a government-issued
861 identification credential by each individual.

862 2. Credential analysis of each government-issued
863 identification credential.

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

867
868 If the online notary public is unable to satisfy subparagraphs
869 (b)1.-3., or if the databases consulted for identity proofing do
870 not contain sufficient information to permit authentication, the
871 online notary public may not perform the online notarization.

872 (5) An online notary public may change her or his RON
873 service provider or providers from time to time, but shall
874 notify the Department of State of such change within 30 days
875 thereafter.

876 (6) The online notary public or his or her RON service
877 provider shall take reasonable steps to ensure that the audio-
878 video communication technology used in an online notarization is
879 secure from unauthorized interception.

880 (7) The electronic notarial certificate for an online
881 notarization must include a notation that the notarization is an
882 online notarization which may be satisfied by placing the term
883 "online notary" in or adjacent to the online notary public's
884 seal.

885 (8) Except where otherwise expressly provided in this
886 part, the provisions of part I of this chapter apply to an
887 online notarization and an online notary public.

888 (9) Any failure to comply with the online notarization
889 procedures set forth in this section does not impair the
890 validity of the notarial act or the electronic record that was
891 notarized, but may be introduced as evidence to establish
892 violations of this chapter or as an indication of possible
893 fraud, forgery, impersonation, duress, incapacity, undue
894 influence, minority, illegality, unconscionability, or for other
895 evidentiary purposes. This subsection may not be construed to
896 alter the duty of an online notary public to comply with this
897 chapter and any rules adopted hereunder.

898 Section 14. Section 117.275, Florida Statutes, is created
899 to read:

900 117.275 Fees for online notarization.—An online notary

901 public or the employer of such online notary public may charge a
902 fee, not to exceed \$25, for performing an online notarization
903 under this part. Fees for services other than notarial acts are
904 not governed by this section.

905 Section 15. Section 117.285, Florida Statutes, is created
906 to read:

907 117.285 Supervising the witnessing of electronic records.—
908 An online notary public may supervise the witnessing of
909 electronic records by the same audio-video communication
910 technology used for online notarization, as follows:

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

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

916 (3) The act of witnessing an electronic signature means
917 the witness is either in the physical presence of the principal
918 or present through audio-video communication technology at the
919 time the principal affixes the electronic signature and hears
920 the principal make a statement to the effect that the principal
921 has signed the electronic record.

922 Section 16. Effective upon becoming a law, section
923 117.295, Florida Statutes, is created to read:

924 117.295 Standards for electronic and online notarization;
925 rulemaking authority.—

926 (1) For purposes of this part, the Department of State may
927 adopt rules necessary to implement the requirements of this
928 chapter and to set standards for online notarization which
929 include, but are not limited to:

930 (a) Improvements in technology and methods of assuring the
931 identity of principals and the security of an electronic record,
932 including tamper-evident technologies in compliance with the
933 standards adopted pursuant to s. 117.021 which apply to online
934 notarizations.

935 (b) Education requirements for online notaries public and
936 the required terms of bonds and errors and omissions insurance,
937 but not including the amounts of such policies.

938 (c) Identity proofing, credential analysis, unauthorized
939 interception, remote presentation, audio-video communication
940 technology, and retention of electronic journals and copies of
941 audio-video communications recordings in a secure repository.

942 (2) By January 1, 2020, the Department of State shall
943 adopt forms, processes, and interim or emergency rules necessary
944 to accept applications from and register online notaries public
945 pursuant to s. 117.225.

946 (3) Until such time as the Department of State adopts
947 rules setting standards that are equally or more protective, the
948 following minimum standards shall apply to any online
949 notarization performed by an online notary public of this state
950 or its RON service provider:

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

954 1. The principal must be presented with five or more
955 questions with a minimum of five possible answer choices per
956 question.

957 2. Each question must be drawn from a third-party provider
958 of public and proprietary data sources and be identifiable to
959 the principal's social security number or other identification
960 information, or the principal's identity and historical events
961 records.

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

964 4. The principal must answer a minimum of 80 percent of
965 the questions correctly.

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

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

970 (b) Use of credential analysis using one or more
971 commercially available automated software or hardware processes
972 that are consistent with sound commercial practices; that aid
973 the notary public in verifying the authenticity of the
974 credential by analyzing the integrity of visual, physical, or
975 cryptographic security features to indicate that the credential

976 is not fraudulent or inappropriately modified; and that use
977 information held or published by the issuing source or
978 authoritative source, as available, to confirm the validity of
979 credential details. The output of the credential analysis
980 process must be provided to the online notary public performing
981 the notarial act.

982 (c) Use of audio-video communication technology in
983 completing online notarizations that must meet the following
984 requirements:

985 1. The signal transmission must be reasonably secure from
986 interception, access, or viewing by anyone other than the
987 participants communicating.

988 2. The technology must provide sufficient audio clarity
989 and video resolution to enable the notary to communicate with
990 the principal and to confirm the identity of the principal using
991 the identification methods described in s. 117.265.

992 (4) A RON service provider is deemed to have satisfied
993 tamper-evident technology requirements by use of technology that
994 renders any subsequent change or modification to the electronic
995 record evident.

996 (5) In addition to any coverage it elects to provide for
997 individual online notaries public, maintenance of errors and
998 omissions insurance coverage by a RON service provider in a
999 total amount of at least \$250,000 in the annual aggregate with
1000 respect to potential errors or omissions in or relating to the

1001 technology or processes provided by the RON service provider. An
 1002 online notary public is not responsible for the security of the
 1003 systems used by the principal or others to access the online
 1004 notarization session.

1005 (6) A 2-hour in-person or online course addressing the
 1006 duties, obligations, and technology requirements for serving as
 1007 an online notary public offered by the Florida Land Title
 1008 Association or the Real Property, Probate and Trust Law Section
 1009 of the Florida Bar shall satisfy the education requirements of
 1010 s. 117.225(2).

