



ALLIANT
NATIONAL
TITLE INSURANCE COMPANY

Florida Title Agents: What You Need To Know About Digital Closings

Credit: 1 hour CE (Ethics) / 1 hour CLE (General and RE)

Aaron Davis, CEO
Florida Agency Network
11 am – 12 pm, Friday, August 9, 2019

UP!

Aaron Davis

CEO

Florida Agency Network



Aaron has made a career in title. From working every aspect of title in his mother's agency from a young age, Aaron went on to manage, operate, and ultimately purchased his mother's interest in 2008. Since then he has grown a single entity to what is now the Florida Agency Network and its affiliates. Collectively the network contains nearly 40 title offices statewide and employs over 250 team members. In addition to his title and ancillary companies, Aaron owns several real estate holdings, including Alexander Oaks Office Park, a 40,000 Square Foot commercial park in Plant City, which houses several of his ancillary companies, as well as his family's first title agency.

Aaron graduated from the University of Florida with a BSBA in Finance, with a minor in Economics. After graduation, Aaron worked in the Financial Services arena as a Series 7 licensed financial advisor, but his roots were always in real estate and title, and ultimately he came back to take over the family business in 2002.

He is involved with numerous groups and charities. Aaron has served on the board of directors of the Florida Land Title Association, Tampa Bay Builders Association, Bay Area Advisors, local banks, chambers, and acted as past president of the Plant City Rotary Club. He also is a national speaker, highlighted at several industry events including NS3, ALTA, FLTA and Vistage. Davis' latest endeavor finds him in year 1 of a 3-year OPM (Owner/President Management) program at Harvard Business School, designed for CEO's actively involved in day to day operations, with a focus on leadership, assessing strengths and weaknesses, and identifying emerging opportunities.

Aaron is happily married to his wife Leslie of 17 years, and they have two boys, Aiden (16) and Jackson (13). In his spare time, he enjoys traveling, family time at the beach, Florida Gator athletics, and competing in obstacle race events and CrossFit.

OVERVIEW

Name of Provider: Alliant National Title Insurance Company

Name of Course: Florida Title Agents: What You Need to Know About Digital Closings

Targeted audience: Title Insurance agents

Course Objective: This course provides the Florida title agent with a thorough overview and understanding of the general laws regarding the elements of an electronic closing in Florida real estate transactions. The course will focus on the various steps involved in achieving a “paperless” closing, including e-signing, e-recording, e-notarization, and remote online notarization. There will be a review of the relevant Florida statutes and rules on the various subjects.

Course Relevance: In order to protect consumers and provide reliable title insurance and closing services it is critical that a title agent be familiar with the best ways of utilizing the new technologies available to closing agents. By making agents aware of the available services that use this technology, and the laws that govern them, Florida title agents will be prepared to utilize these technologies in their daily business practices, while preventing fraud and maintaining a secure closing environment.

Study Method: Classroom

OUTLINE

Florida Title Agents: What You Need To Know About Digital Closings

I. Introduction and Comparison of Paper vs. Digital Closings	5 Min
II. Overview of the Applicable Laws for Digital Closings – F.S. 668.50	10 Min
A. Electronic Signatures - F.S. Sections 668.001-668.006	
B. Electronic Notarizations - F.S. 117.021 and Fla. Admin. Code r. 1N-5	
C. Electronic Recording – F.S. 695.27 and 695.28 and Fla. Admin. Code r. 1B-31.002	
D. Remote Online Notarizations - FL Legis. House Bill 409 – amends various Florida Statutes to allow remote online notarization and provide safeguards	
III. Conducting A Digital Closing	35 Min
A. Steps Toward Preparing to Go Paperless and Ensuring Ethical Practices	
• Paper Closings of the Past	
• Hybrid E-Closings	
• Full Electronic Closing	
• E-Note and E-Vault/Lender Closing Instructions	
B. Software Solutions, Tools and Services	
C. Building Workflows and Taking the Transaction from Order Entry to Policy Digitally	
D. Setting up a RON Closing Room – Technological, Ethical, and Statutory Requirements	
• Login	
• Credential Analysis and Authentication	
• Communication	
• Fraud Prevention	
E. The RON Closing Experience	
Total Instruction Time	50 Min
Question & Answer Time	10 Min
Total Time	60 Min

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1
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.

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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 an online notary public to keep electronic
31 | journals of online notarizations and certain audio-
32 | video communication recordings; specifying the
33 | information that must be included for each online
34 | notarization; requiring that an online notary public
35 | retain a copy of the recording of an audio-video
36 | communication; specifying requirements for such
37 | recording; requiring an online notary public to take
38 | certain steps regarding the maintenance and security
39 | of the electronic journal; specifying that the
40 | Department of State maintains jurisdiction for a
41 | specified period of time for purposes of investigating
42 | notarial misconduct; authorizing the use of specified
43 | information for evidentiary purposes; creating s.
44 | 117.255, F.S.; specifying requirements for the use of
45 | electronic journals, signatures, and seals; requiring
46 | an online notary public to provide notification of the
47 | theft, vandalism, or loss of an electronic journal,
48 | signature, or seal; authorizing an online notary
49 | public to make copies of electronic journal entries
50 | and to provide access to related recordings under

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51 certain circumstances; authorizing an online notary
52 public to charge a fee for making and delivering such
53 copies; providing an exception; creating s. 117.265,
54 F.S.; prescribing online notarization procedures;
55 specifying the manner by which an online notary public
56 must verify the identity of a principal; requiring an
57 online notary public to take certain measures as to
58 the security of technology used; specifying that an
59 electronic notarial certificate must identify the
60 performance of an online notarization; specifying that
61 noncompliance does not impair the validity of a
62 notarial act or the notarized electronic record;
63 authorizing the use of specified information for
64 evidentiary purposes; providing for construction;
65 creating s. 117.275, F.S.; providing fees for online
66 notarizations; creating s. 117.285, F.S.; specifying
67 the manner by which an online notary public may
68 supervise the witnessing of electronic records of
69 online notarizations; specifying the circumstances
70 under which an instrument is voidable; specifying the
71 duties of Remote Online Notarization service providers
72 and online notaries public; providing applicability
73 and jurisdiction; creating s. 117.295, F.S.;

74 authorizing the department to adopt rules and
75 standards for online notarizations; providing minimum

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76 standards for online notarizations until such rules
 77 are adopted; requiring certain entities to provide a
 78 course for online notaries public; creating s.
 79 117.305, F.S.; superseding certain provisions of
 80 federal law regulating electronic signatures; amending
 81 s. 28.222, F.S.; requiring the clerk of the circuit
 82 court to record certain instruments; amending s.
 83 92.50, F.S.; revising requirements for oaths,
 84 affidavits, and acknowledgments; amending s. 95.231,
 85 F.S.; providing a limitation period for certain
 86 recorded instruments; amending s. 689.01, F.S.;
 87 providing for witnessing of documents in connection
 88 with real estate conveyances; providing for validation
 89 of certain recorded documents; amending s. 694.08,
 90 F.S.; providing for validation of certain recorded
 91 documents; amending s. 695.03, F.S.; providing and
 92 revising requirements for making acknowledgments,
 93 proofs, and other documents; amending s. 695.04, F.S.;
 94 conforming provisions to changes made by the act;
 95 amending s. 695.25, F.S.; revising the statutory short
 96 form of acknowledgments to include acknowledgment by
 97 online notarization; amending s. 695.28, F.S.;
 98 providing for validity of recorded documents;
 99 conforming provisions to changes made by the act;
 100 amending s. 709.2119, F.S.; authorizing the acceptance

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101 of a power of attorney based upon an electronic
 102 journal or electronic record made by a notary public;
 103 amending s. 709.2120, F.S.; prohibiting acceptance of
 104 a power of attorney if witnessed or notarized
 105 remotely; amending s. 709.2202, F.S.; prohibiting
 106 certain authority granted through a power of attorney
 107 if witnessed or notarized remotely; amending s.
 108 731.201, F.S.; redefining the term "will" to conform
 109 to changes made by the act; amending s. 732.506, F.S.;
 110 exempting electronic wills from provisions governing
 111 the revocation of wills and codicils; prescribing the
 112 manner by which an electronic will or codicil may be
 113 revoked; creating s. 732.521, F.S.; providing
 114 definitions; creating s. 732.522, F.S.; prescribing
 115 the manner by which an electronic will must be
 116 executed; creating s. 732.523, F.S.; specifying
 117 requirements for the self-proof of an electronic will;
 118 creating s. 732.524, F.S.; specifying requirements
 119 necessary to serve as a qualified custodian of an
 120 electronic will; providing the duties of such
 121 qualified custodian; creating s. 732.525, F.S.;
 122 requiring a qualified custodian to post and maintain a
 123 blanket surety bond of a specified amount and maintain
 124 liability insurance; authorizing the Attorney General
 125 to petition a court to appoint a receiver to manage

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126 | electronic records of a qualified custodian; creating
 127 | s. 732.526, F.S.; specifying conditions by which an
 128 | electronic will is deemed to be an original will;
 129 | amending s. 733.201, F.S.; requiring that self-proved
 130 | electronic wills meet certain requirements for
 131 | admission to probate; creating s. 740.11, F.S.;
 132 | specifying that any act taken pursuant to ch. 740,
 133 | F.S., does not affect the requirement that a will be
 134 | deposited within a certain timeframe; providing
 135 | effective dates.
 136 |

137 | Be It Enacted by the Legislature of the State of Florida:
 138 |

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

140 | (1) Create part I of chapter 117, Florida Statutes,
 141 | consisting of ss. 117.01-117.108, Florida Statutes, to be
 142 | entitled "General Provisions."

143 | (2) Create part II of chapter 117, Florida Statutes,
 144 | consisting of ss. 117.201-117.305, Florida Statutes, to be
 145 | entitled "Online Notarizations."

146 | Section 2. Subsection (1) of section 117.01, Florida
 147 | Statutes, is amended to read:

148 | 117.01 Appointment, application, suspension, revocation,
 149 | application fee, bond, and oath.—

150 | (1) The Governor may appoint as many notaries public as he

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151 or she deems necessary, each of whom must ~~shall~~ be at least 18
 152 years of age and a legal resident of this ~~the~~ state. A permanent
 153 resident alien may apply and be appointed and shall file with
 154 his or her application a recorded Declaration of Domicile. The
 155 residence required for appointment must be maintained throughout
 156 the term of appointment. A notary public ~~Notaries public~~ shall
 157 be appointed for 4 years and may only ~~shall~~ use and exercise the
 158 office of notary public if he or she is within the boundaries of
 159 this state. An applicant must be able to read, write, and
 160 understand the English language.

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

165 117.021 Electronic notarization.—

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

168 (a) Unique to the notary public;

169 (b) Capable of independent verification;

170 (c) Retained under the notary public's sole control and
 171 includes access protection through the use of passwords or codes
 172 under control of the notary public; and

173 (d) Attached to or logically associated with the
 174 electronic document in a manner that any subsequent alteration
 175 to the electronic document displays evidence of the alteration.

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

179 (7) The Department of State, in collaboration with the
 180 Agency for State Technology, shall adopt rules establishing
 181 standards for tamper-evident technologies that will indicate any
 182 alteration or change to an electronic record after completion of
 183 an electronic notarial act. All electronic notarizations
 184 performed on or after January 1, 2020, must comply with the
 185 adopted standards.

186 Section 4. Subsection (1), paragraph (a) of subsection
 187 (2), subsections (4) and (5), paragraph (a) of subsection (12),
 188 and subsections (13) and (14) of section 117.05, Florida
 189 Statutes, are amended, and paragraph (c) is added to subsection
 190 (12) of that section, to read:

191 117.05 Use of notary commission; unlawful use; notary fee;
 192 seal; duties; employer liability; name change; advertising;
 193 photocopies; penalties.—

194 (1) A ~~No~~ person may not ~~shall~~ obtain or use a notary
 195 public commission in other than his or her legal name, and it is
 196 unlawful for a notary public to notarize his or her own
 197 signature. Any person applying for a notary public commission
 198 must submit proof of identity to the Department of State ~~if so~~
 199 ~~requested~~. Any person who violates ~~the provisions of~~ this
 200 subsection commits ~~is guilty of~~ a felony of the third degree,

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201 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

202 (2) (a) The fee of a notary public may not exceed \$10 for
 203 any one notarial act, except as provided in s. 117.045 or s.
 204 117.275.

205 (4) When notarizing a signature, a notary public shall
 206 complete a jurat or notarial certificate in substantially the
 207 same form as those found in subsection (13). The jurat or
 208 certificate of acknowledgment shall contain the following
 209 elements:

210 (a) The venue stating the location of the notary public at
 211 the time of the notarization in the format, "State of Florida,
 212 County of"

213 (b) The type of notarial act performed, an oath or an
 214 acknowledgment, evidenced by the words "sworn" or
 215 "acknowledged."

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

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

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

224 (f) The specific type of identification the notary public
 225 is relying upon in identifying the signer, either based on

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226 | personal knowledge or satisfactory evidence specified in
 227 | subsection (5).

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

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

231 | (i) The notary public's ~~notary's~~ official seal affixed
 232 | below or to either side of the notary public's ~~notary's~~
 233 | signature.

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

244 | (a) For purposes of this subsection, the term "personally
 245 | knows" means having an acquaintance, derived from association
 246 | with the individual, which establishes the individual's identity
 247 | with at least a reasonable certainty.

