

## FLORIDA STATUTES

### TITLE I. CONSTRUCTION OF STATUTES CHAPTER 1. DEFINITIONS

#### **1.01 Definitions.—**

In construing these statutes and each and every word, phrase, or part hereof, where the context will permit:

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(5) The word “oath” includes affirmations.

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(14) The term “veteran” means a person who served in the active military, naval, or air service and who was discharged or released therefrom under honorable conditions only or who later received an upgraded discharge under honorable conditions, notwithstanding any action by the United States Department of Veterans Affairs on individuals discharged or released with other than honorable discharges. To receive benefits as a wartime veteran, a veteran must have served during one of the following periods of wartime service:

(a) Spanish-American War: April 21, 1898, to July 4, 1902, and including the Philippine Insurrection and the Boxer Rebellion.

(b) Mexican Border Period: May 9, 1916, to April 5, 1917, in the case of a veteran who during such period served in Mexico, on the borders thereof, or in the waters adjacent thereto.

(c) World War I: April 6, 1917, to November 11, 1918; extended to April 1, 1920, for those veterans who served in Russia; also extended through July 1, 1921, for those veterans who served after November 11, 1918, and before July 2, 1921, provided such veterans had at least 1 day of service between April 5, 1917, and November 12, 1918.

(d) World War II: December 7, 1941, to December 31, 1946.

(e) Korean Conflict: June 27, 1950, to January 31, 1955.

(f) Vietnam Era: February 28, 1961, to May 7, 1975.

(g) Persian Gulf War: August 2, 1990, and ending on the date thereafter prescribed by presidential proclamation or by law.

### TITLE IV. EXECUTIVE BRANCH CHAPTER 15. SECRETARY OF STATE

#### **15.16 Reproduction of records; admissibility in evidence; electronic receipt and transmission of records; certification; acknowledgment.—**

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(7) The Secretary of State may issue apostilles conforming to the requirements of the international treaty known as the Hague Convention of 1961 and may charge a fee for the issuance of apostilles not to exceed \$10 per apostille. The Secretary of State has the sole authority in this state to establish, in accordance with the laws of the United States, the requirements and procedures for the issuance of apostilles. The Department of State may adopt rules to implement this subsection.

**TITLE V. JUDICIAL BRANCH**  
**CHAPTER 28. CLERKS OF THE CIRCUIT COURTS**

**28.24 Service charges by clerk of the circuit court.**—The clerk of the circuit court may charge for services rendered by the clerk’s office in recording documents and instruments and in performing the duties enumerated in amounts not to exceed those specified in this section. Notwithstanding any other provision of this section, the clerk of the circuit court shall provide without charge to the state attorney, public defender, and guardian ad litem, and to the authorized staff acting on behalf of each, access to and a copy of any public record, if the requesting party is entitled by law to view the exempt or confidential record, as maintained by and in the custody of the clerk of the circuit court as provided in general law and the Florida Rules of Judicial Administration. The clerk of the circuit court may provide the requested public record in an electronic format in lieu of a paper format when capable of being accessed by the requesting entity.

Charges ...

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(24) For solemnizing matrimony.....30.00

**TITLE VII. EVIDENCE**  
**CHAPTER 92. WITNESSES, RECORDS, AND DOCUMENTS**

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

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

(2) **IN OTHER STATES, TERRITORIES, AND DISTRICTS OF THE UNITED STATES.**-Oaths, affidavits, and acknowledgments required or authorized under the laws of this state, may be taken or administered in any other state, territory, or district of the United States, by or before any judge, clerk or deputy clerk of any court of record, within such state, territory, or district, having a seal, or by or before any notary public or justice of the peace, having a seal, in such state, territory, or district; provided, however, such officer or person is authorized under the laws of such state, territory, or district to take or administer oaths, affidavits and acknowledgments. The jurat, or certificate of proof or acknowledgment, shall be authenticated by the signature and official seal of such officer or person taking or administering the same; provided, however, when taken or administered by or before any judge, clerk, or deputy clerk of a court of record, the seal of such court may be affixed as the seal of such officer or person.

(3) **IN FOREIGN COUNTRIES.**-Oaths, affidavits, and acknowledgments, required or

authorized by the laws of this state, may be taken or administered in any foreign country, by or before any judge or justice of a court of last resort, any notary public of such foreign country, any minister, consul general, charge d'affaires, or consul of the United States resident in such country. The jurat, or certificate of proof or acknowledgment, shall be authenticated by the signature and official seal of the officer or person taking or administering the same; provided, however, when taken or administered by or before any judge or justice of a court of last resort, the seal of such court may be affixed as the seal of such judge or justice.

**92.51 Oaths, affidavits, and acknowledgments; taken or administered by commissioned officer of United States Armed Forces.—**

(1) Oaths, affidavits, and acknowledgments required or authorized by the laws of this state may be taken or administered within or without the United States by or before any commissioned officer in active service of the Armed Forces of the United States with the rank of second lieutenant or higher in the Army, Air Force or Marine Corps or ensign or higher in the Navy or Coast Guard when the person required or authorized to make and execute the oath, affidavit, or acknowledgment is a member of the Armed Forces of the United States, the spouse of such member or a person whose duties require the person's presence with the Armed Forces of the United States.

(2) A certificate endorsed upon the instrument which shows the date of the oath, affidavit, or acknowledgment and which states in substance that the person appearing before the officer acknowledged the instrument as the person's act or made or signed the instrument under oath shall be sufficient for all intents and purposes. The instrument shall not be rendered invalid by the failure to state the place of execution or acknowledgment.