1011 (7) The rulemaking required under this section is exempt
 1012 from s. 120.541(3).

1013 Section 17. Section 117.305, Florida Statutes, is created
 1014 to read:

1015 117.305 Relation to federal law.—This part supersedes the
 1016 Electronic Signatures in Global and National Commerce Act as
 1017 authorized under 15 U.S.C. s. 7001 et seq., but does not modify,
 1018 limit, or supersede s. 101(c) of that act, 15 U.S.C. s. 7001(c),
 1019 or authorize the electronic delivery of the notices described in
 1020 15 U.S.C. s. 7003(b).

1021 Section 18. Present paragraph (h) of subsection (3) of
 1022 section 28.222, Florida Statutes, is redesignated as paragraph
 1023 (i), and a new paragraph (h) is added to that subsection to
 1024 read:

1025 28.222 Clerk to be county recorder.—

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1026 (3) The clerk of the circuit court shall record the
1027 following kinds of instruments presented to him or her for
1028 recording, upon payment of the service charges prescribed by
1029 law:

1030 (h) Copies of any instruments originally created and
1031 executed using an electronic signature, as defined in s. 695.27,
1032 and certified to be a true and correct paper printout by a
1033 notary public in accordance with chapter 117, if the county
1034 recorder is not prepared to accept electronic documents for
1035 recording electronically.

1036 Section 19. Subsection (25) is added to section 90.803,
1037 Florida Statutes, to read:

1038 90.803 Hearsay exceptions; availability of declarant
1039 immaterial.—The provision of s. 90.802 to the contrary
1040 notwithstanding, the following are not inadmissible as evidence,
1041 even though the declarant is available as a witness:

1042 (25) ELECTRONIC RECORDS OF QUALIFIED CUSTODIANS.—The
1043 electronic records, including, but not limited to, electronic
1044 wills and the audio-video recordings of the execution of such
1045 wills, which are created and stored by a qualified custodian in
1046 the course of the qualified custodian's regularly conducted
1047 business activity as certified or declared by the qualified
1048 custodian in accordance with s. 90.902(11).

1049 Section 20. Subsections (1) and (2) of section 92.50,
1050 Florida Statutes, are amended to read:

1051 92.50 Oaths, affidavits, and acknowledgments; who may take
1052 or administer; requirements.—

1053 (1) IN THIS STATE.—Oaths, affidavits, and acknowledgments
1054 required or authorized under the laws of this state (except
1055 oaths to jurors and witnesses in court and such other oaths,
1056 affidavits and acknowledgments as are required by law to be
1057 taken or administered by or before particular officers) may be
1058 taken or administered by or before any judge, clerk, or deputy
1059 clerk of any court of record within this state, including
1060 federal courts, or by or before any United States commissioner
1061 or any notary public within this state. The jurat, or
1062 certificate of proof or acknowledgment, shall be authenticated
1063 by the signature and official seal of such officer or person
1064 taking or administering the same; however, when taken or
1065 administered by or before any judge, clerk, or deputy clerk of a
1066 court of record, the seal of such court may be affixed as the
1067 seal of such officer or person.

1068 (2) IN OTHER STATES, TERRITORIES, AND DISTRICTS OF THE
1069 UNITED STATES.—Oaths, affidavits, and acknowledgments required
1070 or authorized under the laws of this state, may be taken or
1071 administered in any other state, territory, or district of the
1072 United States, by or before any judge, clerk or deputy clerk of
1073 any court of record, within such state, territory, or district,
1074 having a seal, or by or before any notary public or justice of
1075 the peace, having a seal, in such state, territory, or district;

1076 provided, however, such officer or person is authorized under
 1077 the laws of such state, territory, or district to take or
 1078 administer oaths, affidavits and acknowledgments. The jurat, or
 1079 certificate of proof or acknowledgment, shall be authenticated
 1080 by the signature and official seal of such officer or person
 1081 taking or administering the same; provided, however, when taken
 1082 or administered by or before any judge, clerk, or deputy clerk
 1083 of a court of record, the seal of such court may be affixed as
 1084 the seal of such officer or person.

1085 Section 21. Subsection (1) of section 95.231, Florida
 1086 Statutes, is amended to read:

1087 95.231 Limitations where deed or will on record.—

1088 (1) Five years after the recording of an instrument
 1089 required to be executed in accordance with s. 689.01; 5 years
 1090 after the recording of a power of attorney accompanying and used
 1091 for an instrument required to be executed in accordance with s.
 1092 689.01; or 5 years after the probate of a will purporting to
 1093 convey real property, from which it appears that the person
 1094 owning the property attempted to convey, affect, or devise it,
 1095 the instrument, power of attorney, or will shall be held to have
 1096 its purported effect to convey, affect, or devise, the title to
 1097 the real property of the person signing the instrument, as if
 1098 there had been no lack of seal or seals, witness or witnesses,
 1099 defect in, failure of, or absence of acknowledgment or
 1100 relinquishment of dower, in the absence of fraud, adverse

1101 possession, or pending litigation. The instrument is admissible
1102 in evidence. A power of attorney validated under this subsection
1103 shall be valid only for the purpose of effectuating the
1104 instrument with which it was recorded.