248 | (b) For the purposes of this subsection, the term
 249 | "satisfactory evidence" means the absence of any information,
 250 | evidence, or other circumstances which would lead a reasonable

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251 person to believe that the person whose signature is to be
 252 notarized is not the person he or she claims to be and any one
 253 of the following:

254 1. The sworn written statement of one credible witness
 255 personally known to the notary public or the sworn written
 256 statement of two credible witnesses whose identities are proven
 257 to the notary public upon the presentation of satisfactory
 258 evidence that each of the following is true:

259 a. That the person whose signature is to be notarized is
 260 the person named in the document;

261 b. That the person whose signature is to be notarized is
 262 personally known to the witnesses;

263 c. That it is the reasonable belief of the witnesses that
 264 the circumstances of the person whose signature is to be
 265 notarized are such that it would be very difficult or impossible
 266 for that person to obtain another acceptable form of
 267 identification;

268 d. That it is the reasonable belief of the witnesses that
 269 the person whose signature is to be notarized does not possess
 270 any of the identification documents specified in subparagraph
 271 2.; and

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

274 2. Reasonable reliance on the presentation to the notary
 275 public of any one of the following forms of identification, if

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276 | the document is current or has been issued within the past 5
 277 | years and bears a serial or other identifying number:
 278 | a. A Florida identification card or driver license issued
 279 | by the public agency authorized to issue driver licenses;
 280 | b. A passport issued by the Department of State of the
 281 | United States;
 282 | c. A passport issued by a foreign government if the
 283 | document is stamped by the United States Bureau of Citizenship
 284 | and Immigration Services;
 285 | d. A driver license or an identification card issued by a
 286 | public agency authorized to issue driver licenses in a state
 287 | other than Florida or in, a territory of the United States, or
 288 | Canada or Mexico;
 289 | e. An identification card issued by any branch of the
 290 | armed forces of the United States;
 291 | f. A veteran health identification card issued by the
 292 | United States Department of Veterans Affairs;
 293 | g. An inmate identification card issued on or after
 294 | January 1, 1991, by the Florida Department of Corrections for an
 295 | inmate who is in the custody of the department;
 296 | h. An inmate identification card issued by the United
 297 | States Department of Justice, Bureau of Prisons, for an inmate
 298 | who is in the custody of the department;
 299 | i. A sworn, written statement from a sworn law enforcement
 300 | officer that the forms of identification for an inmate in an

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301 institution of confinement were confiscated upon confinement and
 302 that the person named in the document is the person whose
 303 signature is to be notarized; or

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

306 (12) (a) A notary public may supervise the making of a copy
 307 of a tangible or an electronic record or the printing of an
 308 electronic record ~~photocopy of an original document~~ and attest
 309 to the trueness of the copy or of the printout, provided the
 310 document is neither a vital record in this state, another state,
 311 a territory of the United States, or another country, nor a
 312 public record, if a copy can be made by the custodian of the
 313 public record.

314 (c) A notary public must use a certificate in
 315 substantially the following form in notarizing a copy of a
 316 tangible or an electronic record or a printout of an electronic
 317 record:

318
 319 STATE OF FLORIDA

320 COUNTY OF

321
 322 On this day of, ...(year)..., I attest that the
 323 preceding or attached document is a true, exact, complete, and
 324 unaltered ...(copy of a tangible or an electronic record
 325 presented to me by the document's custodian)... or a

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326 ...(printout made by me from such record).... If a printout, I
 327 further attest that, at the time of printing, no security
 328 features, if any, present on the electronic record, indicated
 329 that the record had been altered since execution.

330
 331 ...(Signature of Notary Public – State of Florida)...
 332 ...(Print, Type, or Stamp Commissioned Name of Notary Public)...

333
 334 (13) The following notarial certificates are sufficient
 335 for the purposes indicated, if completed with the information
 336 required by this chapter. The specification of forms under this
 337 subsection does not preclude the use of other forms.

338 (a) For an oath or affirmation:

339
 340 STATE OF FLORIDA
 341 COUNTY OF

342
 343 Sworn to (or affirmed) and subscribed before me by means of
 344 [] physical presence or [] online notarization, this day of
 345, ... (year) ..., by ... (name of person making
 346 statement)....

347
 348 ...(Signature of Notary Public – State of Florida)...
 349 ...(Print, Type, or Stamp Commissioned Name of Notary Public)...
 350 Personally Known OR Produced Identification

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351
352 Type of Identification Produced.....
353

354 (b) For an acknowledgment in an individual capacity:
355

356 STATE OF FLORIDA
357 COUNTY OF
358

359 The foregoing instrument was acknowledged before me by means of
360 [] physical presence or [] online notarization, this day of
361, ... (year) ..., by ... (name of person acknowledging)
362

363 ... (Signature of Notary Public - State of Florida) ...
364 ... (Print, Type, or Stamp Commissioned Name of Notary Public) ...

365 Personally Known OR Produced Identification
366

367
368 Type of Identification Produced.....
369

369 (c) For an acknowledgment in a representative capacity:
370

371 STATE OF FLORIDA
372 COUNTY OF
373

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

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376 , ... (year) ... , by ... (name of person) ... as ... (type of
377 authority, . . . e.g. officer, trustee, attorney in fact) ...
378 for ... (name of party on behalf of whom instrument was
379 executed)

380
381 ... (Signature of Notary Public - State of Florida) ...
382 ... (Print, Type, or Stamp Commissioned Name of Notary Public) ...
383 Personally Known OR Produced Identification
384
385 Type of Identification Produced.....

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

389 (a) A notary public may notarize the signature of a person
390 who is blind after the notary public has read the entire
391 instrument to that person.

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

394 1. The document signing is witnessed by two disinterested
395 persons;

396 2. The notary public prints the person's first name at the
397 beginning of the designated signature line and the person's last
398 name at the end of the designated signature line; and

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

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

403 1. For an oath or affirmation:

404
405 ... (First Name) ... (Last Name) ...
406 ... His (or Her) Mark ...
407

408 STATE OF FLORIDA
409 COUNTY OF

410
411 Sworn to and subscribed before me by means of [] physical
412 presence or [] online notarization, this day of,
413 ... (year) ..., by ... (name of person making statement) ..., who
414 signed with a mark in the presence of these witnesses:

415
416 ... (Signature of Notary Public - State of Florida) ...
417 ... (Print, Type, or Stamp Commissioned Name of Notary Public) ...
418 Personally Known OR Produced Identification
419
420 Type of Identification Produced.....

421
422 2. For an acknowledgment in an individual capacity:

423
424 ... (First Name) ... (Last Name) ...
425 ... His (or Her) Mark ...

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STATE OF FLORIDA
COUNTY OF

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

.....(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.....

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

1. The person with a disability directs the notary public
to sign in his or her presence by verbal, written, or other
means;
2. The document signing is witnessed by two disinterested
persons; and
3. The notary public writes below the signature the
following statement: "Signature affixed by notary, pursuant to

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451 s. 117.05(14), Florida Statutes," and states the circumstances
 452 and the means by which the notary public was directed to sign ~~of~~
 453 ~~the signing in~~ the notarial certificate.

454
 455 The notary public must maintain the proof of direction and
 456 authorization to sign on behalf of the person with a disability
 457 for 10 years from the date of the notarial act.

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

461 1. For an oath or affirmation:

462
 463 STATE OF FLORIDA
 464 COUNTY OF

465
 466 Sworn to (or affirmed) before me by means of [] physical
 467 presence or [] online notarization, this day of,
 468 ...(year)..., by ...(name of person making statement)..., and
 469 subscribed by ...(name of notary)... at the direction of ~~and in~~
 470 ~~the presence of~~ ...(name of person making statement)... by
 471 ...(written, verbal, or other means)..., and in the presence of
 472 these witnesses:

473
 474 ...(Signature of Notary Public - State of Florida)...
 475 ...(Print, Type, or Stamp Commissioned Name of Notary Public)...

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476 Personally Known OR Produced Identification
 477
 478 Type of Identification Produced.....
 479

480 2. For an acknowledgment in an individual capacity:

481
 482 STATE OF FLORIDA
 483 COUNTY OF
 484

485 The foregoing instrument was acknowledged before me by means of
 486 [] physical presence or [] online notarization, this day of
 487, ... (year) ..., by ... (name of person acknowledging) ...
 488 and subscribed by ... (name of notary) ... at the direction of ~~and~~
 489 ~~in the presence of~~ ... (name of person acknowledging) ..., and in
 490 the presence of these witnesses:
 491

492 ... (Signature of Notary Public - State of Florida) ...
 493 ... (Print, Type, or Stamp Commissioned Name of Notary Public) ...

494 Personally Known OR Produced Identification
 495
 496 Type of Identification Produced.....
 497

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

500 117.107 Prohibited acts.—

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501 (2) A notary public may not sign notarial certificates
502 using a facsimile signature stamp unless the notary public has a
503 physical disability that limits or prohibits his or her ability
504 to make a written signature and unless the notary public has
505 first submitted written notice to the Department of State with
506 an exemplar of the facsimile signature stamp. This subsection
507 does not apply to or prohibit the use of an electronic signature
508 and seal by a notary public who is registered as an online
509 notary public to perform an electronic or online notarization in
510 accordance with this chapter.

511 (9) A notary public may not notarize a signature on a
512 document if the person whose signature is being notarized does
513 not appear before the notary public either by means of physical
514 presence or by means of audio-video communication technology as
515 authorized under part II of this chapter ~~is not in the presence~~
516 ~~of the notary public~~ at the time the signature is notarized. Any
517 notary public who violates this subsection is guilty of a civil
518 infraction, punishable by penalty not exceeding \$5,000, and such
519 violation constitutes malfeasance and misfeasance in the conduct
520 of official duties. It is no defense to the civil infraction
521 specified in this subsection that the notary public acted
522 without intent to defraud. A notary public who violates this
523 subsection with the intent to defraud is guilty of violating s.
524 117.105.

525 Section 6. Section 117.201, Florida Statutes, is created

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526 to read:

527 117.201 Definitions.—As used in this part, the term:

528 (1) "Appear before," "before," or "in the presence of"

529 mean:

530 (a) In the physical presence of another person; or

531 (b) Outside of the physical presence of another person,

532 but able to see, hear, and communicate with the person by means

533 of audio-video communication technology.

534 (2) "Audio-video communication technology" means

535 technology in compliance with applicable law which enables real-

536 time, two-way communication using electronic means in which

537 participants are able to see, hear, and communicate with one

538 another.

539 (3) "Credential analysis" means a process or service, in

540 compliance with applicable law, in which a third party aids a

541 public notary in affirming the validity of a government-issued

542 identification credential and data thereon through review of

543 public or proprietary data sources.

544 (4) "Electronic," "electronic record," or "electronic

545 signature" has the same meaning as provided in s. 668.50.

546 (5) "Errors and omissions insurance" means a type of

547 insurance that provides coverage for potential errors or

548 omissions in or relating to the notarial act and is maintained,

549 as applicable, by the online notary public or his or her

550 employer, or a Remote Online Notarization service provider.

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551 (6) "Government-issued identification credential" means
552 any approved credential for verifying identity under s.
553 117.05(5)(b)2.

554 (7) "Identity proofing" means a process or service in
555 compliance with applicable law in which a third party affirms
556 the identity of an individual through use of public or
557 proprietary data sources, which may include by means of
558 knowledge-based authentication or biometric verification.

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

563 (9) "Online notarization" means the performance of a
564 notarial act using electronic means in which the principal
565 appears before the notary public by means of audio-video
566 communication technology.

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

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

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576 (12) "Principal" means an individual whose electronic
577 signature is acknowledged, witnessed, or attested to in an
578 online notarization or who takes an oath or affirmation
579 administered by the online notary public.

580 (13) "Record" means information that is inscribed on a
581 tangible medium or that is stored in an electronic or other
582 medium and is retrievable in perceivable form, including public
583 records as defined in s. 119.011.

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

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

598 Section 7. Section 117.209, Florida Statutes, is created
599 to read:

600 117.209 Authority to perform online notarizations.—

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601 (1) An online notary public may perform any of the
602 functions authorized under part I of this chapter as an online
603 notarization by complying with the requirements of this part and
604 any rules adopted by the Department of State pursuant to s.
605 117.295, excluding solemnizing the rites of matrimony.

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

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

622 (4) The validity of an online notarization performed by an
623 online notary public registered in this state shall be
624 determined by applicable laws of this state regardless of the
625 physical location of the principal or any witnesses at the time

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626 | of the notarial act.

627 | Section 8. Section 117.215, Florida Statutes, is created
628 | to read:

629 | 117.215 Relation to other laws.—

630 | (1) If a provision of law requires a notary public or
631 | other authorized official of this state to notarize a signature
632 | or a statement, to take an acknowledgment of an instrument, or
633 | to administer an oath or affirmation so that a document may be
634 | sworn, affirmed, made under oath, or subject to penalty of
635 | perjury, an online notarization performed in accordance with the
636 | provisions of this part and any rules adopted hereunder
637 | satisfies such requirement.

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

642 | Section 9. Section 117.225, Florida Statutes, is created
643 | to read:

644 | 117.225 Registration; qualifications.—A notary public, a
645 | civil-law notary appointed under chapter 118, or a commissioner
646 | of deeds appointed under part IV of chapter 721 may complete
647 | registration as an online notary public with the Department of
648 | State by:

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

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651 under chapter 118, or an appointment as a commissioner of deeds
652 under part IV of chapter 721, and submitting a copy of such
653 commission or proof of such appointment with his or her
654 registration.

655 (2) Certifying that the notary public, civil-law notary,
656 or commissioner of deeds registering as an online notary public
657 has completed a classroom or online course covering the duties,
658 obligations, and technology requirements for serving as an
659 online notary public.

660 (3) Paying a notary public registration fee as required by
661 s. 113.01.

662 (4) Submitting a registration as an online notary public
663 to the Department of State, signed and sworn to by the
664 registrant.

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

671 (6) Providing evidence satisfactory to the Department of
672 State that the registrant has obtained a bond in the amount of
673 \$25,000, payable to any individual harmed as a result of a
674 breach of duty by the registrant acting in his or her official
675 capacity as an online notary public, conditioned for the due

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676 discharge of the office, and on such terms as are specified in
 677 rule by the Department of State as reasonably necessary to
 678 protect the public. The bond shall be approved and filed with
 679 the Department of State and executed by a surety company duly
 680 authorized to transact business in this state. Compliance by an
 681 online notary public with this requirement shall satisfy the
 682 requirement of obtaining a bond under s. 117.01(7).

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

690 Section 10. Section 117.235, Florida Statutes, is created
 691 to read:

692 117.235 Performance of notarial acts.—

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

697 (2) An online notary public may perform notarial acts as
 698 provided by part I of this chapter in addition to performing
 699 online notarizations as authorized and pursuant to the
 700 provisions of this part.

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701 Section 11. Section 117.245, Florida Statutes, is created
702 to read:

703 117.245 Electronic journal of online notarizations.-

704 (1) An online notary public shall keep one or more secure
705 electronic journals of online notarizations performed by the
706 online notary public. For each online notarization, the
707 electronic journal entry must contain all of the following:

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

709 (b) The type of notarial act.

710 (c) The type, the title, or a description of the
711 electronic record or proceeding.

712 (d) The name and address of each principal involved in the
713 transaction or proceeding.

714 (e) Evidence of identity of each principal involved in the
715 transaction or proceeding in any of the following forms:

716 1. A statement that the person is personally known to the
717 online notary public.

718 2. A notation of the type of government-issued
719 identification credential provided to the online notary public.

720 (f) An indication that the principal satisfactorily passed
721 the identity proofing.

722 (g) An indication that the government-issued
723 identification credential satisfied the credential analysis.

724 (h) The fee, if any, charged for the notarization.

725 (2) The online notary public shall retain an uninterrupted

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726 and unedited copy of the recording of the audio-video
 727 communication in which an online notarization is performed. The
 728 recording must include all of the following:

729 (a) Appearance by the principal and any witness before the
 730 online notary public.

731 (b) Confirmation of the identity of the principal and any
 732 witness.

733 (c) A general description or identification of the records
 734 to be signed.