(3) If the signature, rank, and branch of service or subdivision thereof of any commissioned officer appears upon such instrument, document or certificate no further proof of the authority of such officer so to act shall be required and such action by such commissioned officer shall be prima facie evidence that the person making such oath, affidavit or acknowledgment is within the purview of this act.

**92.52 Affirmation equivalent to oath.—**Whenever an oath shall be required by any law of this state in any proceeding, an affirmation may be substituted therefor.

**92.525 Verification of documents; perjury by false written declaration, penalty.—**

(1) If authorized or required by law, by rule of an administrative agency, or by rule or order of court that a document be verified by a person, the verification may be accomplished in the following manner:

(a) Under oath or affirmation taken or administered before an officer authorized under s. 92.50 to administer oaths;

(b) Under oath or affirmation taken or administered by an officer authorized under s. 117.10 to administer oaths; or

(c) By the signing of the written declaration prescribed in subsection (2).

(2) A written declaration means the following statement: "Under penalties of perjury, I declare that I have read the foregoing [document] and that the facts stated in it are true," followed by the signature of the person making the declaration, except when a verification on information or belief is permitted by law, in which case the words "to the

best of my knowledge and belief” may be added. The written declaration shall be printed or typed at the end of or immediately below the document being verified and above the signature of the person making the declaration.

(3) A person who knowingly makes a false declaration under subsection (2) is guilty of the crime of perjury by false written declaration, a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(4) As used in this section:

(a) The term “administrative agency” means any department or agency of the state or any county, municipality, special district, or other political subdivision.

(b) The term “document” means any writing including, without limitation, any form, application, claim, notice, tax return, inventory, affidavit, pleading, or paper.

(c) The requirement that a document be verified means that the document must be signed or executed by a person and that the person must state under oath or affirm that the facts or matters stated or recited in the document are true, or words of that import or effect.

## **TITLE X. PUBLIC OFFICERS, EMPLOYEES, AND RECORDS**

### **CHAPTER 113. COMMISSIONS**

**113.01 Fee for commissions issued by Governor.**—A fee of \$10 is prescribed for the issuance of each commission issued by the Governor of the state and attested by the Secretary of State for an elected officer or a notary public.

### **CHAPTER 116. POWERS AND DUTIES OF OFFICERS**

**116.35 Notary public commissions; employees of state and county agencies.**—Each agency, board, commission or department of the state and of the several counties of the state is hereby authorized to pay the cost of securing a notary public commission for any employee of such agency, board, commission or department. Such cost is declared to be an expense of such agency, board, commission or department and shall be expended from the budget thereof. The chief administrative officer of each such agency, board, commission or department shall determine the number of notaries public necessary for the proper administration of such agency, board, commission or department. All fees collected by such notaries public as hereinafter provided shall become fee receipts of the state or the several counties and shall be deposited in the general fund from which the budget of such agency, board, commission or department is allocated.

**116.36 Notary public commissions; municipal employees.**—Each agency, board, commission or department of each of the several municipalities of the state is hereby authorized to pay the cost of securing a notary public commission for any employee of such agency, board, commission or department. Such cost is declared to be an expense of such agency, board, commission or department and shall be expended from the budget thereof. The chief administrative officer of each such agency, board, commission or department shall determine the number of notaries public necessary for the proper administration of such agency, board, commission or department. All fees collected by such notaries public as hereinafter provided shall become fee receipts of such municipality and shall be deposited in the general fund thereof.

**116.37 Notary public commissions; elected officers.**—In all cases where such agency, board, commission or department is under the direction of one or more elected officers such officer or officers may become notaries public in like manner as provided in the case of employees as aforesaid.

**116.38 Notary fees.**—

(1) Except as is hereinafter provided, all such notaries shall collect fees for their services as notaries performed in connection with such agency, board, commission or department at the rates provided for under chapter 117; provided, however, that in any case wherein a certain fee shall be provided by law for such service then in that event such fee as provided by law shall be collected.

(2) No notary fee shall be charged or collected by such notaries in connection with such agency, board, commission or department, in connection with or incidental to the issuance of motor vehicle license tags or titles.

(3) No notary public fees shall be charged by such notaries for notarizing loyalty oaths which are required by law.

(4) The chief administrative officer of any such agency, board, commission or department may, upon determining that such service should be performed as a public service, authorize such service to be performed free of charge.

**TITLE X. PUBLIC OFFICERS, EMPLOYEES, AND RECORDS**  
**CHAPTER 117. NOTARIES PUBLIC**  
**PART I. GENERAL PROVISIONS**

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

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

(2) The application for appointment shall be signed and sworn to by the applicant and shall be accompanied by a fee of \$25, together with the \$10 commission fee required by s. 113.01, and a surcharge of \$4, which \$4 is appropriated to the Executive Office of the Governor to be used to educate and assist notaries public. The Executive Office of the Governor may contract with private vendors to provide the services set forth in this section. However, no commission fee shall be required for the issuance of a commission as a notary public to a veteran who served during a period of wartime service, as defined in s. 1.01(14), and who has been rated by the United States Government or the United States Department of Veterans Affairs or its predecessor to have a disability rating of 50 percent or more; such a disability is subject to verification by the Secretary of State, who has authority to adopt reasonable procedures to implement this act. The oath of office and

notary bond required by this section shall also accompany the application and shall be in a form prescribed by the Department of State which shall require, but not be limited to, the following information: full name, residence address and telephone number, business address and telephone number, date of birth, race, sex, social security number, citizenship status, driver license number or the number of other official state-issued identification, affidavit of good character from someone unrelated to the applicant who has known the applicant for 1 year or more, a list of all professional licenses and commissions issued by the state during the previous 10 years and a statement as to whether or not the applicant has had such license or commission revoked or suspended, and a statement as to whether or not the applicant has been convicted of a felony, and, if there has been a conviction, a statement of the nature of the felony and restoration of civil rights. The applicant may not use a fictitious or assumed name other than a nickname on an application for commission. The application shall be maintained by the Department of State for the full term of a notary commission. A notary public shall notify, in writing, the Department of State of any change in his or her business address, home telephone number, business telephone number, home address, or criminal record within 60 days after such change. The Governor may require any other information he or she deems necessary for determining whether an applicant is eligible for a notary public commission. Each applicant must swear or affirm on the application that the information on the application is true and correct.