1105 Section 22. Section 689.01, Florida Statutes, is amended
1106 to read:

1107 689.01 How real estate conveyed.—

1108 (1) No estate or interest of freehold, or for a term of
1109 more than 1 year, or any uncertain interest of, in or out of any
1110 messuages, lands, tenements or hereditaments shall be created,
1111 made, granted, transferred or released in any other manner than
1112 by instrument in writing, signed in the presence of two
1113 subscribing witnesses by the party creating, making, granting,
1114 conveying, transferring or releasing such estate, interest, or
1115 term of more than 1 year, or by the party's lawfully authorized
1116 agent, unless by will and testament, or other testamentary
1117 appointment, duly made according to law; and no estate or
1118 interest, either of freehold, or of term of more than 1 year, or
1119 any uncertain interest of, in, to, or out of any messuages,
1120 lands, tenements or hereditaments, shall be assigned or
1121 surrendered unless it be by instrument signed in the presence of
1122 two subscribing witnesses by the party so assigning or
1123 surrendering, or by the party's lawfully authorized agent, or by
1124 the act and operation of law. No seal shall be necessary to give
1125 validity to any instrument executed in conformity with this

1126 section. Corporations may execute any and all conveyances in
1127 accordance with the provisions of this section or ss. 692.01 and
1128 692.02.

1129 (2) For purposes of this chapter:

1130 (a) Any requirement that an instrument be signed in the
1131 presence of two subscribing witnesses may be satisfied by
1132 witnesses being present and electronically signing by means of
1133 audio-video communication technology, as defined in s. 117.201.

1134 (b) The act of witnessing an electronic signature is
1135 satisfied if a witness is present either in the physical
1136 presence of the principal or present through audio-video
1137 communication technology at the time the principal affixes his
1138 or her electronic signature and hears the principal make a
1139 statement acknowledging that the principal has signed the
1140 electronic record.

1141 (3) All acts of witnessing heretofore made or taken
1142 pursuant to subsection (2) are validated and, upon recording,
1143 may not be denied to have provided constructive notice based on
1144 any alleged failure to have strictly complied with this section,
1145 as currently or previously in effect, or the laws governing
1146 notarization of instruments, including online notarization. This
1147 subsection does not preclude a challenge to the validity or
1148 enforceability of an instrument or electronic record based upon
1149 fraud, forgery, impersonation, duress, incapacity, undue
1150 influence, minority, illegality, unconscionability, or any other

1151 basis not related to the act of witnessing.

1152 Section 23. Section 694.08, Florida Statutes, is amended
1153 to read:

1154 694.08 Certain instruments validated, notwithstanding lack
1155 of seals or witnesses, or defect in acknowledgment,~~—ete.—~~

1156 (1) Whenever any power of attorney has been executed and
1157 delivered, or any conveyance has been executed and delivered to
1158 any grantee by the person owning the land therein described, or
1159 conveying the same in an official or representative capacity,
1160 and has, for a period of 7 years or more been spread upon the
1161 records of the county wherein the land therein described has
1162 been or was at the time situated, and one or more subsequent
1163 conveyances of said land or parts thereof have been made,
1164 executed, delivered and recorded by parties claiming under such
1165 instrument or instruments, and such power of attorney or
1166 conveyance, or the public record thereof, shows upon its face a
1167 clear purpose and intent of the person executing the same to
1168 authorize the conveyance of said land or to convey the said
1169 land, the same shall be taken and held by all the courts of this
1170 state, in the absence of any showing of fraud, adverse
1171 possession, or pending litigation, to have authorized the
1172 conveyance of, or to have conveyed, the fee simple title, or any
1173 interest therein, of the person signing such instruments, or the
1174 person in behalf of whom the same was conveyed by a person in an
1175 official or representative capacity, to the land therein

1176 described as effectively as if there had been no defect in,
 1177 failure of, or absence of the acknowledgment or the certificate
 1178 of acknowledgment, if acknowledged, or the relinquishment of
 1179 dower, and as if there had been no lack of the word "as"
 1180 preceding the title of the person conveying in an official or
 1181 representative capacity, of any seal or seals, or of any witness
 1182 or witnesses, and shall likewise be taken and held by all the
 1183 courts of this state to have been duly recorded so as to be
 1184 admissible in evidence;

1185 (2) Provided, however, that this section shall not apply
 1186 to any conveyance the validity of which shall be contested or
 1187 have been contested by suit commenced heretofore or within 1
 1188 year of the effective date of this law.

1189 Section 24. Section 695.03, Florida Statutes, is amended
 1190 to read:

1191 695.03 Acknowledgment and proof; validation of certain
 1192 acknowledgments; legalization or authentication before foreign
 1193 officials.—To entitle any instrument concerning real property to
 1194 be recorded, the execution must be acknowledged by the party
 1195 executing it, proved by a subscribing witness to it, or
 1196 legalized or authenticated in one of the following forms ~~by a~~
 1197 ~~civil-law notary or notary public who affixes her or his~~
 1198 ~~official seal, before the officers and in the form and manner~~
 1199 ~~following:~~

1200 (1) WITHIN THIS STATE.—An acknowledgment or a proof may be

1201 taken or administered ~~made~~ within this state by or ~~may be made~~
 1202 before a judge, clerk, or deputy clerk of any court; a United
 1203 States commissioner or magistrate; or any ~~a~~ notary public or
 1204 civil-law notary of this state, and the certificate of
 1205 acknowledgment or proof must be under the seal of the court or
 1206 officer, as the case may be. ~~All affidavits and acknowledgments~~
 1207 ~~heretofore made or taken in this manner are hereby validated.~~

1208 (2) OUTSIDE ~~WITHOUT~~ THIS STATE BUT WITHIN THE UNITED
 1209 STATES.—An acknowledgment or a proof taken, administered, or
 1210 made outside ~~out~~ of this state but within the United States may
 1211 be taken, administered, or made by or before a civil-law notary
 1212 of this state or a commissioner of deeds appointed by the
 1213 Governor of this state; a judge or clerk of any court of the
 1214 United States or of any state, territory, or district; by or
 1215 before a United States commissioner or magistrate; or by or
 1216 before any ~~a~~ notary public, justice of the peace, master in
 1217 chancery, or registrar or recorder of deeds of any state,
 1218 territory, or district having a seal, and the certificate of
 1219 acknowledgment or proof must be under the seal of the court or
 1220 officer, as the case may be. If the acknowledgment or proof is
 1221 taken, administered, or made by or before a notary public who
 1222 does not affix a seal, it is sufficient for the notary public to
 1223 type, print, or write by hand on the instrument, "I am a Notary
 1224 Public of the State of ...(state)..., and my commission expires
 1225 on ...(date)...."