735 (d) At the commencement of the recording, recitation by
 736 the online notary public of information sufficient to identify
 737 the notarial act.

738 (e) A declaration by the principal that his or her
 739 signature on the record is knowingly and voluntarily made.

740 (f) All of the actions and spoken words of the principal,
 741 notary public, and any required witness during the entire online
 742 notarization, including the signing of any records before the
 743 online notary public.

744 (3) The online notary public shall take reasonable steps
 745 to:

746 (a) Ensure the integrity, security, and authenticity of
 747 online notarizations.

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

750 (c) Protect the electronic journal, the backup record, and

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751 any other records received by the online notary public from
752 unauthorized access or use.

753 (4) The electronic journal required under subsection (1)
754 and the recordings of audio-video communications required under
755 subsection (2) shall be maintained for at least 10 years after
756 the date of the notarial act. However, a full copy of the
757 recording of the audio-video communication required under
758 subsection (2) relating to an online notarization session that
759 involves the signing of an electronic will must be maintained by
760 a qualified custodian in accordance with chapters 731 and 732.
761 The Department of State maintains jurisdiction over the
762 electronic journal and audio-video communication recordings to
763 investigate notarial misconduct for a period of 10 years after
764 the date of the notarial act. The online notary public, a
765 guardian of an incapacitated online notary public, or the
766 personal representative of a deceased online notary public may,
767 by contract with a secure repository in accordance with any
768 rules established under this chapter, delegate to the repository
769 the online notary public's duty to retain the electronic journal
770 and the required recordings of audio-video communications,
771 provided that the Department of State is notified of such
772 delegation of retention duties to the repository within 30 days
773 thereafter, including the address and contact information for
774 the repository. If an online notary public delegates to a secure
775 repository under this section, the online notary public shall

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776 make an entry in his or her electronic journal identifying such
 777 repository, and provide notice to the Department of State as
 778 required in this subsection.

779 (5) An omitted or incomplete entry in the electronic
 780 journal does not impair the validity of the notarial act or of
 781 the electronic record which was notarized, but may be introduced
 782 as evidence to establish violations of this chapter; as evidence
 783 of possible fraud, forgery, impersonation, duress, incapacity,
 784 undue influence, minority, illegality, unconscionability; or for
 785 other evidentiary purposes. However, if the recording of the
 786 audio-video communication required under subsection (2) relating
 787 to the online notarization of the execution of an electronic
 788 will cannot be produced by the online notary public or the
 789 qualified custodian, the electronic will shall be treated as a
 790 lost or destroyed will subject to s. 733.207.

791 Section 12. Section 117.255, Florida Statutes, is created
 792 to read:

793 117.255 Use of electronic journal, signature, and seal.—An
 794 online notary public shall:

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

799 (2) Keep the electronic journal and electronic seal secure
 800 and under his or her sole control, which includes access

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801 protection using passwords or codes under control of the online
802 notary public. The online notary public may not allow another
803 person to use the online notary public's electronic journal,
804 electronic signature, or electronic seal, other than a RON
805 service provider or other authorized person providing services
806 to an online notary public to facilitate performance of online
807 notarizations.

808 (3) Attach or logically associate the electronic signature
809 and seal to the electronic notarial certificate of an electronic
810 record in a manner that is capable of independent verification
811 using tamper-evident technology that renders any subsequent
812 change or modification to the electronic record evident.

813 (4) Notify an appropriate law enforcement agency and the
814 Department of State of any unauthorized use of or compromise to
815 the security of the electronic journal, official electronic
816 signature, or electronic seal within 7 days after discovery of
817 such unauthorized use or compromise to security.

818 (5) Make electronic copies, upon request, of the pertinent
819 entries in the electronic journal and provide access to the
820 related audio-video communication recordings to the following
821 persons:

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

824 (b) The qualified custodian of an electronic will
825 notarized by the online notary public;

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826 (c) The title agent, settlement agent, or title insurer
 827 who insured the electronic record or engaged the online notary
 828 public with regard to a real estate transaction;

829 (d) The online notary public's RON service provider whose
 830 services were used by the online notary public to notarize the
 831 electronic record;

832 (e) Any person who is asked to accept a power of attorney
 833 that was notarized by the online notary public;

834 (f) The Department of State pursuant to a notary
 835 misconduct investigation; and

836 (g) Any other persons pursuant to a subpoena, court order,
 837 law enforcement investigation, or other lawful inspection
 838 demand.

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

843 (a) A party to the electronic record;

844 (b) In a real estate transaction, the title agent,
 845 settlement agent, or title insurer who insured the electronic
 846 record or engaged the online notary public with regard to such
 847 transaction; or

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

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851 If the online notary public does charge a fee, the online notary
852 public shall disclose the amount of such fee to the requester
853 before making the electronic copies.

854 Section 13. Section 117.265, Florida Statutes, is created
855 to read:

856 117.265 Online notarization procedures.—

857 (1) An online notary public physically located in this
858 state may perform an online notarization that meets the
859 requirements of this part regardless of whether the principal or
860 any witnesses are physically located in this state at the time
861 of the online notarization. A commissioner of deeds registered
862 as an online notary public may perform an online notarization
863 while physically located within or outside of this state in
864 accordance with the territorial limits of its jurisdiction and
865 other limitations and requirements otherwise applicable to
866 notarial acts by commissioners of deeds. An online notarization
867 performed in accordance with this chapter is deemed to have been
868 performed within this state and is governed by the applicable
869 laws of this state.

870 (2) In performing an online notarization, an online notary
871 public shall confirm the identity of a principal and any witness
872 appearing online, at the time that the signature is taken, by
873 using audio-video communication technology and processes that
874 meet the requirements of this part and of any rules adopted
875 hereunder and record the two-way audio-video conference session

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876 between the notary public and the principal and any witnesses. A
 877 principal may not act in the capacity of a witness for his or
 878 her own signature in an online notarization.

879 (3) In performing an online notarization of a principal
 880 not located within this state, an online notary public must
 881 confirm, either verbally or through the principal's written
 882 consent, that the principal desires for the notarial act to be
 883 performed by a Florida notary public and under the general law
 884 of this state.

885 (4) An online notary public shall confirm the identity of
 886 the principal by:

887 (a) Personal knowledge of each principal; or

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

891 1. Remote presentation of a government-issued
 892 identification credential by each principal.

893 2. Credential analysis of each government-issued
 894 identification credential.

895 3. Identity proofing of each principal in the form of
 896 knowledge-based authentication or another method of identity
 897 proofing that conforms to the standards of this chapter.

898
 899 If the online notary public is unable to satisfy subparagraphs
 900 (b)1.-3., or if the databases consulted for identity proofing do

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901 not contain sufficient information to permit authentication, the
 902 online notary public may not perform the online notarization.

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

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

911 (7) The electronic notarial certificate for an online
 912 notarization must include a notation that the notarization is an
 913 online notarization which may be satisfied by placing the term
 914 "online notary" in or adjacent to the online notary public's
 915 seal.

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

919 (9) Any failure to comply with the online notarization
 920 procedures set forth in this section does not impair the
 921 validity of the notarial act or the electronic record that was
 922 notarized, but may be introduced as evidence to establish
 923 violations of this chapter or as an indication of possible
 924 fraud, forgery, impersonation, duress, incapacity, undue
 925 influence, minority, illegality, unconscionability, or for other

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926 evidentiary purposes. This subsection may not be construed to
 927 alter the duty of an online notary public to comply with this
 928 chapter and any rules adopted hereunder.

929 Section 14. Section 117.275, Florida Statutes, is created
 930 to read:

931 117.275 Fees for online notarization.—An online notary
 932 public or the employer of such online notary public may charge a
 933 fee, not to exceed \$25, for performing an online notarization
 934 under this part. Fees for services other than notarial acts are
 935 not governed by this section.

936 Section 15. Section 117.285, Florida Statutes, is created
 937 to read:

938 117.285 Supervising the witnessing of electronic records.—
 939 An online notary public may supervise the witnessing of
 940 electronic records by the same audio-video communication
 941 technology used for online notarization, as follows:

942 (1) The witness may be in the physical presence of the
 943 principal or remote from the principal provided the witness and
 944 principal are using audio-video communication technology.

945 (2) If the witness is remote from the principal and
 946 viewing and communicating with the principal by means of audio-
 947 video communication technology, the witness's identity must be
 948 verified in accordance with the procedures for identifying a
 949 principal as set forth in s. 117.265(4). If the witness is in
 950 the physical presence of the principal, the witness must confirm

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951 his or her identity by stating his or her name and current
952 address on the audio-video recording as part of the act of
953 witnessing.

954 (3) The act of witnessing an electronic signature means
955 the witness is either in the physical presence of the principal
956 or present through audio-video communication technology at the
957 time the principal affixes the electronic signature and the
958 witness hears the principal make a statement to the effect that
959 the principal has signed the electronic record.

960 (4) A witness remote from the principal and appearing
961 through audio-video communication technology must verbally
962 confirm that he or she is a resident of and physically located
963 within the United States or a territory of the United States at
964 the time of witnessing.

965 (5) Notwithstanding subsections (2) and (3), if an
966 electronic record to be signed is a will under chapter 732, a
967 trust with testamentary aspects under chapter 736, a health care
968 advance directive, a waiver of spousal rights under s. 732.701
969 or s. 732.702, or a power of attorney authorizing any of the
970 transactions enumerated in s. 709.2208, the following shall
971 apply:

972 (a) Prior to facilitating witnessing of an instrument by
973 means of audio-video communication technology, a RON service
974 provider shall require the principal to answer the following
975 questions in substantially the following form:

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976 1. Are you under the influence of any drug or alcohol
 977 today that impairs your ability to make decisions?

978 2. Do you have any physical or mental condition or long-
 979 term disability that impairs your ability to perform the normal
 980 activities of daily living?

981 3. Do you require assistance with daily care?

982 (b) If any question required under paragraph (a) is
 983 answered in the affirmative, the principal's signature on the
 984 instrument may only be validly witnessed by witnesses in the
 985 physical presence of the principal at the time of signing.

986 (c) Subsequent to submission of the answers required under
 987 paragraph (a), the RON service provider shall give the principal
 988 written notice in substantially the following form:

989
 990 NOTICE: If you are a vulnerable adult as defined in s.
 991 415.102, Florida Statutes, the documents you are about to
 992 sign are not valid if witnessed by means of audio-video
 993 communication technology. If you suspect you may be a
 994 vulnerable adult, you should have witnesses physically
 995 present with you before signing.

996
 997 (d) The act of witnessing an electronic signature through
 998 the witness's presence by audio-video communication technology
 999 is valid only if, during the audio-video communication, the
 1000 principal provides verbal answers to all of the following

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1001 questions, each of which must be asked by the online notary
 1002 public in substantially the following form:
 1003 1. Are you currently married? If so, name your spouse.
 1004 2. Please state the names of anyone who assisted you in
 1005 accessing this video conference today.
 1006 3. Please state the names of anyone who assisted you in
 1007 preparing the documents you are signing today.
 1008 4. Where are you currently located?
 1009 5. Who is in the room with you?
 1010 (e) An online notary public shall consider the responses
 1011 to the questions specified in paragraph (d) in carrying out of
 1012 the duties of a notary public as set forth in s. 117.107(5).
 1013 (f) A principal's responses to the questions in paragraphs
 1014 (a) and (d) may be offered as evidence regarding the validity of
 1015 the instrument, but an incorrect answer may not serve as the
 1016 sole basis to invalidate an instrument.
 1017 (g) The presence of a witness with the principal at the
 1018 time of signing by means of audio-video communication technology
 1019 is not effective for witnessing the signature of a principal who
 1020 is a vulnerable adult as defined in s. 415.102. The contestant
 1021 of an electronic record has the burden of proving that the
 1022 principal was a vulnerable adult at the time of executing the
 1023 electronic record.
 1024 (h) Nothing in this subsection shall preclude a power of
 1025 attorney, which includes banking or investment powers enumerated

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1026 in s. 709.2208, from being effective with respect to any other
 1027 authority granted therein or with respect to the agent's
 1028 authority in connection with a real property, commercial, or
 1029 consumer transaction or loan, to exercise any power specified
 1030 therein or to execute and deliver instruments obligating the
 1031 principal or to draw upon the proceeds of such transaction or
 1032 loan.

1033 (i) The electronic record containing an instrument signed
 1034 by witnesses who were present with the principal by means of
 1035 audio-video communication technology shall contain a perceptible
 1036 indication of their presence by such means.

1037 (j) Nothing in this subsection shall affect the
 1038 application of s. 709.2119.

1039 (6) Pursuant to subpoena, court order, an authorized law
 1040 enforcement inquiry, or other lawful request, a RON service
 1041 provider or online notary public shall provide:

1042 (a) The last known address of each witness who witnessed
 1043 the signing of an electronic record using audio-video
 1044 communication technology under this section.

1045 (b) A principal's responses to the questions in paragraphs
 1046 (5) (a) or (b), as applicable.

1047 (c) An uninterrupted and unedited copy of the recording of
 1048 the audio-video communication in which an online notarization is
 1049 performed.

1050 (7) Except as set forth in s. 709.2202, an act of

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1051 witnessing performed pursuant to this section satisfies any
 1052 requirement that the witness must be a subscribing or attesting
 1053 witness or must be in the presence of the principal at the time
 1054 of signing.

1055 (8) The law of this state governs the validity of
 1056 witnessing supervised by an online notary public pursuant to
 1057 this section, regardless of the physical location of the witness
 1058 at the time of witnessing. State and federal courts in this
 1059 state have subject matter jurisdiction over any dispute arising
 1060 out of an act of witnessing pursuant to this section, and may
 1061 issue subpoenas for records or to require the appearance of
 1062 witnesses in relation thereto in accordance with applicable law.

1063 Section 16. Effective upon becoming a law, section
 1064 117.295, Florida Statutes, is created to read:

1065 117.295 Standards for electronic and online notarization;
 1066 rulemaking authority.-

1067 (1) For purposes of this part, the Department of State may
 1068 adopt rules necessary to implement the requirements of this
 1069 chapter and to set standards for online notarization which
 1070 include, but are not limited to:

1071 (a) Improvements in technology and methods of assuring the
 1072 identity of principals and the security of an electronic record,
 1073 including tamper-evident technologies in compliance with the
 1074 standards adopted pursuant to s. 117.021 which apply to online
 1075 notarizations.

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1076 (b) Education requirements for online notaries public and
1077 the required terms of bonds and errors and omissions insurance,
1078 but not including the amounts of such bonds and insurance
1079 policies.

1080 (c) Identity proofing, credential analysis, unauthorized
1081 interception, remote presentation, audio-video communication
1082 technology, and retention of electronic journals and copies of
1083 audio-video communications recordings in a secure repository.