(3) As part of the oath, the applicant must swear that he or she has read this chapter and knows the duties, responsibilities, limitations, and powers of a notary public.

(4) The Governor may suspend a notary public for any of the grounds provided in s. 7, Art. IV of the State Constitution. Grounds constituting malfeasance, misfeasance, or neglect of duty include, but are not limited to, the following:

(a) A material false statement on the application.

(b) A complaint found to have merit by the Governor.

(c) Failure to cooperate or respond to an investigation by the Governor's office or the Department of State regarding a complaint.

(d) Official misconduct as defined in s. 838.022.

(e) False or misleading advertising relating to notary public services.

(f) Unauthorized practice of law.

(g) Failure to report a change in business or home address or telephone number, or failure to submit documentation to request an amended commission after a lawful name change, within the specified period of time.

(h) Commission of fraud, misrepresentation, or any intentional violation of this chapter.

(i) Charging fees in excess of fees authorized by this chapter.

(j) Failure to maintain the bond required by this section.

(5)(a) If a notary public receives notice from the Department of State that his or her office has been declared vacant, the notary shall forthwith mail or deliver to the Secretary of State his or her notary commission.

(b) A notary public who wishes to resign his or her commission, or a notary public who does not maintain legal residence in this state during the entire term of appointment, or a notary public whose resignation is required by the Governor, shall send a signed letter of resignation to the Governor and shall return his or her certificate of notary public

commission. The resigning notary public shall destroy his or her official notary public seal of office, unless the Governor requests its return.

(6) No person may be automatically reappointed as a notary public. The application process must be completed regardless of whether an applicant is requesting his or her first notary commission, a renewal of a commission, or any subsequent commission.

(7)(a) A notary public shall, prior to executing the duties of the office and throughout the term of office, give bond, payable to any individual harmed as a result of a breach of duty by the notary public acting in his or her official capacity, in the amount of \$7,500, conditioned for the due discharge of the office and shall take an oath that he or she will honestly, diligently, and faithfully discharge the duties of the notary public. The bond shall be approved and filed with the Department of State and executed by a surety company for hire duly authorized to transact business in this state.

(b) Any notary public whose term of appointment extends beyond January 1, 1999, is required to increase the amount of his or her bond to \$7,500 only upon reappointment on or after January 1, 1999.

(c) Beginning July 1, 1996, surety companies for hire which process notary public applications, oaths, affidavits of character, and bonds for submission to the Department of State must properly submit these documents in a software and hard copy format approved by the Department of State.

(8) Upon payment to any individual harmed as a result of a breach of duty by the notary public, the entity who has issued the bond for the notary public shall notify the Governor of the payment and the circumstances which led to the claim.

#### **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 includes access protection through the use of passwords or codes under control of the notary public; 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) A notary public performing a notarial act with respect to an electronic record shall select the technology to be used for such notarial act. A person may not require the notary public to use a particular technology; however, if the notary public is required by his or

her contract or employer to perform notarial acts with respect to electronic records, the contract or employer may require the use of a particular technology for those notarial acts.

(5) 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.

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

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

**117.03 Administration of oaths.**—A notary public may administer an oath and make a certificate thereof when it is necessary for the execution of any writing or document to be published under the seal of a notary public. The notary public may not take an acknowledgment of execution in lieu of an oath if an oath is required.

**117.04 Acknowledgments.**—A notary public is authorized to take the acknowledgments of deeds and other instruments of writing for record, as fully as other officers of this state.

**117.045 Marriages.**—A notary public is authorized to solemnize the rites of matrimony. For solemnizing the rites of matrimony, the fee of a notary public may not exceed those provided by law to the clerks of the circuit court for like services.

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

(1) A person may not obtain or use a notary public commission in other than his or her legal name, and it is unlawful for a notary public to notarize his or her own signature. Any person applying for a notary public commission must submit proof of identity to the Department of State. Any person who violates this subsection commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

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

(b) A notary public may not charge a fee for witnessing a vote-by-mail ballot in an election, and must witness such a ballot upon the request of an elector, provided the notarial act is in accordance with the provisions of this chapter.

(3)(a) A notary public seal shall be affixed to all notarized paper documents and shall be of the rubber stamp type and shall include the words "Notary Public-State of Florida." The seal shall also include the name of the notary public, the date of expiration of the commission of the notary public, and the commission number. The rubber stamp seal must be affixed to the notarized paper document in photographically reproducible black ink. Every notary public shall print, type, or stamp below his or her signature on a paper document his or her name exactly as commissioned. An impression-type seal may be used in addition to the rubber stamp seal, but the rubber stamp seal shall be the official



seal for use on a paper document, and the impression-type seal may not be substituted therefor.