1226 (3) OUTSIDE OF THE UNITED STATES OR WITHIN FOREIGN
 1227 COUNTRIES.—~~An If the~~ acknowledgment, an affidavit, an oath, a
 1228 legalization, an authentication, or a proof taken, administered,
 1229 or made outside the United States or is made in a foreign
 1230 country, ~~it~~ may be taken, administered, or made by or before a
 1231 commissioner of deeds appointed by the Governor of this state to
 1232 act in such country; before a notary public of such foreign
 1233 country or a civil-law notary of this state or of such foreign
 1234 country who has an official seal; before an ambassador, envoy
 1235 extraordinary, minister plenipotentiary, minister, commissioner,
 1236 charge d'affaires, consul general, consul, vice consul, consular
 1237 agent, or other diplomatic or consular officer of the United
 1238 States appointed to reside in such country; or before a military
 1239 or naval officer authorized by 10 U.S.C. s. 1044a ~~the Laws or~~
 1240 ~~Articles of War of the United States~~ to perform the duties of
 1241 notary public, and the certificate of acknowledgment,
 1242 legalization, authentication, or proof must be under the seal of
 1243 the officer. A certificate legalizing or authenticating the
 1244 signature of a person executing an instrument concerning real
 1245 property and to which a civil-law notary or notary public of
 1246 that country has affixed her or his official seal is sufficient
 1247 as an acknowledgment. For the purposes of this section, the term
 1248 "civil-law notary" means a civil-law notary as defined in
 1249 chapter 118 or an official of a foreign country who has an
 1250 official seal and who is authorized to make legal or lawful the

1251 execution of any document in that jurisdiction, in which
1252 jurisdiction the affixing of her or his official seal is deemed
1253 proof of the execution of the document or deed in full
1254 compliance with the laws of that jurisdiction.

1255 (4) COMPLIANCE AND VALIDATION.—The affixing of the
1256 official seal or the electronic equivalent thereof under s.
1257 117.021 or other applicable law, including part II of chapter
1258 117, conclusively establishes that the acknowledgement or proof
1259 was taken, administered, or made in full compliance with the
1260 laws of this state or, as applicable, the laws of the other
1261 state, or of the foreign country governing notarial acts. All
1262 affidavits, oaths, acknowledgments, legalizations,
1263 authentications, or proofs taken, administered, or made in any
1264 manner as set forth in subsections (1), (2), and (3) are
1265 validated and upon recording may not be denied to have provided
1266 constructive notice based on any alleged failure to have
1267 strictly complied with this section, as currently or previously
1268 in effect, or the laws governing notarization of instruments.
1269 This subsection does not preclude a challenge to the validity or
1270 enforceability of an instrument or electronic record based upon
1271 fraud, forgery, impersonation, duress, incapacity, undue
1272 influence, minority, illegality, unconscionability, or any other
1273 basis not related to the notarial act or constructive notice
1274 provided by recording.
1275

1276 | ~~All affidavits, legalizations, authentications, and~~
 1277 | ~~acknowledgments heretofore made or taken in the manner set forth~~
 1278 | ~~above are hereby validated.~~

1279 | Section 25. Section 695.04, Florida Statutes, is amended
 1280 | to read:

1281 | 695.04 Requirements of certificate.—The certificate of the
 1282 | officer before whom the acknowledgment or proof is taken, except
 1283 | for a certificate legalizing or authenticating the signature of
 1284 | a person executing an instrument concerning real property
 1285 | pursuant to s. 695.03(3), shall contain and set forth
 1286 | substantially the matter required to be done or proved to make
 1287 | such acknowledgment or proof effectual as set forth in s.
 1288 | 117.05.

1289 | Section 26. Section 695.25, Florida Statutes, is amended
 1290 | to read:

1291 | 695.25 Short form of acknowledgment.—The forms of
 1292 | acknowledgment set forth in this section may be used, and are
 1293 | sufficient for their respective purposes, under any law of this
 1294 | state. The forms shall be known as "Statutory Short Forms of
 1295 | Acknowledgment" and may be referred to by that name. The
 1296 | authorization of the forms in this section does not preclude the
 1297 | use of other forms.

1298 | (1) For an individual acting in his or her own right:

1299 | STATE OF

1300 | COUNTY OF

1326 | COUNTY OF

1327 | The foregoing instrument was acknowledged before me by
 1328 | means of [] physical presence or [] online notarization, this
 1329 | ...(date)... by ...(name of member, manager, officer or agent,
 1330 | title of member, manager, officer or agent)...., of ...(name of
 1331 | company acknowledging)...., a ...(state or place of formation)...
 1332 | limited liability company, on behalf of the company, who is
 1333 | personally known to me or has produced ...(type of
 1334 | identification)... as identification.

1335 |
 1336 | ...(Signature of person taking acknowledgment)...
 1337 | ...(Name typed, printed or stamped)...
 1338 | ...(Title or rank)...
 1339 | ...(Serial number, if any)...

1340 | (4)~~(3)~~ For a partnership:

1341 | STATE OF

1342 | COUNTY OF

1343 | The foregoing instrument was acknowledged before me by
 1344 | means of [] physical presence or [] online notarization, this
 1345 | ...(date)... by ...(name of acknowledging partner or agent)....,
 1346 | partner (or agent) on behalf of ...(name of partnership)...., a
 1347 | partnership. He/she is personally known to me or has produced
 1348 | ...(type of identification)... as identification.