1084 (2) By January 1, 2020, the Department of State shall
1085 adopt forms, processes, and interim or emergency rules necessary
1086 to accept applications from and register online notaries public
1087 pursuant to s. 117.225.

1088 (3) Until such time as the Department of State adopts
1089 rules setting standards that are equally or more protective, the
1090 following minimum standards shall apply to any online
1091 notarization performed by an online notary public of this state
1092 or his or her RON service provider:

1093 (a) Use of identity proofing by means of knowledge-based
1094 authentication which must have, at a minimum, the following
1095 security characteristics:

1096 1. The principal must be presented with five or more
1097 questions with a minimum of five possible answer choices per
1098 question.

1099 2. Each question must be drawn from a third-party provider
1100 of public and proprietary data sources and be identifiable to

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1101 the principal's social security number or other identification
 1102 information, or the principal's identity and historical events
 1103 records.

1104 3. Responses to all questions must be made within a 2-
 1105 minute time constraint.

1106 4. The principal must answer a minimum of 80 percent of
 1107 the questions correctly.

1108 5. The principal may be offered one additional attempt in
 1109 the event of a failed attempt.

1110 6. During the second attempt, the principal may not be
 1111 presented with more than three questions from the prior attempt.

1112 (b) Use of credential analysis using one or more
 1113 commercially available automated software or hardware processes
 1114 that are consistent with sound commercial practices; that aid
 1115 the notary public in verifying the authenticity of the
 1116 credential by analyzing the integrity of visual, physical, or
 1117 cryptographic security features to indicate that the credential
 1118 is not fraudulent or inappropriately modified; and that use
 1119 information held or published by the issuing source or
 1120 authoritative source, as available, to confirm the validity of
 1121 credential details. The output of the credential analysis
 1122 process must be provided to the online notary public performing
 1123 the notarial act.

1124 (c) Use of audio-video communication technology in
 1125 completing online notarizations that must meet the following

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1126 requirements:

1127 1. The signal transmission must be reasonably secure from
1128 interception, access, or viewing by anyone other than the
1129 participants communicating.

1130 2. The technology must provide sufficient audio clarity
1131 and video resolution to enable the notary to communicate with
1132 the principal and any witness, and to confirm the identity of
1133 the principal and any witness, as required, using the
1134 identification methods described in s. 117.265.

1135 (4) A RON service provider is deemed to have satisfied
1136 tamper-evident technology requirements by use of technology that
1137 renders any subsequent change or modification to the electronic
1138 record evident.

1139 (5) In addition to any coverage it elects to provide for
1140 individual online notaries public, maintenance of errors and
1141 omissions insurance coverage by a RON service provider in a
1142 total amount of at least \$250,000 in the annual aggregate with
1143 respect to potential errors or omissions in or relating to the
1144 technology or processes provided by the RON service provider. An
1145 online notary public is not responsible for the security of the
1146 systems used by the principal or others to access the online
1147 notarization session.

1148 (6) A 2-hour in-person or online course addressing the
1149 duties, obligations, and technology requirements for serving as
1150 an online notary public offered by the Florida Land Title

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1151 Association; the Real Property, Probate and Trust Law Section of
1152 the Florida Bar; the Florida Legal Education Association, Inc.;
1153 the Department of State; or a vendor approved by the Department
1154 of State shall satisfy the education requirements of s.
1155 117.225(2). Each such provider shall make the in-person or
1156 online course generally available to all applicants. Regardless
1157 of membership in the provider's organization, the provider shall
1158 charge each attendee the same cost for the course unless the
1159 course is provided in conjunction with a regularly scheduled
1160 meeting of the provider's membership.

1161 (7) The rulemaking required under this section is exempt
1162 from s. 120.541(3).

1163 Section 17. Section 117.305, Florida Statutes, is created
1164 to read:

1165 117.305 Relation to federal law.—This part supersedes the
1166 Electronic Signatures in Global and National Commerce Act as
1167 authorized under 15 U.S.C. s. 7001 et seq., but does not modify,
1168 limit, or supersede s. 101(c) of that act, 15 U.S.C. s. 7001(c),
1169 or authorize the electronic delivery of the notices described in
1170 15 U.S.C. s. 7003(b).

1171 Section 18. Paragraph (h) of subsection (3) of section
1172 28.222, Florida Statutes, is redesignated as paragraph (i), and
1173 a new paragraph (h) is added to that subsection to read:

1174 28.222 Clerk to be county recorder.—

1175 (3) The clerk of the circuit court shall record the

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1176 following kinds of instruments presented to him or her for
 1177 recording, upon payment of the service charges prescribed by
 1178 law:

1179 (h) Copies of any instruments originally created and
 1180 executed using an electronic signature, as defined in s. 695.27,
 1181 and certified to be a true and correct paper printout by a
 1182 notary public in accordance with chapter 117, if the county
 1183 recorder is not prepared to accept electronic documents for
 1184 recording electronically.

1185 Section 19. Subsections (1) and (2) of section 92.50,
 1186 Florida Statutes, are amended to read:

1187 92.50 Oaths, affidavits, and acknowledgments; who may take
 1188 or administer; requirements.—

1189 (1) IN THIS STATE.—Oaths, affidavits, and acknowledgments
 1190 required or authorized under the laws of this state (except
 1191 oaths to jurors and witnesses in court and such other oaths,
 1192 affidavits and acknowledgments as are required by law to be
 1193 taken or administered by or before particular officers) may be
 1194 taken or administered by or before any judge, clerk, or deputy
 1195 clerk of any court of record within this state, including
 1196 federal courts, or by or before any United States commissioner
 1197 or any notary public within this state. The jurat, or
 1198 certificate of proof or acknowledgment, shall be authenticated
 1199 by the signature and official seal of such officer or person
 1200 taking or administering the same; however, when taken or

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1201 administered by or before any judge, clerk, or deputy clerk of a
 1202 court of record, the seal of such court may be affixed as the
 1203 seal of such officer or person.

1204 (2) IN OTHER STATES, TERRITORIES, AND DISTRICTS OF THE
 1205 UNITED STATES.—Oaths, affidavits, and acknowledgments required
 1206 or authorized under the laws of this state, may be taken or
 1207 administered in any other state, territory, or district of the
 1208 United States, by or before any judge, clerk or deputy clerk of
 1209 any court of record, within such state, territory, or district,
 1210 having a seal, or by or before any notary public or justice of
 1211 the peace, having a seal, in such state, territory, or district;
 1212 provided, however, such officer or person is authorized under
 1213 the laws of such state, territory, or district to take or
 1214 administer oaths, affidavits and acknowledgments. The jurat, or
 1215 certificate of proof or acknowledgment, shall be authenticated
 1216 by the signature and official seal of such officer or person
 1217 taking or administering the same; provided, however, when taken
 1218 or administered by or before any judge, clerk, or deputy clerk
 1219 of a court of record, the seal of such court may be affixed as
 1220 the seal of such officer or person.

1221 Section 20. Subsection (1) of section 95.231, Florida
 1222 Statutes, is amended to read:

1223 95.231 Limitations where deed or will on record.—

1224 (1) Five years after the recording of an instrument
 1225 required to be executed in accordance with s. 689.01; 5 years

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1226 | after the recording of a power of attorney accompanying and used
 1227 | for an instrument required to be executed in accordance with s.
 1228 | 689.01; or 5 years after the probate of a will purporting to
 1229 | convey real property, from which it appears that the person
 1230 | owning the property attempted to convey, affect, or devise it,
 1231 | the instrument, power of attorney, or will shall be held to have
 1232 | its purported effect to convey, affect, or devise, the title to
 1233 | the real property of the person signing the instrument, as if
 1234 | there had been no lack of seal or seals, witness or witnesses,
 1235 | defect in, failure of, or absence of acknowledgment or
 1236 | relinquishment of dower, in the absence of fraud, adverse
 1237 | possession, or pending litigation. The instrument is admissible
 1238 | in evidence. A power of attorney validated under this subsection
 1239 | shall be valid only for the purpose of effectuating the
 1240 | instrument with which it was recorded.

1241 | Section 21. Section 689.01, Florida Statutes, is amended
 1242 | to read:

1243 | 689.01 How real estate conveyed.—

1244 | (1) No estate or interest of freehold, or for a term of
 1245 | more than 1 year, or any uncertain interest of, in or out of any
 1246 | messuages, lands, tenements or hereditaments shall be created,
 1247 | made, granted, transferred or released in any other manner than
 1248 | by instrument in writing, signed in the presence of two
 1249 | subscribing witnesses by the party creating, making, granting,
 1250 | conveying, transferring or releasing such estate, interest, or

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1251 term of more than 1 year, or by the party's lawfully authorized
 1252 agent, unless by will and testament, or other testamentary
 1253 appointment, duly made according to law; and no estate or
 1254 interest, either of freehold, or of term of more than 1 year, or
 1255 any uncertain interest of, in, to, or out of any messuages,
 1256 lands, tenements or hereditaments, shall be assigned or
 1257 surrendered unless it be by instrument signed in the presence of
 1258 two subscribing witnesses by the party so assigning or
 1259 surrendering, or by the party's lawfully authorized agent, or by
 1260 the act and operation of law. No seal shall be necessary to give
 1261 validity to any instrument executed in conformity with this
 1262 section. Corporations may execute any and all conveyances in
 1263 accordance with the provisions of this section or ss. 692.01 and
 1264 692.02.

1265 (2) For purposes of this chapter:

1266 (a) Any requirement that an instrument be signed in the
 1267 presence of two subscribing witnesses may be satisfied by
 1268 witnesses being present and electronically signing by means of
 1269 audio-video communication technology, as defined in s. 117.201.

1270 (b) The act of witnessing an electronic signature is
 1271 satisfied if a witness is in the physical presence of the
 1272 principal or present through audio-video communication
 1273 technology at the time the principal affixes his or her
 1274 electronic signature and the witness hears the principal make a
 1275 statement acknowledging that the principal has signed the

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1276 | electronic record.

1277 | (c) The terms used in this subsection have the same
 1278 | meanings as the terms defined in s. 117.201.

1279 | (3) All acts of witnessing made or taken in the manner
 1280 | described in subsection (2) are validated and, upon recording,
 1281 | may not be denied to have provided constructive notice based on
 1282 | any alleged failure to have strictly complied with this section
 1283 | or the laws governing notarization of instruments, including
 1284 | online notarization. This subsection does not preclude a
 1285 | challenge to the validity or enforceability of an instrument or
 1286 | electronic record based upon fraud, forgery, impersonation,
 1287 | duress, incapacity, undue influence, minority, illegality,
 1288 | unconscionability, or any other basis not related to the act of
 1289 | witnessing.

1290 | Section 22. Section 694.08, Florida Statutes, is amended
 1291 | to read:

1292 | 694.08 Certain instruments validated, notwithstanding lack
 1293 | of seals or witnesses, or defect in acknowledgment,~~—ete.—~~

1294 | (1) Whenever any power of attorney has been executed and
 1295 | delivered, or any conveyance has been executed and delivered to
 1296 | any grantee by the person owning the land therein described, or
 1297 | conveying the same in an official or representative capacity,
 1298 | and has, for a period of 7 years or more been spread upon the
 1299 | records of the county wherein the land therein described has
 1300 | been or was at the time situated, and one or more subsequent

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1301 conveyances of said land or parts thereof have been made,
1302 executed, delivered and recorded by parties claiming under such
1303 instrument or instruments, and such power of attorney or
1304 conveyance, or the public record thereof, shows upon its face a
1305 clear purpose and intent of the person executing the same to
1306 authorize the conveyance of said land or to convey the said
1307 land, the same shall be taken and held by all the courts of this
1308 state, in the absence of any showing of fraud, adverse
1309 possession, or pending litigation, to have authorized the
1310 conveyance of, or to have conveyed, the fee simple title, or any
1311 interest therein, of the person signing such instruments, or the
1312 person in behalf of whom the same was conveyed by a person in an
1313 official or representative capacity, to the land therein
1314 described as effectively as if there had been no defect in,
1315 failure of, or absence of the acknowledgment or the certificate
1316 of acknowledgment, if acknowledged, or the relinquishment of
1317 dower, and as if there had been no lack of the word "as"
1318 preceding the title of the person conveying in an official or
1319 representative capacity, of any seal or seals, or of any witness
1320 or witnesses, and shall likewise be taken and held by all the
1321 courts of this state to have been duly recorded so as to be
1322 admissible in evidence;

1323 (2) Provided, however, that this section shall not apply
1324 to any conveyance the validity of which shall be contested or
1325 have been contested by suit commenced heretofore or within 1

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1326 | year of the effective date of this law.

1327 | Section 23. Section 695.03, Florida Statutes, is amended
1328 | to read:

1329 | 695.03 Acknowledgment and proof; validation of certain
1330 | acknowledgments; legalization or authentication before foreign
1331 | officials.—To entitle any instrument concerning real property to
1332 | be recorded, the execution must be acknowledged by the party
1333 | executing it, proved by a subscribing witness to it, or
1334 | legalized or authenticated in one of the following forms ~~by a~~
1335 | ~~civil-law notary or notary public who affixes her or his~~
1336 | ~~official seal, before the officers and in the form and manner~~
1337 | ~~following:~~

1338 | (1) WITHIN THIS STATE.—An acknowledgment or a proof may be
1339 | taken, administered, or made within this state by or ~~may be made~~
1340 | before a judge, clerk, or deputy clerk of any court; a United
1341 | States commissioner or magistrate; or any ~~a~~ notary public or
1342 | civil-law notary of this state, and the certificate of
1343 | acknowledgment or proof must be under the seal of the court or
1344 | officer, as the case may be. ~~All affidavits and acknowledgments~~
1345 | ~~heretofore made or taken in this manner are hereby validated.~~

1346 | (2) OUTSIDE ~~WITHOUT~~ THIS STATE BUT WITHIN THE UNITED
1347 | STATES.—An acknowledgment or a proof taken, administered, or
1348 | made outside ~~out~~ of this state but within the United States may
1349 | be taken, administered, or made by or before a civil-law notary
1350 | of this state or a commissioner of deeds appointed by the

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1351 Governor of this state; a judge or clerk of any court of the
 1352 United States or of any state, territory, or district; by or
 1353 before a United States commissioner or magistrate; or by or
 1354 before any a notary public, justice of the peace, master in
 1355 chancery, or registrar or recorder of deeds of any state,
 1356 territory, or district having a seal, and the certificate of
 1357 acknowledgment or proof must be under the seal of the court or
 1358 officer, as the case may be. If the acknowledgment or proof is
 1359 taken, administered, or made by or before a notary public who
 1360 does not affix a seal, it is sufficient for the notary public to
 1361 type, print, or write by hand on the instrument, "I am a Notary
 1362 Public of the State of ...(state)..., and my commission expires
 1363 on ...(date)...."