(b) The notary public official seal and the certificate of notary public commission are the exclusive property of the notary public and must be kept under the direct and exclusive control of the notary public. The seal and certificate of commission must not be surrendered to an employer upon termination of employment, regardless of whether the employer paid for the seal or for the commission.

(c) A notary public whose official seal is lost, stolen, or believed to be in the possession of another person shall immediately notify the Department of State or the Governor in writing.

(d) Any person who unlawfully possesses a notary public official seal or any papers or copies relating to notarial acts is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

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

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

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

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

(d) The exact date of the notarial act.

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

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

(g) The notary public's official signature.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(6) The employer of a notary public shall be liable to the persons involved for all damages proximately caused by the notary's official misconduct, if the notary public was acting within the scope of his or her employment at the time the notary engaged in the

official misconduct.

(7) Any person who acts as or otherwise willfully impersonates a notary public while not lawfully appointed and commissioned to perform notarial acts is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(8) Any notary public who knowingly acts as a notary public after his or her commission has expired is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(9) Any notary public who lawfully changes his or her name shall, within 60 days after such change, request an amended commission from the Secretary of State and shall send \$25, his or her current commission, and a notice of change form, obtained from the Secretary of State, which shall include the new name and contain a specimen of his or her official signature. The Secretary of State shall issue an amended commission to the notary public in the new name. A rider to the notary public's bond must accompany the notice of change form. After submitting the required notice of change form and rider to the Secretary of State, the notary public may continue to perform notarial acts in his or her former name for 60 days or until receipt of the amended commission, whichever date is earlier.

(10) A notary public who is not an attorney who advertises the services of a notary public in a language other than English, whether by radio, television, signs, pamphlets, newspapers, or other written communication, with the exception of a single desk plaque, shall post or otherwise include with the advertisement a notice in English and in the language used for the advertisement. The notice shall be of a conspicuous size, if in writing, and shall state: "I AM NOT AN ATTORNEY LICENSED TO PRACTICE LAW IN THE STATE OF FLORIDA, AND I MAY NOT GIVE LEGAL ADVICE OR ACCEPT FEES FOR LEGAL ADVICE." If the advertisement is by radio or television, the statement may be modified but must include substantially the same message.

(11) Literal translation of the phrase "Notary Public" into a language other than English is prohibited in an advertisement for notarial services.

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

(b) A notary public must use a certificate in substantially the following form in notarizing an attested copy:

STATE OF FLORIDA  
COUNTY OF

On this day of \_\_\_\_ (year) I attest that the preceding or attached document is a true, exact, complete, and unaltered photocopy made by me of \_\_\_\_ (description of document) presented to me by the document's custodian, and, to the best of my knowledge, that the photocopied document is neither a vital record nor a public record, certified copies of which are available from an official source other than a notary public.

(Official Notary Signature and Notary Seal)

(Name of Notary Typed, Printed or Stamped)

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

record:

STATE OF FLORIDA  
COUNTY OF

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

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

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

(a) For an oath or affirmation:

STATE OF FLORIDA  
COUNTY OF

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

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

Personally Known \_\_\_\_ OR Produced Identification \_\_\_\_  
Type of Identification Produced \_\_\_\_

(b) For an acknowledgment in an individual capacity:

STATE OF FLORIDA  
COUNTY OF

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

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

Personally Known \_\_\_\_ OR Produced Identification \_\_\_\_  
Type of Identification Produced \_\_\_\_

(c) For an acknowledgment in a representative capacity:

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) as \_\_\_\_ (type of authority, e.g. officer, trustee, attorney in fact) for \_\_\_\_ (name of party on behalf of whom instrument was executed)

(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 \_\_\_\_

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

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

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

1. The document signing is witnessed by two disinterested persons;
2. The notary public prints the person's first name at the beginning of the designated signature line and the person's last name at the end of the designated signature line; and
3. The notary public prints the words "his (or her) mark" below the person's signature mark.

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

1. For an oath or affirmation:

(First Name) (Last Name)

His (or Her) Mark

STATE OF FLORIDA

COUNTY OF

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

2. For an acknowledgment in an individual capacity:

(First Name) (Last Name)

His (or Her) Mark

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 \_\_\_\_\_

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 s. 117.05(14), Florida Statutes," and states the circumstances and the means by which the notary public was directed to sign the notarial certificate.

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

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

1. For an oath or affirmation:

STATE OF FLORIDA  
COUNTY OF \_\_\_\_\_

Sworn to (or affirmed) before me by means of  physical presence or  online notarization, this \_\_\_\_\_ day of \_\_\_\_\_ (year) by \_\_\_\_\_ (name of person making statement) and subscribed by \_\_\_\_\_ (name of notary) at the direction of \_\_\_\_\_ (name of person making statement) by \_\_\_\_\_ (written, verbal, or other means) and 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 \_\_\_\_\_

2. For an acknowledgment in an individual capacity:

STATE OF FLORIDA  
COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization, this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ (year), by \_\_\_\_\_ (name of person acknowledging) and subscribed by \_\_\_\_\_ (name of notary) at the direction of \_\_\_\_\_ (name of person acknowledging), and 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 \_\_\_\_\_

**117.06 Validity of acts prior to April 1, 1903.**—Any and all notarial acts that were done by any notary public in the state prior to April 1, 1903, which would have been valid had not the term of office of the notary public expired, are declared to be valid.

**117.10 Law enforcement and correctional officers; administration of oaths.**—

(1) For purposes of this section, the term “reliable electronic means” means the signing and transmission of a document through means compliant with criminal justice information system security measures. Such signing and transmission must be made by an affiant to an officer authorized to administer oaths under subsection (2) under circumstances that indicate that the document was submitted by the affiant.