1349 | ...(Signature of person taking acknowledgment)...
 1350 | ...(Name typed, printed or stamped)...

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1351 ... (Title or rank) ...
 1352 ... (Serial number, if any) ...

1353 ~~(5)~~~~(4)~~ For an individual acting as principal by an
 1354 attorney in fact:

1355 STATE OF

1356 COUNTY OF

1357 The foregoing instrument was acknowledged before me by
 1358 means of [] physical presence or [] online notarization, this
 1359 ... (date) ... by ... (name of attorney in fact) ... as attorney in
 1360 fact, who is personally known to me or who has produced ... (type
 1361 of identification) ... as identification on behalf of ... (name of
 1362 principal)

1363 ... (Signature of person taking acknowledgment) ...

1364 ... (Name typed, printed or stamped) ...

1365 ... (Title or rank) ...

1366 ... (Serial number, if any) ...

1367 ~~(6)~~~~(5)~~ By any public officer, trustee, or personal
 1368 representative:

1369 STATE OF

1370 COUNTY OF

1371 The foregoing instrument was acknowledged before me by
 1372 means of [] physical presence or [] online notarization, this
 1373 ... (date) ... by ... (name and title of position) ..., who is
 1374 personally known to me or who has produced ... (type of
 1375 identification) ... as identification.

1376 ... (Signature of person taking acknowledgment)...
 1377 ... (Name typed, printed or stamped)...
 1378 ... (Title or rank)...
 1379 ... (Serial number, if any)....

1381 Section 27. Section 695.28, Florida Statutes, is amended
 1382 to read:

1383 695.28 Validity of recorded electronic documents.—

1384 (1) A document that is otherwise entitled to be recorded
 1385 and that was or is submitted to the clerk of the court or county
 1386 recorder by electronic or other means and accepted for
 1387 recordation is deemed validly recorded and provides notice to
 1388 all persons notwithstanding:

1389 (a) That the document was received and accepted for
 1390 recordation before the Department of State adopted standards
 1391 implementing s. 695.27; ~~or~~

1392 (b) Any defects in, deviations from, or the inability to
 1393 demonstrate strict compliance with any statute, rule, or
 1394 procedure relating to electronic signatures, electronic
 1395 witnesses, electronic notarization, or online notarization, or
 1396 for submitting or recording ~~to submit or record~~ an electronic
 1397 document in effect at the time the electronic document was
 1398 executed or was submitted for recording;

1399 (c) That the document was signed, witnessed, or notarized
 1400 electronically, and that the document was notarized by an online

1401 notary public outside the physical presence of the signer
1402 through audio-video communication technology, as defined in s.
1403 117.201, or that witnessing may have been done outside the
1404 physical presence of the notary public or principal through such
1405 audio-visual communication; or

1406 (d) That the document recorded was a certified printout of
1407 a document to which one or more electronic signatures have been
1408 affixed.

1409 (2) This section does not alter the duty of the clerk or
1410 recorder to comply with s. 28.222, s. 695.27, or any rules
1411 adopted pursuant to those sections ~~that section.~~

1412 (3) This section does not preclude a challenge to the
1413 validity or enforceability of an instrument or electronic record
1414 based upon fraud, forgery, impersonation, duress, incapacity,
1415 undue influence, minority, illegality, unconscionability, or any
1416 other basis not in the nature of those matters described in
1417 subsection (1).

1418 Section 28. Subsections (3) and (4) of section 709.2119,
1419 Florida Statutes, are amended to read:

1420 709.2119 Acceptance of and reliance upon power of
1421 attorney.—

1422 (3) A third person who is asked to accept a power of
1423 attorney that appears to be executed in accordance with s.
1424 709.2105 may in good faith request, and rely upon, without
1425 further investigation:

1426 (a) A certified English translation of the power of
 1427 attorney if the power of attorney contains, in whole or in part,
 1428 language other than English;

1429 (b) An opinion of counsel as to any matter of law
 1430 concerning the power of attorney if the third person making the
 1431 request provides in a writing or other record the reason for the
 1432 request; ~~or~~

1433 (c) The affidavit described in subsection (2); or

1434 (d) The electronic journal or record made by the notary
 1435 public pursuant to the laws of the state in which the notary
 1436 public is appointed if the power of attorney is witnessed or
 1437 notarized remotely through the use of online witnesses or
 1438 notarization.

1439 (4) An English translation, ~~or~~ an opinion of counsel, or
 1440 an electronic journal or record requested under this section
 1441 must be provided at the principal's expense unless the request
 1442 is made after the time specified in s. 709.2120(1) for
 1443 acceptance or rejection of the power of attorney.

1444 Section 29. Subsection (4) of section 709.2120, Florida
 1445 Statutes, is amended to read:

1446 709.2120 Rejecting power of attorney.—

1447 (4) A third person is not required to accept a power of
 1448 attorney if:

1449 (a) The third person is not otherwise required to engage
 1450 in a transaction with the principal in the same circumstances;

1451 (b) The third person has knowledge of the termination or
 1452 suspension of the agent's authority or of the power of attorney
 1453 before exercising the power;

1454 (c) A timely request by the third person for an affidavit,
 1455 English translation, ~~or~~ opinion of counsel, or electronic
 1456 journal or record under s. 709.2119 ~~s. 709.2119(4)~~ is refused by
 1457 the agent;

1458 (d) The power of attorney is witnessed or notarized
 1459 remotely through the use of online witnesses or notarization,
 1460 and either the agent is unable to produce the electronic journal
 1461 or record, or the notary public did not maintain an electronic
 1462 journal or record of the notarization;

1463 (e) ~~(d)~~ Except as provided in paragraph (b), the third
 1464 person believes in good faith that the power is not valid or
 1465 that the agent does not have authority to perform the act
 1466 requested; or

1467 (f) ~~(e)~~ The third person makes, or has knowledge that
 1468 another person has made, a report to the local adult protective
 1469 services office stating a good faith belief that the principal
 1470 may be subject to physical or financial abuse, neglect,
 1471 exploitation, or abandonment by the agent or a person acting for
 1472 or with the agent.