1364 (3) OUTSIDE OF THE UNITED STATES OR WITHIN FOREIGN
 1365 COUNTRIES.—~~An If the~~ acknowledgment, an affidavit, an oath, a
 1366 legalization, an authentication, or a proof taken, administered,
 1367 or made outside the United States or is made in a foreign
 1368 country, ~~it~~ may be taken, administered, or made by or before a
 1369 commissioner of deeds appointed by the Governor of this state to
 1370 act in such country; before a notary public of such foreign
 1371 country or a civil-law notary of this state or of such foreign
 1372 country who has an official seal; before an ambassador, envoy
 1373 extraordinary, minister plenipotentiary, minister, commissioner,
 1374 charge d'affaires, consul general, consul, vice consul, consular
 1375 agent, or other diplomatic or consular officer of the United

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1376 States appointed to reside in such country; or before a military
 1377 or naval officer authorized by 10 U.S.C. s. 1044a ~~the Laws or~~
 1378 ~~Articles of War of the United States~~ to perform the duties of
 1379 notary public, and the certificate of acknowledgment,
 1380 legalization, authentication, or proof must be under the seal of
 1381 the officer. A certificate legalizing or authenticating the
 1382 signature of a person executing an instrument concerning real
 1383 property and to which a civil-law notary or notary public of
 1384 that country has affixed her or his official seal is sufficient
 1385 as an acknowledgment. For the purposes of this section, the term
 1386 "civil-law notary" means a civil-law notary as defined in
 1387 chapter 118 or an official of a foreign country who has an
 1388 official seal and who is authorized to make legal or lawful the
 1389 execution of any document in that jurisdiction, in which
 1390 jurisdiction the affixing of her or his official seal is deemed
 1391 proof of the execution of the document or deed in full
 1392 compliance with the laws of that jurisdiction.

1393 (4) COMPLIANCE AND VALIDATION.—The affixing of the
 1394 official seal or the electronic equivalent thereof under s.
 1395 117.021 or other applicable law, including part II of chapter
 1396 117, conclusively establishes that the acknowledgment or proof
 1397 was taken, administered, or made in full compliance with the
 1398 laws of this state or, as applicable, the laws of the other
 1399 state, or of the foreign country governing notarial acts. All
 1400 affidavits, oaths, acknowledgments, legalizations,

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1401 authentications, or proofs taken, administered, or made in any
 1402 manner as set forth in subsections (1), (2), and (3) are
 1403 validated and upon recording may not be denied to have provided
 1404 constructive notice based on any alleged failure to have
 1405 strictly complied with this section, as currently or previously
 1406 in effect, or the laws governing notarization of instruments.
 1407 This subsection does not preclude a challenge to the validity or
 1408 enforceability of an instrument or electronic record based upon
 1409 fraud, forgery, impersonation, duress, incapacity, undue
 1410 influence, minority, illegality, unconscionability, or any other
 1411 basis not related to the notarial act or constructive notice
 1412 provided by recording.

1413
 1414 ~~All affidavits, legalizations, authentications, and~~
 1415 ~~acknowledgments heretofore made or taken in the manner set forth~~
 1416 ~~above are hereby validated.~~

1417 Section 24. Section 695.04, Florida Statutes, is amended
 1418 to read:

1419 695.04 Requirements of certificate.—The certificate of the
 1420 officer before whom the acknowledgment or proof is taken, except
 1421 for a certificate legalizing or authenticating the signature of
 1422 a person executing an instrument concerning real property
 1423 pursuant to s. 695.03(3), shall contain and set forth
 1424 substantially the matter required to be done or proved to make
 1425 such acknowledgment or proof effectual as set forth in s.

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1426 117.05.

1427 Section 25. Section 695.25, Florida Statutes, is amended
1428 to read:

1429 695.25 Short form of acknowledgment.—The forms of
1430 acknowledgment set forth in this section may be used, and are
1431 sufficient for their respective purposes, under any law of this
1432 state. The forms shall be known as "Statutory Short Forms of
1433 Acknowledgment" and may be referred to by that name. The
1434 authorization of the forms in this section does not preclude the
1435 use of other forms.

1436 (1) For an individual acting in his or her own right:

1437 STATE OF

1438 COUNTY OF

1439 The foregoing instrument was acknowledged before me by
1440 means of [] physical presence or [] online notarization, this
1441 ...(date)... by ...(name of person acknowledging)..., who is
1442 personally known to me or who has produced ...(type of
1443 identification)... as identification.

1444 ...(Signature of person taking acknowledgment)...

1445 ...(Name typed, printed or stamped)...

1446 ...(Title or rank)...

1447 ...(Serial number, if any)...

1448 (2) For a corporation:

1449 STATE OF

1450 COUNTY OF

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1451 The foregoing instrument was acknowledged before me by
1452 means of [] physical presence or [] online notarization, this
1453 ...(date)... by ...(name of officer or agent, title of officer
1454 or agent)... of ...(name of corporation acknowledging)..., a
1455 ...(state or place of incorporation)... corporation, on behalf
1456 of the corporation. He/she is personally known to me or has
1457 produced ...(type of identification)... as identification.

1458 ...(Signature of person taking acknowledgment)...

1459 ...(Name typed, printed or stamped)...

1460 ...(Title or rank)...

1461 ...(Serial number, if any)...

1462 (3) For a limited liability company:

1463 STATE OF

1464 COUNTY OF

1465 The foregoing instrument was acknowledged before me by
1466 means of [] physical presence or [] online notarization, this
1467 ...(date)... by ...(name of member, manager, officer or agent,
1468 title of member, manager, officer or agent)..., of ...(name of
1469 company acknowledging)..., a ...(state or place of formation)...
1470 limited liability company, on behalf of the company, who is
1471 personally known to me or has produced ...(type of
1472 identification)... as identification.

1473 ...(Signature of person taking acknowledgment)...

1474 ...(Name typed, printed or stamped)...

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1476 ...(Title or rank)...
 1477 ...(Serial number, if any)...

1478 ~~(4)~~~~(3)~~ For a partnership:

1479 STATE OF

1480 COUNTY OF

1481 The foregoing instrument was acknowledged before me by
 1482 means of [] physical presence or [] online notarization, this
 1483 ...(date)... by ...(name of acknowledging partner or agent)...,
 1484 partner (or agent) on behalf of ...(name of partnership)..., a
 1485 partnership. He/she is personally known to me or has produced
 1486 ...(type of identification)... as identification.

1487 ...(Signature of person taking acknowledgment)...

1488 ...(Name typed, printed or stamped)...

1489 ...(Title or rank)...

1490 ...(Serial number, if any)...

1491 ~~(5)~~~~(4)~~ For an individual acting as principal by an
 1492 attorney in fact:

1493 STATE OF

1494 COUNTY OF

1495 The foregoing instrument was acknowledged before me by
 1496 means of [] physical presence or [] online notarization, this
 1497 ...(date)... by ...(name of attorney in fact)... as attorney in
 1498 fact, who is personally known to me or who has produced ...(type
 1499 of identification)... as identification on behalf of ...(name of
 1500 principal)....

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1501 ...(Signature of person taking acknowledgment)...
 1502 ...(Name typed, printed or stamped)...
 1503 ...(Title or rank)...
 1504 ...(Serial number, if any)...

1505 ~~(6)~~(5) By any public officer, trustee, or personal
 1506 representative:

1507 STATE OF
 1508 COUNTY OF

1509 The foregoing instrument was acknowledged before me by
 1510 means of [] physical presence or [] online notarization, this
 1511 ... (date) ... by ... (name and title of position) ..., who is
 1512 personally known to me or who has produced ... (type of
 1513 identification) ... as identification.

1514 ...(Signature of person taking acknowledgment)...
 1515 ...(Name typed, printed or stamped)...
 1516 ...(Title or rank)...
 1517 ...(Serial number, if any)....

1519 Section 26. Section 695.28, Florida Statutes, is amended
 1520 to read:

1521 695.28 Validity of recorded electronic documents.—

1522 (1) A document that is otherwise entitled to be recorded
 1523 and that was or is submitted to the clerk of the court or county
 1524 recorder by electronic or other means and accepted for
 1525 recordation is deemed validly recorded and provides notice to

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1526 | all persons notwithstanding:

1527 | (a) That the document was received and accepted for
1528 | recordation before the Department of State adopted standards
1529 | implementing s. 695.27; ~~or~~

1530 | (b) Any defects in, deviations from, or the inability to
1531 | demonstrate strict compliance with any statute, rule, or
1532 | procedure relating to electronic signatures, electronic
1533 | witnesses, electronic notarization, or online notarization, or
1534 | for submitting or recording ~~to submit or record~~ an electronic
1535 | document in effect at the time the electronic document was
1536 | executed or was submitted for recording;

1537 | (c) That the document was signed, witnessed, or notarized
1538 | electronically, and that the document was notarized by an online
1539 | notary public outside the physical presence of the signer
1540 | through audio-video communication technology, as defined in s.
1541 | 117.201, or that witnessing may have been done outside the
1542 | physical presence of the notary public or principal through such
1543 | audio-visual communication; or

1544 | (d) That the document recorded was a certified printout of
1545 | a document to which one or more electronic signatures have been
1546 | affixed.

1547 | (2) This section does not alter the duty of the clerk or
1548 | recorder to comply with s. 28.222, s. 695.27, or any rules
1549 | adopted pursuant to those sections ~~that section.~~

1550 | (3) This section does not preclude a challenge to the

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1551 validity or enforceability of an instrument or electronic record
 1552 based upon fraud, forgery, impersonation, duress, incapacity,
 1553 undue influence, minority, illegality, unconscionability, or any
 1554 other basis not in the nature of those matters described in
 1555 subsection (1).

1556 Section 27. Subsections (3) and (4) of section 709.2119,
 1557 Florida Statutes, are amended to read:

1558 709.2119 Acceptance of and reliance upon power of
 1559 attorney.—

1560 (3) A third person who is asked to accept a power of
 1561 attorney that appears to be executed in accordance with s.
 1562 709.2105 may in good faith request, and rely upon, without
 1563 further investigation:

1564 (a) A certified English translation of the power of
 1565 attorney if the power of attorney contains, in whole or in part,
 1566 language other than English;

1567 (b) An opinion of counsel as to any matter of law
 1568 concerning the power of attorney if the third person making the
 1569 request provides in a writing or other record the reason for the
 1570 request; ~~or~~

1571 (c) The affidavit described in subsection (2); or

1572 (d) The electronic journal or record made by the notary
 1573 public pursuant to the laws of the state in which the notary
 1574 public is appointed if the power of attorney is witnessed or
 1575 notarized remotely through the use of online witnesses or

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1576 notarization.

1577 (4) An English translation, ~~or~~ an opinion of counsel, or
 1578 an electronic journal or record requested under this section
 1579 must be provided at the principal's expense unless the request
 1580 is made after the time specified in s. 709.2120(1) for
 1581 acceptance or rejection of the power of attorney.

1582 Section 28. Subsection (4) of section 709.2120, Florida
 1583 Statutes, is amended to read:

1584 709.2120 Rejecting power of attorney.—

1585 (4) A third person is not required to accept a power of
 1586 attorney if:

1587 (a) The third person is not otherwise required to engage
 1588 in a transaction with the principal in the same circumstances;

1589 (b) The third person has knowledge of the termination or
 1590 suspension of the agent's authority or of the power of attorney
 1591 before exercising the power;

1592 (c) A timely request by the third person for an affidavit,
 1593 English translation, ~~or~~ opinion of counsel, or electronic
 1594 journal or record under s. 709.2119 ~~s. 709.2119(4)~~ is refused by
 1595 the agent;

1596 (d) The power of attorney is witnessed or notarized
 1597 remotely through the use of online witnesses or notarization,
 1598 and either the agent is unable to produce the electronic journal
 1599 or record, or the notary public did not maintain an electronic
 1600 journal or record of the notarization;

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1601 ~~(e)-(d)~~ Except as provided in paragraph (b), the third
 1602 person believes in good faith that the power is not valid or
 1603 that the agent does not have authority to perform the act
 1604 requested; or

1605 ~~(f)-(e)~~ The third person makes, or has knowledge that
 1606 another person has made, a report to the local adult protective
 1607 services office stating a good faith belief that the principal
 1608 may be subject to physical or financial abuse, neglect,
 1609 exploitation, or abandonment by the agent or a person acting for
 1610 or with the agent.

1611 Section 29. Subsection (6) of section 709.2202, Florida
 1612 Statutes, is renumbered as subsection (7), and a new subsection
 1613 (6) is added to that section to read:

1614 709.2202 Authority that requires separate signed
 1615 enumeration.—

1616 (6) Notwithstanding subsection (1) and s. 709.2106(3), a
 1617 power of attorney, executed by a principal domiciled in this
 1618 state at the time of execution, that is witnessed remotely
 1619 pursuant to s. 117.285 or other applicable law by a witness who
 1620 is not in the physical presence of the principal is not
 1621 effective to grant authority to an agent to take any of the
 1622 actions enumerated in subsection (1).

1623 Section 30. Subsection (40) of section 731.201, Florida
 1624 Statutes, is amended to read:

1625 731.201 General definitions.—Subject to additional

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1626 definitions in subsequent chapters that are applicable to
 1627 specific chapters or parts, and unless the context otherwise
 1628 requires, in this code, in s. 409.9101, and in chapters 736,
 1629 738, 739, and 744, the term:

1630 (40) "Will" means a testamentary ~~an~~ instrument, including
 1631 a codicil, executed by a person in the manner prescribed by this
 1632 code, which disposes of the person's property on or after his or
 1633 her death and includes an instrument which merely appoints a
 1634 personal representative or guardian or revokes or revises
 1635 another will. The term includes an electronic will as defined in
 1636 s. 732.521.

1637 Section 31. Section 732.506, Florida Statutes, is amended
 1638 to read:

1639 732.506 Revocation by act.—A will or codicil, other than
 1640 an electronic will, is revoked by the testator, or some other
 1641 person in the testator's presence and at the testator's
 1642 direction, by burning, tearing, canceling, defacing,
 1643 obliterating, or destroying it with the intent, and for the
 1644 purpose, of revocation. An electronic will or codicil is revoked
 1645 by the testator, or some other person in the testator's presence
 1646 and at the testator's direction, by deleting, canceling,
 1647 rendering unreadable, or obliterating the electronic will or
 1648 codicil, with the intent, and for the purpose, of revocation, as
 1649 proved by clear and convincing evidence.

1650 Section 32. Section 732.521, Florida Statutes, is created

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1651 to read:

1652 732.521 Definitions.—As used in ss. 732.521-732.525, the

1653 term:

1654 (1) "Audio-video communication technology" has the same

1655 meaning as provided in s. 117.201.