(2) Law enforcement officers, correctional officers, and correctional probation officers, as defined in s. 943.10, and traffic accident investigation officers and traffic infraction enforcement officers, as described in s. 316.640, are authorized to administer oaths by reliable electronic means or in the physical presence of an affiant when engaged in the performance of official duties. Sections 117.01, 117.04, 117.045, 117.05, and 117.103 do not apply to this section. An officer may not notarize his or her own signature.

(3) An oath administered pursuant to this section is an acceptable method of verification as provided under s. 92.525.

**117.103 Certification of notary’s authority by Secretary of State.**—A notary public is not required to record his or her notary public commission in an office of a clerk of the circuit court. If certification of the notary public’s commission is required, it must be obtained from the Secretary of State. Upon the receipt of a written request and a fee of \$10 payable to the Secretary of State, the Secretary of State shall issue a certificate of notarial authority, in a form prescribed by the Secretary of State, which shall include a statement explaining the legal qualifications and authority of a notary public in this state.

**117.105 False or fraudulent acknowledgments; penalty.**—A notary public who falsely or fraudulently takes an acknowledgment of an instrument as a notary public or who falsely or fraudulently makes a certificate as a notary public or who falsely takes or receives an acknowledgment of the signature on a written instrument is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

**117.107 Prohibited acts.**—

(1) A notary public may not use a name or initial in signing certificates other than that by which the notary public is commissioned.

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

(3) A notary public may not affix his or her signature to a blank form of affidavit or certificate of acknowledgment and deliver that form to another person with the intent that it be used as an affidavit or acknowledgment.

(4) A notary public may not take the acknowledgment of or administer an oath to a person whom the notary public actually knows to have been adjudicated mentally incapacitated by a court of competent jurisdiction, where the acknowledgment or oath necessitates the exercise of a right that has been removed pursuant to s. 744.3215(2) or (3), and where the person has not been restored to capacity as a matter of record.

(5) A notary public may not notarize a signature on a document if it appears that the person is mentally incapable of understanding the nature and effect of the document at the time of notarization.

(6) A notary public may not take the acknowledgment of a person who does not speak or understand the English language, unless the nature and effect of the instrument to be notarized is translated into a language which the person does understand.

(7) A notary public may not change anything in a written instrument after it has been signed by anyone.

(8) A notary public may not amend a notarial certificate after the notarization is complete.

(9) A notary public may not notarize a signature on a document if the person whose signature is being notarized does not appear before the notary public either by means of physical presence or by means of audio-video communication technology as authorized

under part II of this chapter at the time the signature is notarized. Any notary public who violates this subsection is guilty of a civil infraction, punishable by penalty not exceeding \$5,000, and such violation constitutes malfeasance and misfeasance in the conduct of official duties. It is no defense to the civil infraction specified in this subsection that the notary public acted without intent to defraud. A notary public who violates this subsection with the intent to defraud is guilty of violating s. 117.105.

(10) A notary public may not notarize a signature on a document if the document is incomplete or blank. However, an endorsement or assignment in blank of a negotiable or nonnegotiable note and the assignment in blank of any instrument given as security for such note is not deemed incomplete.

(11) A notary public may not notarize a signature on a document if the person whose signature is to be notarized is the spouse, son, daughter, mother, or father of the notary public.

(12) A notary public may not notarize a signature on a document if the notary public has a financial interest in or is a party to the underlying transaction; however, a notary public who is an employee may notarize a signature for his or her employer, and this employment does not constitute a financial interest in the transaction nor make the notary a party to the transaction under this subsection as long as he or she does not receive a benefit other than his or her salary and the fee for services as a notary public authorized by law. For purposes of this subsection, a notary public who is an attorney does not have a financial interest in and is not a party to the underlying transaction evidenced by a notarized document if he or she notarizes a signature on that document for a client for whom he or she serves as an attorney of record and he or she has no interest in the document other than the fee paid to him or her for legal services and the fee authorized by law for services as a notary public.

**117.108 Validity of acts, seals, and certificates prior to January 1, 1995.**—A notarial act performed, a notarial certificate signed, or a notarial seal used by any notary public before January 1, 1995, which would have been valid under the laws in effect in this state on January 1, 1991, is valid.

## **PART II. ONLINE NOTARIZATIONS**

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

(1) “Appear before,” “before,” or “in the presence of” means:

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

(b) Outside of the physical presence of another person, but able to see, hear, and communicate with the person by means of audio-video communication technology.

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

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

(4) “Electronic,” “electronic record,” or “electronic signature” has the same meaning



as provided in s. 668.50.

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

(6) “Government-issued identification credential” means any approved credential for verifying identity under s. 117.05(5)(b)2. However, for an online notarization of a principal not located within the United States, a passport issued by a foreign government not including the stamp of the United States Bureau of Citizenship and Immigration Services may be used as a government-issued identification credential to verify the principal’s identity.

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

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

<sup>1</sup>(9) “Online notarization” means the performance of a notarial act using electronic means in which the principal or any witness appears before the notary public by means of audio-video communication technology.

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

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

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

(13) “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.

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

(15) “Remote presentation” means transmission of an image of a government-issued identification credential that is of sufficient quality to enable the online notary public to identify the individual seeking the notary’s services and to perform credential analysis through audio-video communication technology.

### **117.209 Authority to perform online notarizations.—**

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

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

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

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

**117.215 Relation to other laws.—**

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

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

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

(1) Holding a current commission as a notary public under part I of this chapter, an appointment as a civil-law notary under chapter 118, or an appointment as a commissioner of deeds under part IV of chapter 721, and submitting his or her commission or appointment number.