1473 Section 30. Subsection (6) of section 709.2202, Florida
 1474 Statutes, is renumbered as subsection (7), and a new subsection
 1475 (6) is added to that section to read:

1476 709.2202 Authority that requires separate signed
1477 enumeration.—

1478 (6) Notwithstanding subsection (1) and s. 709.2106(3), a
1479 power of attorney, executed by a principal domiciled in this
1480 state at the time of execution, that is witnessed remotely
1481 pursuant to s. 117.285 or other applicable law by a witness who
1482 is not in the physical presence of the principal, or that is
1483 notarized in an online notarization, is not effective to grant
1484 authority to an agent to take any of the actions enumerated in
1485 subsection (1), unless the principal provides, to the
1486 satisfaction of the online notary public during the online
1487 notarization, verbal answers to all of the following questions:

1488 (a) Are you 18 years of age or older?

1489 (b) Are you of sound mind?

1490 (c) Are you signing this power of attorney voluntarily?

1491 (d) Are you under the influence of any drugs or alcohol
1492 that impairs your ability to make decisions?

1493 (e) Has anyone forced or influenced you to include
1494 anything in this power of attorney which you do not wish to
1495 include?

1496 (f) Did anyone assist you in accessing this video
1497 conference? If so, who?

1498 (g) Where are you? Name everyone you know in the room with
1499 you.

1500 Section 31. Subsection (40) of section 731.201, Florida

1501 Statutes, is amended to read:

1502 731.201 General definitions.—Subject to additional
 1503 definitions in subsequent chapters that are applicable to
 1504 specific chapters or parts, and unless the context otherwise
 1505 requires, in this code, in s. 409.9101, and in chapters 736,
 1506 738, 739, and 744, the term:

1507 (40) "Will" means an instrument, including a codicil,
 1508 executed by a person in the manner prescribed by this code,
 1509 which disposes of the person's property on or after his or her
 1510 death and includes an instrument which merely appoints a
 1511 personal representative or revokes or revises another will. The
 1512 term includes an electronic will as defined in s. 732.521.

1513 Section 32. Section 732.506, Florida Statutes, is amended
 1514 to read:

1515 732.506 Revocation by act.—A will or codicil, other than
 1516 an electronic will, is revoked by the testator, or some other
 1517 person in the testator's presence and at the testator's
 1518 direction, by burning, tearing, canceling, defacing,
 1519 obliterating, or destroying it with the intent, and for the
 1520 purpose, of revocation. An electronic will or codicil is revoked
 1521 by the testator, or some other person in the testator's presence
 1522 and at the testator's direction, by deleting, canceling,
 1523 rendering unreadable, or obliterating the electronic will or
 1524 codicil, with the intent, and for the purpose, of revocation, as
 1525 proved by clear and convincing evidence.

1526 Section 33. Section 732.521, Florida Statutes, is created
1527 to read:

1528 732.521 Definitions.—As used in ss. 732.521-732.525, the
1529 term:

1530 (1) "Audio-video communication technology" has the same
1531 meaning as provided in s. 117.201.

1532 (2) "Electronic record" has the same meaning as provided
1533 in s. 668.50.

1534 (3) "Electronic signature" means an electronic mark
1535 visibly manifested in a record as a signature and executed or
1536 adopted by a person with the intent to sign the record.

1537 (4) "Electronic will" means an instrument, including a
1538 codicil, executed with an electronic signature by a person in
1539 the manner prescribed by this code, which disposes of the
1540 person's property on or after his or her death and includes an
1541 instrument which merely appoints a personal representative or
1542 revokes or revises another will.

1543 (5) "Online notarization" has the same meaning as provided
1544 in s. 117.201.

1545 (6) "Online notary public" has the same meaning as
1546 provided in s. 117.201.

1547 (7) "Qualified custodian" means a person who meets the
1548 requirements of s. 732.525(1).

1549 (8) "Secure system" means a system that satisfies the
1550 requirements of a secure repository qualified to retain

1551 electronic journals of online notaries public in accordance with
1552 s. 117.245 and any rules established under part II of chapter
1553 117.

1554 Section 34. Effective July 1, 2020, section 732.522,
1555 Florida Statutes, is created to read:

1556 732.522 Method and place of execution.—For purposes of the
1557 execution or filing of an electronic will, the acknowledgment of
1558 an electronic will by the testator and the affidavits of
1559 witnesses under s. 732.503, or any other instrument under the
1560 Florida Probate Code:

1561 (1) Any requirement that an instrument be signed may be
1562 satisfied by an electronic signature.

1563 (2) Any requirement that individuals sign an instrument in
1564 the presence of one another may be satisfied by witnesses being
1565 present and electronically signing by means of audio-video
1566 communication technology that meets the requirements of part II
1567 of chapter 117 and any rules adopted thereunder, if:

1568 (a) The individuals are supervised by a notary public in
1569 accordance with s. 117.285;

1570 (b) The individuals are authenticated and signing as part
1571 of an online notarization session in accordance with s. 117.265;

1572 (c) The witness hears the signer make a statement
1573 acknowledging that the signer has signed the electronic record;
1574 and

1575 (d) In the case of an electronic will, the testator

1576 provides, to the satisfaction of the online notary public during
 1577 the online notarization, verbal answers to all of the following
 1578 questions:

- 1579 1. Are you 18 years of age or older?
- 1580 2. Are you of sound mind?
- 1581 3. Are you signing this will voluntarily?
- 1582 4. Are you under the influence of any drugs or alcohol
 1583 that impairs your ability to make decisions?
- 1584 5. Has anyone forced or influenced you to include anything
 1585 in this will which you do not wish to include?
- 1586 6. Did anyone assist you in accessing this video
 1587 conference? If so, who?
- 1588 7. Where are you? Name everyone you know in the room with
 1589 you.