1656 (2) "Electronic record" has the same meaning as provided

1657 in s. 668.50.

1658 (3) "Electronic signature" means an electronic mark

1659 visibly manifested in a record as a signature and executed or

1660 adopted by a person with the intent to sign the record.

1661 (4) "Electronic will" means a testamentary instrument,

1662 including a codicil, executed with an electronic signature by a

1663 person in the manner prescribed by this code, which disposes of

1664 the person's property on or after his or her death and includes

1665 an instrument which merely appoints a personal representative or

1666 guardian or revokes or revises another will.

1667 (5) "Online notarization" has the same meaning as provided

1668 in s. 117.201.

1669 (6) "Online notary public" has the same meaning as

1670 provided in s. 117.201.

1671 (7) "Qualified custodian" means a person who meets the

1672 requirements of s. 732.525(1).

1673 (8) "Secure system" means a system that satisfies the

1674 requirements of a secure repository qualified to retain

1675 electronic journals of online notaries public in accordance with

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1676 s. 117.245 and any rules established under part II of chapter
 1677 117.

1678 Section 33. Effective July 1, 2020, section 732.522,
 1679 Florida Statutes, is created to read:

1680 732.522 Method and place of execution.—For purposes of the
 1681 execution or filing of an electronic will, the acknowledgment of
 1682 an electronic will by the testator and the affidavits of
 1683 witnesses under s. 732.503, or any other instrument under the
 1684 Florida Probate Code:

1685 (1) Any requirement that an instrument be signed may be
 1686 satisfied by an electronic signature.

1687 (2) Any requirement that individuals sign an instrument in
 1688 the presence of one another may be satisfied by witnesses being
 1689 present and electronically signing by means of audio-video
 1690 communication technology that meets the requirements of part II
 1691 of chapter 117 and any rules adopted thereunder, if:

1692 (a) The individuals are supervised by a notary public in
 1693 accordance with s. 117.285;

1694 (b) The individuals are authenticated and signing as part
 1695 of an online notarization session in accordance with s. 117.265;

1696 (c) The witness hears the signer make a statement
 1697 acknowledging that the signer has signed the electronic record;
 1698 and

1699 (d) The signing and witnessing of the instrument complies
 1700 with the requirements of s. 117.285.

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1701 (3) Except as otherwise provided in this part, all
 1702 questions as to the force, effect, validity, and interpretation
 1703 of an electronic will which comply with this section must be
 1704 determined in the same manner as in the case of a will executed
 1705 in accordance with s. 732.502.

1706 (4) An instrument that is signed electronically is deemed
 1707 to be executed in this state if the instrument states that the
 1708 person creating the instrument intends to execute and
 1709 understands that he or she is executing the instrument in, and
 1710 pursuant to the laws of, this state.

1711 Section 34. Section 732.523, Florida Statutes, is created
 1712 to read:

1713 732.523 Self-proof of electronic will.—An electronic will
 1714 is self-proved if:

1715 (1) The acknowledgment of the electronic will by the
 1716 testator and the affidavits of the witnesses are made in
 1717 accordance with s. 732.503 and are part of the electronic record
 1718 containing the electronic will, or are attached to, or are
 1719 logically associated with, the electronic will;

1720 (2) The electronic will designates a qualified custodian;

1721 (3) The electronic record that contains the electronic
 1722 will is held in the custody of a qualified custodian at all
 1723 times before being offered to the court for probate; and

1724 (4) The qualified custodian who has custody of the
 1725 electronic will at the time of the testator's death certifies

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1726 under oath that, to the best knowledge of the qualified
 1727 custodian, the electronic record that contains the electronic
 1728 will was at all times before being offered to the court in the
 1729 custody of a qualified custodian in compliance with s. 732.524
 1730 and that the electronic will has not been altered in any way
 1731 since the date of its execution.

1732 Section 35. Section 732.524, Florida Statutes, is created
 1733 to read:

1734 732.524 Qualified custodians.—

1735 (1) To serve as a qualified custodian of an electronic
 1736 will, a person must be:

1737 (a) Domiciled in and a resident of this state; or

1738 (b) Incorporated, organized, or have its principal place
 1739 of business in this state.

1740 (2) A qualified custodian shall:

1741 (a) In the course of maintaining custody of electronic
 1742 wills, regularly employ a secure system and store in such secure
 1743 system electronic records containing:

1744 1. Electronic wills;

1745 2. Records attached to or logically associated with
 1746 electronic wills; and

1747 3. Acknowledgments of the electronic wills by testators,
 1748 affidavits of the witnesses, and the records described in s.
 1749 117.245(1) and (2) which pertain to the online notarization.

1750 (b) Furnish for any court hearing involving an electronic

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1751 will that is currently or was previously stored by the qualified
1752 custodian any information requested by the court pertaining to
1753 the qualified custodian's qualifications, policies, and
1754 practices related to the creation, sending, communication,
1755 receipt, maintenance, storage, and production of electronic
1756 wills.

1757 (c) Provide access to or information concerning the
1758 electronic will, or the electronic record containing the
1759 electronic will, only:

1760 1. To the testator;

1761 2. To persons authorized by the testator in the electronic
1762 will or in written instructions signed by the testator with the
1763 formalities required for the execution of a will in this state;

1764 3. After the death of the testator, to the testator's
1765 nominated personal representative; or

1766 4. At any time, as directed by a court of competent
1767 jurisdiction.

1768 (3) The qualified custodian of the electronic record of an
1769 electronic will may elect to destroy such record, including any
1770 of the documentation required to be created and stored under
1771 paragraph (2) (a), at any time after the earlier of the fifth
1772 anniversary of the conclusion of the administration of the
1773 estate of the testator or 20 years after the death of the
1774 testator.

1775 (4) A qualified custodian who at any time maintains

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1776 custody of the electronic record of an electronic will may elect
 1777 to cease serving in such capacity by:

1778 (a) Delivering the electronic will or the electronic
 1779 record containing the electronic will to the testator, if then
 1780 living, or, after the death of the testator, by filing the will
 1781 with the court in accordance with s. 732.901; and

1782 (b) If the outgoing qualified custodian intends to
 1783 designate a successor qualified custodian, by doing the
 1784 following:

1785 1. Providing written notice to the testator of the name,
 1786 address, and qualifications of the proposed successor qualified
 1787 custodian. The testator must provide written consent before the
 1788 electronic record, including the electronic will, is delivered
 1789 to a successor qualified custodian;

1790 2. Delivering the electronic record containing the
 1791 electronic will to the successor qualified custodian; and

1792 3. Delivering to the successor qualified custodian an
 1793 affidavit of the outgoing qualified custodian stating that:

1794 a. The outgoing qualified custodian is eligible to act as
 1795 a qualified custodian in this state;

1796 b. The outgoing qualified custodian is the qualified
 1797 custodian designated by the testator in the electronic will or
 1798 appointed to act in such capacity under this paragraph;

1799 c. The electronic will has at all times been in the
 1800 custody of one or more qualified custodians in compliance with

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1801 this section since the time the electronic record was created,
1802 and identifying such qualified custodians; and

1803 d. To the best of the outgoing qualified custodian's
1804 knowledge, the electronic will has not been altered since the
1805 time it was created.

1806
1807 For purposes of making this affidavit, the outgoing qualified
1808 custodian may rely conclusively on any affidavits delivered by a
1809 predecessor qualified custodian in connection with its
1810 designation or appointment as qualified custodian; however, all
1811 such affidavits must be delivered to the successor qualified
1812 custodian.

1813 (5) Upon the request of the testator which is made in
1814 writing signed with the formalities required for the execution
1815 of a will in this state, a qualified custodian who at any time
1816 maintains custody of the electronic record of the testator's
1817 electronic will must cease serving in such capacity and must
1818 deliver to a successor qualified custodian designated in writing
1819 by the testator the electronic record containing the electronic
1820 will and the affidavit required in subparagraph (4) (b) 3.

1821 (6) A qualified custodian may not succeed to office as a
1822 qualified custodian of an electronic will unless he or she
1823 agrees in writing to serve in such capacity.

1824 (7) If a qualified custodian is an entity, an affidavit,
1825 or an appearance by the testator in the presence of a duly

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1826 authorized officer or agent of such entity, acting in his or her
 1827 own capacity as such, shall constitute an affidavit, or an
 1828 appearance by the testator in the presence of the qualified
 1829 custodian.

1830 (8) A qualified custodian must provide a paper copy of an
 1831 electronic will and the electronic record containing the
 1832 electronic will to the testator immediately upon request. For
 1833 the first request, the testator may not be charged a fee for
 1834 being provided with these documents.

1835 (9) The qualified custodian shall be liable for any
 1836 damages caused by the negligent loss or destruction of the
 1837 electronic record, including the electronic will, while it is in
 1838 the possession of the qualified custodian. A qualified custodian
 1839 may not limit liability for such damages.

1840 (10) A qualified custodian may not terminate or suspend
 1841 access to, or downloads of, the electronic will by the testator,
 1842 provided that a qualified custodian may charge a fee for
 1843 providing such access and downloads.

1844 (11) Upon receiving information that the testator is dead,
 1845 a qualified custodian must deposit the electronic will with the
 1846 court in accordance with s. 732.901. A qualified custodian may
 1847 not charge a fee for depositing the electronic will with the
 1848 clerk, provided the affidavit is made in accordance with s.
 1849 732.503, or furnishing in writing any information requested by a
 1850 court under paragraph (2) (b).

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1851 (12) Except as provided in this act, a qualified custodian
 1852 must at all times keep information provided by the testator
 1853 confidential and may not disclose such information to any third
 1854 party.

1855 (13) A contractual venue provision between a qualified
 1856 custodian and a testator is not valid or enforceable to the
 1857 extent that it requires a specific jurisdiction or venue for any
 1858 proceeding relating to the probate of an estate or the contest
 1859 of a will.

1860 Section 36. Section 732.525, Florida Statutes, is created
 1861 to read:

1862 732.525 Liability coverage; receivership of qualified
 1863 custodians.—

1864 (1) A qualified custodian shall:

1865 (a) Post and maintain a blanket surety bond of at least
 1866 \$250,000 to secure the faithful performance of all duties and
 1867 obligations required under this part. The bond must be made
 1868 payable to the Governor and his or her successors in office for
 1869 the benefit of all persons who store electronic records with a
 1870 qualified custodian and their estates, beneficiaries,
 1871 successors, and heirs, and be conditioned on the faithful
 1872 performance of all duties and obligations under this chapter.
 1873 The terms of the bond must cover the acts or omissions of the
 1874 qualified custodian and each agent or employee of the qualified
 1875 custodian; or

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1876 (b) Maintain a liability insurance policy that covers any
 1877 losses sustained by any person who stores electronic records
 1878 with a qualified custodian and their estates, beneficiaries,
 1879 successors, and heirs which are caused by errors or omissions by
 1880 the qualified custodian and each agent or employee of the
 1881 qualified custodian. The policy must cover losses of at least
 1882 \$250,000 in the aggregate.

1883 (2) The Attorney General may petition a court of competent
 1884 jurisdiction for the appointment of a receiver to manage the
 1885 electronic records of a qualified custodian for proper delivery
 1886 and safekeeping if any of the following conditions exist:

1887 (a) The qualified custodian is ceasing operation;

1888 (b) The qualified custodian intends to close the facility
 1889 and adequate arrangements have not been made for proper delivery
 1890 of the electronic records in accordance with this part;

1891 (c) The Attorney General determines that conditions exist
 1892 which present a danger that electronic records will be lost or
 1893 misappropriated; or

1894 (d) The qualified custodian fails to maintain and post a
 1895 surety bond or maintain insurance as required in this section.

1896 Section 37. Section 732.526, Florida Statutes, is created
 1897 to read:

1898 732.526 Probate.—

1899 (1) An electronic will that is filed electronically with
 1900 the clerk of the court through the Florida Courts E-Filing

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1901 Portal is deemed to have been deposited with the clerk as an
 1902 original of the electronic will.

1903 (2) A paper copy of an electronic will which is certified
 1904 by a notary public to be a true and correct copy of the
 1905 electronic will may be offered for and admitted to probate and
 1906 shall constitute an original of the electronic will.

1907 Section 38. Subsection (1) of section 733.201, Florida
 1908 Statutes, is amended to read:

1909 733.201 Proof of wills.—

1910 (1) Self-proved wills executed in accordance with this
 1911 code may be admitted to probate without further proof. However,
 1912 a purportedly self-proved electronic will may be admitted to
 1913 probate only in the manners prescribed in subsections (2) and
 1914 (3) if the execution of such electronic will, or the
 1915 acknowledgment by the testator and the affidavits of the
 1916 witnesses, involves an online notarization in which there was a
 1917 substantial failure to comply with the procedures set forth in
 1918 s. 117.265.

1919 Section 39. Section 740.11, Florida Statutes, is created
 1920 to read:

1921 740.11 Relation to wills.—No act taken pursuant to this
 1922 chapter is valid to affect the obligation of a person to deposit
 1923 a will of a decedent as required under s. 732.901.

1924 Section 40. Except as otherwise expressly provided in this
 1925 act, and except for this section, which shall take effect upon

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1926 | becoming a law, this act shall take effect January 1, 2020. |

West's Florida Administrative Code

Title 1. Department of State

Subtitle 1n. Division of Corporations

Chapter 1N-5. Electronic Notarization

Rule 1N-5.001, F.A.C.
Fla. Admin. Code r. 1N-5.001

1N-5.001. Definitions.

Currentness

- (1) “Capable of independent verification” means any interested person may reasonably determine the notary’s identity, the notary’s relevant authority and that the electronic signature is the act of the particular notary identified by the signature.

- (2) “Electronic document” means information that is created, generated, sent, communicated, received, or stored by electronic means.

- (3) “Electronic notarization” and “electronic notarial act” means an official act authorized under [Section 117.021\(1\), F.S.](#), using electronic documents and electronic signatures.

- (4) “Electronic Notary System” means a set of applications, programs, hardware, software, or technology designed to enable a notary to perform electronic notarizations.

- (5) “Electronic signature” means an electronic sound, symbol, or process attached to or logically associated with an electronic document and executed or adopted by a person with the intent to sign the electronic document or record.

- (6) “Attached to or logically associated with” means the notary’s electronic signature is securely bound to the electronic document in such a manner as to make it impracticable to falsify or alter, without detection, either the signature or the document.

- (7) “Unique to the notary public” means the notary’s electronic signature is attributable solely to the notary public to the exclusion of all other persons.

- (8) “Retained under the notary public’s sole control” means accessible by and attributable solely to the notary to the exclusion of all other persons and entities, either through being in the direct physical custody of the notary or through

being secured with one or more biometric, password, token, or other authentication technologies in an electronic notarization system that meets the performance requirements of [Sections 117.021\(2\) and \(3\), F.S.](#)

(9) “Public key certificate” means a computer-based record that:

- (a) Identifies the certification authority issuing it;
- (b) Names or identifies its subscriber;
- (c) Contains the subscriber’s public key; and
- (d) Is digitally signed by the certification authority issuing it.