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

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

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

(5) Identifying the RON service provider or providers whose audio-video communication technology and processes for credential analysis and identity-proofing

technologies the registrant intends to use for online notarizations.

(6) Providing evidence satisfactory to the Department of State that the registrant has obtained a bond in the amount of \$25,000, payable to any individual harmed as a result of a breach of duty by the registrant acting in his or her official capacity as an online notary public, conditioned for the due discharge of the office, and on such terms as are specified in rule by the Department of State as reasonably necessary to protect the public. The bond shall be approved and filed with the Department of State and executed by a surety company duly authorized to transact business in this state. Compliance by an online notary public with this requirement shall satisfy the requirement of obtaining a bond under s. 117.01(7).

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

**117.231 Remote administration of certain oaths.—**

(1) When taking the oath of an individual who is testifying at any court proceeding, deposition, arbitration, or public hearing and who is outside of the physical presence of the notary public, the notary public may fulfill the requirements of s. 117.05 using audio-video communication technology.

(2) When taking an oath of admission to The Florida Bar from an individual who is outside of the physical presence of the notary public, the notary public may fulfill the requirements of s. 117.05 using audio-video communication technology.

(3) If an individual is located outside of this state at the time the notary public is to take the individual's oath under this section, consent from the individual must be obtained to take his or her oath using audio-video communication technology pursuant to this section.

(4) When taking an oath under this section, the notary public is not required to be an online notary public or to use a RON service provider.

**117.235 Performance of notarial acts.—**

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

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

**117.245 Electronic journal of online notarizations.—**

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

- (a) The date and time of the notarization.
- (b) The type of notarial act performed, whether an oath or acknowledgment.
- (c) The type, the title, or a description of the electronic record or proceeding.

(d) The name and address of each principal involved in the transaction or proceeding.  
(e) Evidence of identity of each principal involved in the transaction or proceeding in either of the following forms:

1. A statement that the person is personally known to the online notary public; or
  - 2.a. A notation of the type of government-issued identification credential provided to the online notary public;
  - b. An indication that the government-issued identification credential satisfied the credential analysis; and
  - c. An indication that the principal satisfactorily passed the identity proofing.
- (f) The fee, if any, charged for the notarization.

(2) The RON service provider shall retain an uninterrupted and unedited copy of the recording of the audio-video communication in which an online notarization is performed. The online notary public shall ensure that the recording includes all of the following:

- (a) Appearance by the principal and any witness before the online notary public.
- (b) Confirmation of the identity of the principal and any witness.
- (c) A general description or identification of the records to be signed.
- (d) At the commencement of the recording, recitation by the online notary public of information sufficient to identify the notarial act.
- (e) A declaration by the principal that his or her signature on the record is knowingly and voluntarily made.

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

- (3) The online notary public shall take reasonable steps to:
- (a) Ensure the integrity, security, and authenticity of online notarizations.
  - (b) Maintain a backup record of the electronic journal required by subsection (1).
  - (c) Protect the electronic journal, the backup record, and any other records received by the online notary public from unauthorized access or use.

(4) The electronic journal required under subsection (1) and the recordings of audio-video communications required under subsection (2) shall be maintained for at least 10 years after the date of the notarial act. However, a full copy of the recording of the audio-video communication required under subsection (2) relating to an online notarization session that involves the signing of an electronic will must be maintained by a qualified custodian in accordance with chapters 731 and 732. The Department of State maintains jurisdiction over the electronic journal and audio-video communication recordings to investigate notarial misconduct for a period of 10 years after the date of the notarial act. The online notary public, a guardian of an incapacitated online notary public, or the personal representative of a deceased online notary public may, by contract with a secure repository in accordance with any rules established under this chapter, delegate to the repository the online notary public's duty to retain the electronic journal, provided that the Department of State is notified of such delegation of retention duties to the repository within 30 days thereafter, including the effective date of the delegation and the address and contact information for the repository. If an online notary public delegates to a secure repository under this section, the online notary public shall make an entry in his or her electronic journal identifying such repository and provide notice to the Department of

State as required in this subsection. A RON service provider may, by contract with a secure repository in accordance with any rules established under this chapter, delegate to the repository the RON service provider's duty to retain the required recordings of audio-video communications, provided that the Department of State is notified of such delegation of retention duties to the repository within 30 days thereafter, including the effective date of the delegation and the address and contact information for the repository. During any delegation under this subsection, the secure repository shall fulfill the responsibilities of the online notary public or RON service provider to provide copies or access under s. 117.255(2) and (3).

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

**117.255 Use of electronic journal, signature, and seal.—**

(1) An online notary public shall:

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

(b) Keep the electronic journal and electronic seal secure and under his or her sole control, which includes access protection using passwords or codes under control of the online notary public. The online notary public may not allow another person to use the online notary public's electronic journal, electronic signature, or electronic seal, other than a RON service provider or other authorized person providing services to an online notary public to facilitate performance of online notarizations.

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

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

(2) An online notary public shall provide electronic copies of pertinent entries in the electronic journal, and a RON service provider shall provide access to the related audio-video communication recordings, or a copy thereof, to the following persons upon request:

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

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

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

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

(e) The Department of State pursuant to a notary misconduct investigation;

(f) Any other persons pursuant to a subpoena, court order, law enforcement investigation, or other lawful inspection demand;

(g) With respect to audio-video communication recordings of an online notarization, the online notary public performing that notarization; and

(h) With respect to electronic copies of pertinent entries in the electronic journal, the RON service provider used for the online notarizations associated with those entries.