1590 (3) The execution of an electronic will of a testator who
 1591 is a vulnerable adult, as defined in s. 415.102, may not be
 1592 witnessed by means of audio-video communication technology. The
 1593 contestant of the electronic will has the burden of proving that
 1594 the testator was a vulnerable adult at the time of executing the
 1595 electronic will.

1596 (4) Except as otherwise provided in this part, all
 1597 questions as to the force, effect, validity, and interpretation
 1598 of an electronic will which comply with this section must be
 1599 determined in the same manner as in the case of a will executed
 1600 in accordance with s. 732.502.

1601 (5) An instrument that is signed electronically is deemed
1602 to be executed in this state if the instrument states that the
1603 person creating the instrument intends to execute and
1604 understands that he or she is executing the instrument in, and
1605 pursuant to the laws of, this state.

1606 Section 35. Section 732.523, Florida Statutes, is created
1607 to read:

1608 732.523 Self-proof of electronic will.—An electronic will
1609 is self-proved if:

1610 (1) The acknowledgment of the electronic will by the
1611 testator and the affidavits of the witnesses are made in
1612 accordance with s. 732.503 and are part of the electronic record
1613 containing the electronic will, or are attached to, or are
1614 logically associated with, the electronic will;

1615 (2) The electronic will designates a qualified custodian;

1616 (3) The electronic record that contains the electronic
1617 will is held in the custody of a qualified custodian at all
1618 times before being offered to the court for probate; and

1619 (4) The qualified custodian who has custody of the
1620 electronic will at the time of the testator's death certifies
1621 under oath that, to the best knowledge of the qualified
1622 custodian, the electronic record that contains the electronic
1623 will was at all times before being offered to the court in the
1624 custody of a qualified custodian in compliance with s. 732.524
1625 and that the electronic will has not been altered in any way

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1626 since the date of its execution.

1627 Section 36. Section 732.524, Florida Statutes, is created
1628 to read:

1629 732.524 Qualified custodians.—

1630 (1) To serve as a qualified custodian of an electronic
1631 will, a person must:

1632 (a) Be domiciled in and a resident of this state or be
1633 incorporated or organized in this state;

1634 (b) In the course of maintaining custody of electronic
1635 wills, regularly employ a secure system and store in such secure
1636 system electronic records containing:

1637 1. Electronic wills;

1638 2. Records attached to or logically associated with
1639 electronic wills; and

1640 3. Acknowledgements of the electronic wills by testators,
1641 affidavits of the witnesses, and the records described in s.
1642 117.245(1) and (2) which pertain to the online notarization; and

1643 (c) Furnish for any court hearing involving an electronic
1644 will that is currently or was previously stored by the qualified
1645 custodian any information requested by the court pertaining to
1646 the qualified custodian's qualifications, policies, and
1647 practices related to the creation, sending, communication,
1648 receipt, maintenance, storage, and production of electronic
1649 wills.

1650 (2) The qualified custodian of an electronic will shall

1651 provide access to or information concerning the electronic will,
1652 or the electronic record containing the electronic will, only:

1653 (a) To the testator;

1654 (b) To persons authorized by the testator in the
1655 electronic will or in written instructions signed by the
1656 testator with the formalities required for the execution of a
1657 will in this state;

1658 (c) After the death of the testator, to the testator's
1659 nominated personal representative; or

1660 (d) At any time, as directed by a court of competent
1661 jurisdiction.

1662 (3) The qualified custodian of the electronic record of an
1663 electronic will may elect to destroy such record, including any
1664 of the documentation required to be created and stored under
1665 paragraph (1)(d), at any time after the earlier of the fifth
1666 anniversary of the conclusion of the administration of the
1667 estate of the testator or 20 years after the death of the
1668 testator.

1669 (4) A qualified custodian who at any time maintains
1670 custody of the electronic record of an electronic will may elect
1671 to cease serving in such capacity by:

1672 (a) Delivering the electronic will or the electronic
1673 record containing the electronic will to the testator, if then
1674 living, or, after the death of the testator, by filing the will
1675 with the court in accordance with s. 732.901; and

1676 (b) If the outgoing qualified custodian intends to
1677 designate a successor qualified custodian, by doing the
1678 following:

1679 1. Providing written notice to the testator of the name,
1680 address, and qualifications of the proposed successor qualified
1681 custodian. The testator must provide written consent before the
1682 electronic record, including the electronic will, is delivered
1683 to a successor qualified custodian;

1684 2. Delivering the electronic record containing the
1685 electronic will to the successor qualified custodian; and

1686 3. Delivering to the successor qualified custodian an
1687 affidavit of the outgoing qualified custodian stating that:

1688 a. The outgoing qualified custodian is eligible to act as
1689 a qualified custodian in this state;

1690 b. The outgoing qualified custodian is the qualified
1691 custodian designated by the testator in the electronic will or
1692 appointed to act in such capacity under this paragraph;

1693 c. The electronic will has at all times been in the
1694 custody of one or more qualified custodians in compliance with
1695 this section since the time the electronic record was created,
1696 and identifying such qualified custodians; and

1697 d. To the best of the outgoing qualified custodian's
1698 knowledge, the electronic will has not been altered since the
1699 time it was created.

1700

1701 For purposes of making this affidavit, the outgoing qualified
1702 custodian may rely conclusively on any affidavits delivered by a
1703 predecessor qualified custodian in connection with its
1704 designation or appointment as qualified custodian; however, all
1705 such affidavits must be delivered to the successor qualified
1706 custodian.