Credits

Adopted Jan. 26, 2010.

Authority: 117.021(5) FS. Law Implemented [117.021 FS](#). History-New 1-26-10.

Current with amendments available through March 26, 2018.

Rule 1N-5.001, F.A.C., 1 FL ADC 1N-5.001

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West's Florida Administrative Code

Title 1. Department of State

Subtitle 1n. Division of Corporations

Chapter 1N-5. Electronic Notarization

Rule 1N-5.002, F.A.C.
Fla. Admin. Code r. 1N-5.002

1N-5.002. Notary's Electronic Signature.

Currentness

(1) In performing an electronic notarial act, a notary shall execute an electronic signature in a manner that attributes such signature to the notary public identified on the official commission.

(2) A notary shall take reasonable steps to ensure the security, reliability and uniformity of electronic notarizations, including, but not limited to, the use of an authentication procedure such as a password, token, card or biometric to protect access to the notary's electronic signature or the means for affixing the signature.

(3) The notary's electronic signature and seal information may be affixed by means of a public key certificate.

(4) The notary's electronic signature and seal information may be affixed by means of an electronic notary system.

(5) Any public key certificate or electronic notary system that is used to affix the Notary's electronic signature and seal information shall be issued at the third or higher level of assurance as defined by the U. S. National Institute of Standards and Technology (NIST) Special Publication 800-63-2 (NIST800-63-2), Electronic Authentication Guideline Version 1.0.2., effective 8-2013, available at NIST's website www.csrc.nist.gov which is incorporated by reference at: <https://www.flrules.org/Gateway/reference.asp?No=Ref-07017> and may be accessed at the following URL: <http://nvlpubs.nist.gov/nistpubs/SpecialPublications/NIST.SP800-63-2.pdf>.

Credits

Adopted Jan. 26, 2010. Amended June 27, 2016.

Authority: 117.021(5) FS. Law Implemented [117.021 FS](#).

Current with amendments available through March 26, 2018.

1N-5.002. Notary's Electronic Signature., 1 FL ADC 1N-5.002

Rule 1N-5.002, F.A.C., 1 FL ADC 1N-5.002

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TITLE XXXIX
COMMERCIAL RELATIONS
CHAPTER 668
ELECTRONIC COMMERCE

PART I

ELECTRONIC SIGNATURES

- 668.001 Short title.
- 668.002 Legislative intent.
- 668.003 Definitions.
- 668.004 Force and effect of electronic signature.
- 668.006 Control procedures.

668.001 Short title.—**This act may be cited as the “Electronic Signature Act of 1996.”**

History.—s. 1, ch. 96-224.

Note.—Former s. 282.70.

668.002 Legislative intent.—It is the intent of the Legislature that this act:

- (1) Facilitate economic development and efficient delivery of government services by means of reliable electronic messages.
- (2) Enhance public confidence in the use of electronic signatures.
- (3) Minimize the incidence of forged electronic signatures and fraud in electronic commerce.
- (4) Foster the development of electronic commerce through the use of electronic signatures to lend authenticity and integrity to writings in any electronic medium.
- (5) Assure that proper management oversight and accountability are maintained for agency-conducted electronic commerce.

History.—s. 2, ch. 96-224.

Note.—Former s. 282.71.

668.003 Definitions.—As used in this act:

- (1) **“Certificate” means a computer-based record which:**
 - (a) Identifies the certification authority.
 - (b) Identifies the subscriber.
 - (c) Contains **the subscriber’s public key.**

(d) Is digitally signed by the certification authority.

(2) **“Certification authority” means a person who issues a certificate.**

(3) **“Digital signature” means a type of electronic signature that transforms a message using an asymmetric cryptosystem such that a person having the initial message and the signer’s public key can accurately determine:**

(a) Whether the transformation was created using the private key that **corresponds to the signer’s public key.**

(b) Whether the initial message has been altered since the transformation was made.

A “key pair” is a private key and its corresponding public key in an asymmetric cryptosystem, under which the public key verifies a digital signature the private key creates. An “asymmetric cryptosystem” is an algorithm or series of algorithms which provide a secure key pair.

(4) **“Electronic signature” means any letters, characters, or symbols, manifested by electronic or similar means, executed or adopted by a party with an intent to authenticate a writing. A writing is electronically signed if an electronic signature is logically associated with such writing.**

History.—s. 4, ch. 96-224.

Note.—Former s. 282.72.

668.004 Force and effect of electronic signature.—Unless otherwise provided by law, an electronic signature may be used to sign a writing and shall have the same force and effect as a written signature.

History.—s. 5, ch. 96-224.

Note.—Former s. 282.73.

668.006 Control procedures.—The head of each agency shall be responsible for adopting and implementing control processes and procedures to ensure adequate integrity, security, confidentiality, and auditability of business transactions conducted using electronic commerce.

History.—s. 7, ch. 96-224.

Note.—Former s. 282.75.

TITLE XXXIX
COMMERCIAL RELATIONS
CHAPTER 668 – ELECTRONIC COMMERCE
SECTION 668.50

668.50 Uniform Electronic Transaction Act.—

(1) SHORT TITLE.—This section may be cited as the “Uniform Electronic Transaction Act.”

(2) DEFINITIONS.—As used in this section:

(a) “Agreement” means the bargain of the parties in fact, as found in their language or inferred from other circumstances and from rules, regulations, and procedures given the effect of agreements under provisions of law otherwise applicable to a particular transaction.

(b) “Automated transaction” means a transaction conducted or performed, in whole or in part, by electronic means or electronic records, in which the acts or records of one or both parties are not reviewed by an individual in the ordinary course in forming a contract, performing under an existing contract, or fulfilling an obligation required by the transaction.

(c) “Computer program” means a set of statements or instructions to be used directly or indirectly in an information processing system in order to bring about a certain result.

(d) “Contract” means the total legal obligation resulting from the parties’ agreement as affected by this act and other applicable provisions of law.

(e) “Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(f) “Electronic agent” means a computer program or an electronic or other automated means used independently to initiate an action or respond to electronic records or performances in whole or in part, without review or action by an individual.

(g) “Electronic record” means a record created, generated, sent, communicated, received, or stored by electronic means.

(h) “Electronic signature” means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

(i) “Governmental agency” means an executive, legislative, or judicial agency, department, board, commission, authority, institution, or instrumentality of this state, including a county, municipality, or other political subdivision of this state and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.

(j) “Information” means data, text, images, sounds, codes, computer programs, software, databases, or other similar representations of knowledge.

(k) “Information processing system” means an electronic system for creating, generating, sending, receiving, storing, displaying, or processing information.

(l) “Person” means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, governmental agency, public corporation, or any other legal or commercial entity.

(m) “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form, including public records as defined in s. [119.011](#).

(n) “Security procedure” means a procedure employed for the purpose of verifying that an electronic signature, record, or performance is that of a specific person or for detecting changes or errors in the information in an electronic record. The term includes a procedure that requires

the use of algorithms or other codes, identifying words or numbers, encryption, or callback or other acknowledgment procedures.

(o) “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes an Indian tribe or band, or Alaskan native village, which is recognized by federal law or formally acknowledged by a state.

(p) “Transaction” means an action or set of actions occurring between two or more persons relating to the conduct of business, commercial, insurance, or governmental affairs.

(3) SCOPE.—

(a) Except as otherwise provided in paragraph (b), this section applies to electronic records and electronic signatures relating to a transaction.

(b) This section does not apply to a transaction to the extent the transaction is governed by:

1. A provision of law governing the creation and execution of wills, codicils, or testamentary trusts;

2. The Uniform Commercial Code other than s. [671.107](#) and chapters 672 and 680; or

3. The Uniform Computer Information Transactions Act.

(c) Except with respect to subsections (2), (9), and (11), this section does not apply to a transaction to the extent the transaction is governed by rules relating to judicial procedure.

(d) This section applies to an electronic record or electronic signature otherwise excluded under paragraph (b) to the extent such record or signature is governed by a provision of law other than those specified in paragraph (b).

(e) A transaction subject to this section is also subject to other applicable provisions of substantive law.

(4) PROSPECTIVE APPLICATION.—This section applies to any electronic record or electronic signature created, generated, sent, communicated, received, or stored on or after July 1, 2000.

(5) USE OF ELECTRONIC RECORDS AND ELECTRONIC SIGNATURES; VARIATION BY AGREEMENT.—

(a) This section does not require a record or signature to be created, generated, sent, communicated, received, stored, or otherwise processed or used by electronic means or in electronic form.

(b) This section applies only to transactions between parties each of which has agreed to conduct transactions by electronic means. Whether the parties agree to conduct a transaction by electronic means is determined from the context and surrounding circumstances, including the parties’ conduct.

(c) A party that agrees to conduct a transaction by electronic means may refuse to conduct other transactions by electronic means. The right granted by this paragraph may not be waived by agreement.

(d) Except as otherwise provided in this section, the effect of any provision of this section may be varied by agreement. The presence in certain provisions of this section of the words “unless otherwise agreed,” or words of similar import, does not imply that the effect of other provisions may not be varied by agreement.

(e) Whether an electronic record or electronic signature has legal consequences is determined by this section and other applicable provisions of law.

(6) CONSTRUCTION AND APPLICATION.—This section shall be construed and applied to:

(a) Facilitate electronic transactions consistent with other applicable provisions of law.

(b) Be consistent with reasonable practices concerning electronic transactions and with the continued expansion of those practices.

(c) Effectuate its general purpose to make uniform the law with respect to the subject of this section among states enacting similar legislation.

(7) LEGAL RECOGNITION OF ELECTRONIC RECORDS, ELECTRONIC SIGNATURES, AND ELECTRONIC CONTRACTS.—

(a) A record or signature may not be denied legal effect or enforceability solely because the record or signature is in electronic form.

(b) A contract may not be denied legal effect or enforceability solely because an electronic record was used in the formation of the contract.

(c) If a provision of law requires a record to be in writing, an electronic record satisfies such provision.

(d) If a provision of law requires a signature, an electronic signature satisfies such provision.

(8) PROVISION OF INFORMATION IN WRITING; PRESENTATION OF RECORDS.—

(a) If parties have agreed to conduct a transaction by electronic means and a provision of law requires a person to provide, send, or deliver information in writing to another person, the requirement is satisfied if the information is provided, sent, or delivered, as the case may be, in an electronic record capable of retention by the recipient at the time of receipt. An electronic record is not capable of retention by the recipient if the sender or the sender's information processing system inhibits the ability of the recipient to print or store the electronic record.

(b) If a provision of law other than this section requires a record to be posted or displayed in a certain manner; to be sent, communicated, or transmitted by a specified method; or to contain information that is formatted in a certain manner, the following rules apply:

1. The record must be posted or displayed in the manner specified in the other provision of law.
2. Except as otherwise provided in subparagraph (d)2., the record must be sent, communicated, or transmitted by the method specified in the other provision of law.
3. The record must contain the information formatted in the manner specified in the other provision of law.

(c) If a sender inhibits the ability of a recipient to store or print an electronic record, the electronic record is not enforceable against the recipient.

(d) The requirements of this section may not be varied by agreement, provided:

1. To the extent a provision of law other than this section requires information to be provided, sent, or delivered in writing but permits that requirement to be varied by agreement, the requirement under paragraph (a) that the information be in the form of an electronic record capable of retention may also be varied by agreement.
2. A requirement under a law other than this section to send, communicate, or transmit a record by first-class mail, postage prepaid, or other regular United States mail, may be varied by agreement to the extent permitted by the other provision of law.

(9) ATTRIBUTION AND EFFECT OF ELECTRONIC RECORD AND ELECTRONIC SIGNATURE.—

(a) An electronic record or electronic signature is attributable to a person if the record or signature was the act of the person. The act of the person may be shown in any manner, including a showing of the efficacy of any security procedure applied to determine the person to which the electronic record or electronic signature was attributable.

(b) The effect of an electronic record or electronic signature attributed to a person under paragraph (a) is determined from the context and surrounding circumstances at the time of its

creation, execution, or adoption, including the parties' agreement, if any, and otherwise as provided by law.

(10) EFFECT OF CHANGE OR ERROR.—If a change or error in an electronic record occurs in a transmission between parties to a transaction, the following rules apply:

(a) If the parties have agreed to use a security procedure to detect changes or errors and one party has conformed to the procedure, but the other party has not, and the nonconforming party would have detected the change or error had that party also conformed, the conforming party may avoid the effect of the changed or erroneous electronic record.

(b) In an automated transaction involving an individual, the individual may avoid the effect of an electronic record that resulted from an error made by the individual in dealing with the electronic agent of another person if the electronic agent did not provide an opportunity for the prevention or correction of the error and, at the time the individual learns of the error, the individual:

1. Promptly notifies the other person of the error and that the individual did not intend to be bound by the electronic record received by the other person.

2. Takes reasonable steps, including steps that conform to the other person's reasonable instructions, to return to the other person or, if instructed by the other person, to destroy the consideration received, if any, as a result of the erroneous electronic record.

3. Has not used or received any benefit or value from the consideration, if any, received from the other person.

(c) If paragraphs (a) and (b) do not apply, the change or error has the effect provided by the other provision of law, including the law of mistake, and the parties' contract, if any.

(d) Paragraphs (b) and (c) may not be varied by agreement.

(11) NOTARIZATION AND ACKNOWLEDGMENT.—

(a) If a law requires a signature or record to be notarized, acknowledged, verified, or made under oath, the requirement is satisfied if the electronic signature of the person authorized by applicable law to perform those acts, together with all other information required to be included by other applicable law, is attached to or logically associated with the signature or record.

Neither a rubber stamp nor an impression type seal is required for an electronic notarization.

(b) A first-time applicant for a notary commission must submit proof that the applicant has, within 1 year prior to the application, completed at least 3 hours of interactive or classroom instruction, including electronic notarization, and covering the duties of the notary public.

Courses satisfying this section may be offered by any public or private sector person or entity registered with the Executive Office of the Governor and must include a core curriculum approved by that office.

(12) RETENTION OF ELECTRONIC RECORDS; ORIGINALS.—

(a) If a law requires that a record be retained, the requirement is satisfied by retaining an electronic record of the information in the record which:

1. Accurately reflects the information set forth in the record after the record was first generated in final form as an electronic record or otherwise.

2. Remains accessible for later reference.

(b) A requirement to retain a record in accordance with paragraph (a) does not apply to any information the sole purpose of which is to enable the record to be sent, communicated, or received.

(c) A person may satisfy paragraph (a) by using the services of another person if the requirements of paragraph (a) are satisfied.