(3) The online notary public may charge a fee not to exceed \$20 per transaction record for making and delivering electronic copies of a given series of related electronic records, and a RON service provider may charge a fee not to exceed \$20 for providing access to, or a copy of, the related audio-video communication records, except such copies or access must be provided without charge if requested by any of the following within the 10-year period specified in s. 117.245(4):

(a) A party to the electronic record;

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

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

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

(e) With respect to audio-video communication recordings of an online notarization, the online notary public performing that notarization; or

(f) With respect to electronic copies of a given series of related electronic records, the RON service provider used for the online notarization of those records.

If the online notary public or RON service provider charges a fee, the online notary public or RON service provider must disclose the amount of such fee to the requester before making the electronic copies or providing access to, or making a copy of, the requested audio-video communication recordings.

#### **117.265 Online notarization procedures.—**

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

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

witnesses. A principal may not act in the capacity of a witness for his or her own signature in an online notarization.

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

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

(a) Personal knowledge of each principal; or

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

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

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

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

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

(5)(a) An online notary public shall select the RON service provider to be used to perform an online notarization, and a person may not require the online notary public to use a particular RON service provider; however, if the online notary public is required by his or her contract or employer to perform online notarizations, the contract or employer may require the use of a particular RON service provider for those online notarizations.

(b) An online notary public may change his or her RON service provider or providers from time to time, but shall notify the Department of State of such change, and its effective date, within 30 days thereafter.

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

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

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

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

**117.275 Fees for online notarization.**—An online notary public or the employer of such online notary public may charge a fee, not to exceed \$25, for performing an online notarial act under this part. Fees for services other than notarial acts, including the services of a RON service provider, are not governed by this section. A RON service

provider's services are also not considered closing services, as defined in s. 627.7711, and a fee for those services may be separately charged.

**117.285 Supervising the witnessing of electronic records.**—Supervising the witnessing of an electronic record by an online notary public in accordance with this section is a notarial act. An online notary public may supervise the witnessing of electronic records by complying with the online notarization procedures of this part and using the same audio-video communication technology used for online notarization by a principal, as follows:

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

(2) If the witness is remote from the principal and viewing and communicating with the principal by means of audio-video communication technology, the principal's and witness's identities must be verified in accordance with the procedures for identifying a principal as set forth in s. 117.265(4). If the witness is in the physical presence of the principal, the witness must confirm his or her identity by stating his or her name and current address on the audio-video recording as part of the act of witnessing.

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

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

(5) Notwithstanding subsections (2) and (3), if an electronic record to be signed is a will under chapter 732; a revocable trust with testamentary aspects as described in s. 736.0403(2)(b); a health care advance directive; an agreement concerning succession or a waiver of spousal rights under s. 732.701 or s. 732.702, respectively; or a power of attorney authorizing any of the transactions enumerated in s. 709.2208, all of the following apply when fewer than two witnesses are in the physical presence of the principal:

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

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

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

3. Do you require assistance with daily care?

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

(c) Subsequent to submission of the answers required under paragraph (a), the RON



service provider shall give the principal written notice in substantially the following form:

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

(d) The act of witnessing an electronic signature through the witness's presence by audio-video communication technology is valid only if, during the audio-video communication, the principal provides verbal answers to all of the following questions, each of which must be asked by the online notary public in substantially the following form:

1. Are you currently married? If so, name your spouse.

2. Please state the names of anyone who assisted you in accessing this video conference today.

3. Please state the names of anyone who assisted you in preparing the documents you are signing today.

4. Where are you currently located?

5. Who is in the room with you?

(e) An online notary public shall consider the responses to the questions specified in paragraph (d) in carrying out of the duties of a notary public as set forth in s. 117.107(5).

(f) A principal's responses to the questions in paragraphs (a) and (d) may be offered as evidence regarding the validity of the instrument, but an incorrect answer may not serve as the sole basis to invalidate an instrument.

(g) The presence of a witness with the principal at the time of signing by means of audio-video communication technology is not effective for witnessing the signature of a principal who is a vulnerable adult as defined in s. 415.102. The contestant of an electronic record has the burden of proving that the principal was a vulnerable adult at the time of executing the electronic record.

(h) Nothing in this subsection shall:

1. Preclude a power of attorney, which includes banking or investment powers enumerated in s. 709.2208, from being effective with respect to any other authority granted therein or with respect to the agent's authority in connection with a real property, commercial, or consumer transaction or loan, to exercise any power specified therein or to execute and deliver instruments obligating the principal or to draw upon the proceeds of such transaction or loan; or

2. Affect the nontestamentary aspects of a revocable trust under chapter 736.

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

(j) This subsection does not affect the application of s. 709.2119.

(k) The requirements of this subsection do not apply if there are at least two witnesses in the physical presence of the principal at the time of the notarial act.

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

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

(b) A principal's responses to the questions in paragraph (5)(a) or paragraph (5)(d), as applicable.

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

(7) Except as set forth in s. 709.2202, an act of witnessing performed pursuant to this section satisfies any requirement that the witness must be a subscribing or attesting witness or must be in the presence of the principal at the time of signing.

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

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

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

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

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

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

(2) The Department of State shall:

(a) Adopt forms, processes, and rules necessary to accept applications from and register online notaries public pursuant to s. 117.225.