1707 (5) Upon the request of the testator which is made in a
1708 writing signed with the formalities required for the execution
1709 of a will in this state, a qualified custodian who at any time
1710 maintains custody of the electronic record of the testator's
1711 electronic will must cease serving in such capacity and must
1712 deliver to a successor qualified custodian designated in writing
1713 by the testator the electronic record containing the electronic
1714 will and the affidavit required in subparagraph (4) (b) 3.

1715 (6) A qualified custodian may not succeed to office as a
1716 qualified custodian of an electronic will unless he or she
1717 agrees in writing to serve in such capacity.

1718 (7) If a qualified custodian is an entity, an affidavit,
1719 or an appearance by the testator in the presence of a duly
1720 authorized officer or agent of such entity, acting in his or her
1721 own capacity as such, shall constitute an affidavit, or an
1722 appearance by the testator in the presence of the qualified
1723 custodian.

1724 (8) A qualified custodian must provide a paper copy of an
1725 electronic will and the electronic record containing the

1726 electronic will to the testator immediately upon request. For
1727 the first request, the testator may not be charged a fee for
1728 being provided with these documents.

1729 (9) The qualified custodian shall be liable for any
1730 damages caused by the negligent loss or destruction of the
1731 electronic record, including the electronic will, while it is in
1732 the possession of the qualified custodian. A qualified custodian
1733 may not limit liability for such damages.

1734 (10) A qualified custodian may not terminate or suspend
1735 access to, or downloads of, the electronic will by the testator,
1736 provided that a qualified custodian may charge a fee for
1737 providing such access and downloads.

1738 (11) Upon receiving information that the testator is dead,
1739 a qualified custodian must deposit the electronic will with the
1740 court in accordance with s. 732.901. A qualified custodian may
1741 not charge a fee for depositing the electronic will with the
1742 clerk, providing the affidavit is made in accordance with s.
1743 732.503, or furnishing in writing any information requested by a
1744 court under paragraph (1) (d).

1745 (12) Except as provided in this act, a qualified custodian
1746 must at all times keep information provided by the testator
1747 confidential and may not disclose such information to any third
1748 party.

1749 (13) A contractual venue provision between a qualified
1750 custodian and a testator is not valid or enforceable to the

1751 extent that it requires a specific jurisdiction or venue for any
1752 proceeding relating to the probate of an estate or the contest
1753 of a will.

1754 Section 37. Section 732.525, Florida Statutes, is created
1755 to read:

1756 732.525 Liability coverage; receivership of qualified
1757 custodians.—

1758 (1) A qualified custodian shall:

1759 (a) Post and maintain a blanket surety bond of at least
1760 \$250,000 to secure the faithful performance of all duties and
1761 obligations required under this part. The bond must be made
1762 payable to the Governor and his or her successors in office for
1763 the benefit of all persons who store electronic records with a
1764 qualified custodian and their estates, beneficiaries,
1765 successors, and heirs, and be conditioned on the faithful
1766 performance of all duties and obligations under this chapter.
1767 The terms of the bond must cover the acts or omissions of the
1768 qualified custodian and each agent or employee of the qualified
1769 custodian; or

1770 (b) Maintain a liability insurance policy that covers any
1771 losses sustained by any person who stores electronic records
1772 with a qualified custodian and their estates, beneficiaries,
1773 successors, and heirs which are caused by errors or omissions by
1774 the qualified custodian and each agent or employee of the
1775 qualified custodian. The policy must cover losses of at least

1776 \$250,000 in the aggregate.

1777 (2) The Attorney General may petition a court of competent
1778 jurisdiction for the appointment of a receiver to manage the
1779 electronic records of a qualified custodian for proper delivery
1780 and safekeeping if any of the following conditions exist:

1781 (a) The qualified custodian is ceasing operation;

1782 (b) The qualified custodian intends to close the facility
1783 and adequate arrangements have not been made for proper delivery
1784 of the electronic records in accordance with this part;

1785 (c) The Attorney General determines that conditions exist
1786 which present a danger that electronic records will be lost or
1787 misappropriated; or

1788 (d) The qualified custodian fails to maintain and post a
1789 surety bond or maintain insurance as required in this section.

1790 Section 38. Section 732.526, Florida Statutes, is created
1791 to read:

1792 732.526 Probate.—

1793 (1) An electronic will that is filed electronically with
1794 the clerk of the court through the Florida Courts E-Filing
1795 Portal is deemed to have been deposited with the clerk as an
1796 original of the electronic will.

1797 (2) A paper copy of an electronic will which is certified
1798 by a notary public to be a true and correct copy of the
1799 electronic will may be offered for and admitted to probate and
1800 shall constitute an original of the electronic will.

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1801 Section 39. Subsection (1) of section 733.201, Florida
1802 Statutes, is amended to read:

1803 733.201 Proof of wills.—

1804 (1) Self-proved wills executed in accordance with this
1805 code may be admitted to probate without further proof. However,
1806 a purportedly self-proved electronic will may be admitted to
1807 probate only in the manners prescribed in subsections (2) and
1808 (3) if the execution of such electronic will, or the
1809 acknowledgement by the testator and the affidavits of the
1810 witnesses, involves an online notarization in which there was a
1811 substantial failure to comply with the procedures set forth in
1812 s. 117.265.

1813 Section 40. Section 740.10, Florida Statutes, is created
1814 to read:

1815 740.10 Relation to wills.—No act taken pursuant to this
1816 chapter is valid to affect the obligation of a person to deposit
1817 a will of a decedent as required under s. 732.901.

1818 Section 41. Except as otherwise expressly provided in this
1819 act, and except for this section, which shall take effect upon
1820 becoming a law, this act shall take effect January 1, 2020.