(d) If a provision of law requires a record to be presented or retained in its original form, or provides consequences if the record is not presented or retained in its original form, that law is satisfied by an electronic record retained in accordance with paragraph (a).

(e) If a provision of law requires retention of a check, that requirement is satisfied by retention of an electronic record of the information on the front and back of the check in accordance with paragraph (a).

(f) A record retained as an electronic record in accordance with paragraph (a) satisfies a provision of law requiring a person to retain a record for evidentiary, audit, or similar purposes, unless a provision of law enacted after July 1, 2000, specifically prohibits the use of an electronic record for the specified purpose.

(g) This section does not preclude a governmental agency of this state from specifying additional requirements for the retention of a record subject to the agency's jurisdiction.

(13) **ADMISSIBILITY IN EVIDENCE.**—In a proceeding, evidence of a record or signature may not be excluded solely because the record or signature is in electronic form.

(14) **AUTOMATED TRANSACTIONS.**—In an automated transaction, the following rules apply:

(a) A contract may be formed by the interaction of electronic agents of the parties, even if no individual was aware of or reviewed the electronic agents' actions or the resulting terms and agreements.

(b) A contract may be formed by the interaction of an electronic agent and an individual, acting on the individual's own behalf or for another person, including by an interaction in which the individual performs actions that the individual is free to refuse to perform and which the individual knows or has reason to know will cause the electronic agent to complete the transaction or performance.

(c) The terms of the contract are determined by the substantive law applicable to the contract.

(15) **TIME AND PLACE OF SENDING AND RECEIVING.**—

(a) Unless otherwise agreed between the sender and the recipient, an electronic record is sent when the record:

1. Is addressed properly or otherwise directed properly to an information processing system that the recipient has designated or uses for the purpose of receiving electronic records or information of the type sent and from which the recipient is able to retrieve the electronic record.
2. Is in a form capable of being processed by that system.
3. Enters an information processing system outside the control of the sender or of a person that sent the electronic record on behalf of the sender or enters a region of the information processing system designated or used by the recipient which is under the control of the recipient.

(b) Unless otherwise agreed between a sender and the recipient, an electronic record is received when the record enters an information processing system that the recipient has designated or uses for the purpose of receiving electronic records or information of the type sent and from which the recipient is able to retrieve the electronic record; and is in a form capable of being processed by that system.

(c) Paragraph (b) applies even if the place the information processing system is located is different from the place the electronic record is deemed to be received under paragraph (d).

(d) Unless otherwise expressly provided in the electronic record or agreed between the sender and the recipient, an electronic record is deemed to be sent from the sender's place of business and to be received at the recipient's place of business. For purposes of this paragraph, the following rules apply:

1. If the sender or recipient has more than one place of business, the place of business of that person is the place having the closest relationship to the underlying transaction.
 2. If the sender or the recipient does not have a place of business, the place of business is the sender's or recipient's residence, as the case may be.
- (e) An electronic record is received under paragraph (b) even if no individual is aware of its receipt.
- (f) Receipt of an electronic acknowledgment from an information processing system described in paragraph (b) establishes that a record was received but, by itself, does not establish that the content sent corresponds to the content received.
- (g) If a person is aware that an electronic record purportedly sent under paragraph (a), or purportedly received under paragraph (b), was not actually sent or received, the legal effect of the sending or receipt is determined by other applicable provisions of law. Except to the extent permitted by the other provisions of law, the requirements of this paragraph may not be varied by agreement.
- (h) An automated transaction does not establish the acceptability of an electronic record for recording purposes.
- (16) TRANSFERABLE RECORDS.—
- (a) For purposes of this paragraph, “transferable record” means an electronic record that:
1. Would be a note under chapter 673, or a document under chapter 677, if the electronic record were in writing.
 2. The issuer of the electronic record expressly has agreed is a transferable record.
- (b) A person has control of a transferable record if a system employed for evidencing the transfer of interests in the transferable record reliably establishes that person as the person to which the transferable record was issued or transferred.
- (c) A system satisfies paragraph (b), and a person is deemed to have control of a transferable record, if the transferable record is created, stored, and assigned in such a manner that:
1. A single authoritative copy of the transferable record exists which is unique, identifiable, and, except as otherwise provided in subparagraphs 4., 5., and 6., unalterable.
 2. The authoritative copy identifies the person asserting control as the person to which the transferable record was issued or, if the authoritative copy indicates that the transferable record has been transferred, the person to which the transferable record was most recently transferred.
 3. The authoritative copy is communicated to and maintained by the person asserting control or its designated custodian.
 4. Copies or revisions that add or change an identified assignee of the authoritative copy can be made only with the consent of the person asserting control.
 5. Each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that is not the authoritative copy.
 6. Any revision of the authoritative copy is readily identifiable as authorized or unauthorized.
- (d) Except as otherwise agreed, a person having control of a transferable record is the holder, as defined in s. [671.201\(21\)](#), of the transferable record and has the same rights and defenses as a holder of an equivalent record or writing under the Uniform Commercial Code, including, if the applicable statutory requirements under s. [673.3021](#), s. [677.501](#), or s. [679.330](#) are satisfied, the rights and defenses of a holder in due course, a holder to which a negotiable document of title has been duly negotiated, or a purchaser, respectively. Delivery, possession, and indorsement are not required to obtain or exercise any of the rights under this paragraph.

(e) Except as otherwise agreed, an obligor under a transferable record has the same rights and defenses as an equivalent obligor under equivalent records or writings under the Uniform Commercial Code.

(f) If requested by a person against which enforcement is sought, the person seeking to enforce the transferable record shall provide reasonable proof that the person is in control of the transferable record. Proof may include access to the authoritative copy of the transferable record and related business records sufficient to review the terms of the transferable record and to establish the identity of the person having control of the transferable record.

(17) CREATION AND RETENTION OF ELECTRONIC RECORDS AND CONVERSION OF WRITTEN RECORDS BY GOVERNMENTAL AGENCIES.—Each governmental agency shall determine whether, and the extent to which, such agency will create and retain electronic records and convert written records to electronic records.

(18) ACCEPTANCE AND DISTRIBUTION OF ELECTRONIC RECORDS BY GOVERNMENTAL AGENCIES.—

(a) Except as otherwise provided in paragraph (12)(f), each governmental agency shall determine whether, and the extent to which, such agency will send and accept electronic records and electronic signatures to and from other persons and otherwise create, generate, communicate, store, process, use, and rely upon electronic records and electronic signatures.

(b) To the extent that a governmental agency uses electronic records and electronic signatures under paragraph (a), the Agency for State Technology, in consultation with the governmental agency, giving due consideration to security, may specify:

1. The manner and format in which the electronic records must be created, generated, sent, communicated, received, and stored and the systems established for those purposes.
2. If electronic records must be signed by electronic means, the type of electronic signature required, the manner and format in which the electronic signature must be affixed to the electronic record, and the identity of, or criteria that must be met by, any third party used by a person filing a document to facilitate the process.
3. Control processes and procedures as appropriate to ensure adequate preservation, disposition, integrity, security, confidentiality, and auditability of electronic records.
4. Any other required attributes for electronic records which are specified for corresponding nonelectronic records or reasonably necessary under the circumstances.

(c) Except as otherwise provided in paragraph (12)(f), this section does not require a governmental agency of this state to use or permit the use of electronic records or electronic signatures.

(d) Service charges and fees otherwise established by law applicable to the filing of nonelectronic records shall apply in kind to the filing of electronic records.

(19) INTEROPERABILITY.—The governmental agency which adopts standards pursuant to subsection (18) may encourage and promote consistency and interoperability with similar requirements adopted by other governmental agencies of this and other states and the Federal Government and nongovernmental persons interacting with governmental agencies of this state. If appropriate, those standards may specify differing levels of standards from which governmental agencies of this state may choose in implementing the most appropriate standard for a particular application.

(20) SEVERABILITY.—If any provision of this section or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this

section which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

History.—s. 1, ch. 2000-164; s. 49, ch. 2004-335; s. 22, ch. 2007-134; s. 16, ch. 2008-116; s. 2, ch. 2010-131; s. 16, ch. 2012-100; s. 29, ch. 2014-221.

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TITLE XL
REAL AND PERSONAL PROPERTY
CHAPTER 695
RECORD OF CONVEYANCES OF REAL ESTATE

695.27 -Uniform Real Property Electronic Recording Act.—

(1) **SHORT TITLE.**—This section may be cited as the “Uniform Real Property Electronic Recording Act.”

(2) **DEFINITIONS.**—As used in this section:

(a) “Document” means information that is:

1. Inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form; and

2. Eligible to be recorded in the Official Records, as defined in s. 28.222, and maintained by a county recorder.

(b) “Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(c) “Electronic document” means a document that is received by a county recorder in an electronic form.

(d) “Electronic signature” means an electronic sound, symbol, or process that is executed or adopted by a person with the intent to sign the document and is attached to or logically associated with a document such that, when recorded, it is assigned the same document number or a consecutive page number immediately following such document.

(e) “Person” means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, instrumentality, or any other legal or commercial entity.

(f) “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(3) **VALIDITY OF ELECTRONIC DOCUMENTS.**—

(a) If a law requires, as a condition for recording, that a document be an original, be on paper or another tangible medium, or be in writing, the requirement is satisfied by an electronic document satisfying the requirements of this section.

(b) If a law requires, as a condition for recording, that a document be signed, the requirement is satisfied by an electronic signature.

(c) A requirement that a document or a signature associated with a document be notarized, acknowledged, verified, witnessed, or made under oath is satisfied if the electronic signature of the person authorized to perform that act, and all other information required to be included, is attached to or logically associated with the document or signature. A physical or electronic image of a stamp, impression, or seal need not accompany an electronic signature.

(4) RECORDING OF DOCUMENTS.—

(a) In this subsection, the term “paper document” means a document that is received by the county recorder in a form that is not electronic.

(b) A county recorder:

1. Who implements any of the functions listed in this section shall do so in compliance with standards established by rule by the Department of State.
2. May receive, index, store, archive, and transmit electronic documents.
3. May provide for access to, and for search and retrieval of, documents and information by electronic means.
4. Who accepts electronic documents for recording shall continue to accept paper documents as authorized by state law and shall place entries for both types of documents in the same index.
5. May convert paper documents accepted for recording into electronic form.
6. May convert into electronic form information recorded before the county recorder began to record electronic documents.
7. May agree with other officials of a state or a political subdivision thereof, or of the United States, on procedures or processes to facilitate the electronic satisfaction of prior approvals and conditions precedent to recording.

(5) ADMINISTRATION AND STANDARDS.—

(a) The Department of State, by rule pursuant to ss. 120.536(1) and 120.54, shall prescribe standards to implement this section in consultation with the Electronic Recording Advisory Committee, which is hereby created. The Florida Association of Court Clerks and Comptrollers shall provide administrative support to the committee and technical support to the Department of State and the committee at no charge. The committee shall consist of nine members, as follows:

1. Five members appointed by the Florida Association of Court Clerks and Comptrollers, one of whom must be an official from a large urban charter county where the duty to maintain official records exists in a county office other than the clerk of court or comptroller.
2. One attorney appointed by the Real Property, Probate and Trust Law Section of The Florida Bar Association.
3. Two members appointed by the Florida Land Title Association.
4. One member appointed by the Florida Bankers Association.

(b) Appointed members shall serve a 1-year term. All initial terms shall commence on the effective date of this act. Members shall serve until their successors are appointed. An appointing authority may reappoint a member for successive terms. A vacancy on the committee shall be filled in the same manner in which the original appointment was made, and the term shall be for the balance of the unexpired term.

(c) The first meeting of the committee shall be within 60 days of the effective date of this act. Thereafter, the committee shall meet at the call of the chair, but at least annually.

(d) The members of the committee shall serve without compensation and shall not claim per diem and travel expenses from the Secretary of State.

(e) To keep the standards and practices of county recorders in this state in harmony with the standards and practices of recording offices in other jurisdictions that enact substantially this section and to keep the technology used by county recorders in this state compatible with technology used by recording offices in other jurisdictions that enact substantially this section, the Department of State, in consultation with the committee, so far as is consistent with the purposes, policies, and provisions of this section, in adopting, amending, and repealing standards, shall consider:

1. Standards and practices of other jurisdictions.
2. The most recent standards adopted by national standard-setting bodies, such as the Property Records Industry Association.
3. The views of interested persons and governmental officials and entities.
4. The needs of counties of varying size, population, and resources.
5. Standards requiring adequate information security protection to ensure that electronic documents are accurate, authentic, adequately preserved, and resistant to tampering.

(f) The committee shall terminate on July 1, 2010.

(6) UNIFORMITY OF APPLICATION AND CONSTRUCTION.—In applying and construing this section, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

(7) RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.—This section modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. ss. 7001 et seq., but this section does not modify, limit, or supersede s. 101(c) of that act, 15 U.S.C. s. 7001(c), or authorize electronic delivery of any of the notices described in s. 103(b) of that act, 15 U.S.C. s. 7003(b).

History.—s. 1, ch. 2007-233.

695.28 Validity of recorded electronic documents.—

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

(a) That the document was received and accepted for recordation before the Department of State adopted standards implementing s. [695.27](#); or

(b) Any defects in, deviations from, or the inability to demonstrate strict compliance with any statute, rule, or procedure to submit or record an electronic document in effect at the time the electronic document was submitted for recording.

(2) This section does not alter the duty of the clerk or recorder to comply with s. [695.27](#) or rules adopted pursuant to that section.

History.—s. 1, ch. 2011-173.

Chapter 117
NOTARIES PUBLIC

117.021 Electronic notarization.—

(1) Any document requiring notarization may be notarized electronically. The provisions of ss. [117.01](#), [117.03](#), [117.04](#), [117.05\(1\)-\(11\)](#), (13), and (14), [117.105](#), and [117.107](#) apply to all notarizations under this section.

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

- (a) Unique to the notary public;
- (b) Capable of independent verification;
- (c) Retained under the **notary public's sole control; and**
- (d) Attached to or logically associated with the electronic document in a manner that any subsequent alteration to the electronic document displays evidence of the alteration.

(3) When a signature is required to be accompanied by a notary public seal, the requirement is satisfied when the electronic signature of the notary public contains all of the following seal information:

- (a) **The full name of the notary public exactly as provided on the notary public's application for commission;**
- (b) **The words "Notary Public State of Florida";**
- (c) The date of expiration of the commission of the notary public; and
- (d) **The notary public's commission number.**

(4) Failure of a notary public to comply with any of the requirements of this section may **constitute grounds for suspension of the notary public's commission by the Executive Office of the Governor.**

(5) The Department of State may adopt rules to ensure the security, reliability, and uniformity of signatures and seals authorized in this section.

History.—s. 1, ch. 2007-257.