(b) Publish on its website a list containing each online notary public, the online notary public's RON service providers from January 1, 2022, and thereafter, the effective dates during which the online notary public used each RON service provider, as identified pursuant to ss. 117.225(5) and 117.265(5)(b), any secure repositories to which the online notary public may have delegated his or her duties pursuant to s. 117.245(4) from January 1, 2022, and thereafter, and the effective dates of that delegation.

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

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

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

2. Each question must be drawn from a third-party provider of public and proprietary

data sources and be identifiable to the principal's social security number or other identification information, or the principal's identity and historical events records.

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

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

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

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

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

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

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

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

(4)(a) A RON service provider must file a self-certification with the Department of State, on a form adopted by department rule, confirming that its audio-video communication technology and related processes, services, software, data storage, or other services provided to online notaries public for the purpose of directly facilitating their performance of online notarizations satisfy the requirements of this chapter and any rules adopted by the Department of State pursuant to this section. Each certification shall remain active for a period of 1 year after the date of filing. The Department of State must publish on its website a list of each RON service provider that has filed a self-certification, the date of filing of the self-certification, any secure repositories to which the RON service provider may have delegated its duties pursuant to s. 117.245(4) from January 1, 2022, and thereafter, and the effective dates of that delegation.

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

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

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

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

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

(8) A RON service provider may not use, sell, or offer to sell or transfer to another person for use or sale any personal information obtained under this part which identifies a principal, a witness, or a person named in a record presented for online notarization, except:

(a) As necessary to facilitate performance of a notarial act;

(b) To administer or process a record provided by or on behalf of a principal or the transaction of which the record is a part;

(c) To detect fraud, identity theft, or other criminal activities;

(d) In accordance with this part and the rules adopted pursuant to this part or any other applicable federal, state, or local law, or to comply with a lawful subpoena or court order or a lawful request from a law enforcement or regulatory agency;

(e) To monitor and improve the audio-video communication technology and related processes, services, software, data storage, or other services offered by the RON service provider to online notaries public for the purpose of directly facilitating their performance of online notarizations; or

(f) In connection with a proposed or actual sale, merger, transfer, or exchange of all or a portion of a business or operating unit of a RON service provider, or the dissolution, insolvency, or cessation of operations of a business or operating unit, if limited to such personal information held by that business or unit and any transferee agrees to comply with the restrictions set forth in this subsection.

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

## CHAPTER 118. INTERNATIONAL NOTARIES

### **118.10 Civil-law notary.**—

(1) As used in this section, the term:

(a) “Authentic act” means an instrument executed by a civil-law notary referencing this section, which instrument includes the particulars and capacities to act of any transacting parties, a confirmation of the full text of any necessary instrument, the signatures or their legal equivalent of any transacting parties, the signature and seal of a civil-law notary, and such other information prescribed by the Secretary of State.

(b) “Civil-law notary” means a person who is a member in good standing of The Florida Bar, who has practiced law for at least 5 years, and who is appointed by the

Secretary of State as a civil-law notary.

(c) “Protocol” means a registry maintained by a civil-law notary in which the acts of the civil-law notary are archived.

(2) The Secretary of State shall have the power to appoint civil-law notaries and administer this section.

(3) A civil-law notary is authorized to issue authentic acts and thereby may authenticate or certify any document, transaction, event, condition, or occurrence. The contents of an authentic act and matters incorporated therein shall be presumed correct. A civil-law notary may also administer an oath and make a certificate thereof when it is necessary for execution of any writing or document to be attested, protested, or published under the seal of a notary public. A civil-law notary may also take acknowledgments of deeds and other instruments of writing for record, and solemnize the rites of matrimony, as fully as other officers of this state. A civil-law notary is not authorized to issue authentic acts for use in a jurisdiction if the United States Department of State has determined that the jurisdiction does not have diplomatic relations with the United States or is a terrorist country, or if trade with the jurisdiction is prohibited under the Trading With the Enemy Act of 1917, as amended, 50 U.S.C. ss. 1, et seq.

(4) The authentic acts, oaths and acknowledgments, and solemnizations of a civil-law notary shall be recorded in the civil-law notary’s protocol in a manner prescribed by the Secretary of State.

(5) The Secretary of State may adopt rules prescribing:

(a) The form and content of authentic acts, oaths, acknowledgments, solemnizations, and signatures and seals or their legal equivalents;

(b) Procedures for the permanent archiving of authentic acts, maintaining records of acknowledgments, oaths and solemnizations, and procedures for the administration of oaths and taking of acknowledgments;

(c) The charging of reasonable fees to be retained by the Secretary of State for the purpose of administering this chapter;

(d) Educational requirements and procedures for testing applicants’ knowledge of all matters relevant to the appointment, authority, duties or legal or ethical responsibilities of a civil-law notary;

(e) Procedures for the disciplining of civil-law notaries, including, but not limited to, the suspension and revocation of appointments for failure to comply with the requirements of this chapter or the rules of the Department of State, or for misrepresentation or fraud regarding the civil-law notary’s authority, the effect of the civil-law notary’s authentic acts, or the identities or acts of the parties to a transaction;

(f) Bonding or errors and omissions insurance requirements, or both, for civil-law notaries; and

(g) Other matters necessary for administering this section.

(6) The Secretary of State shall not regulate, discipline, or attempt to discipline any civil-law notary for, or with regard to, any action or conduct that would constitute the practice of law in this state, except by agreement with The Florida Bar. The Secretary of State shall not establish as a prerequisite to the appointment of a civil-law notary any test containing any question that inquires of the applicant’s knowledge regarding the practice of law in the United States, unless such test is offered in conjunction with an educational program approved by The Florida Bar for continuing legal education credit.

(7) The powers of civil-law notaries include, but are not limited to, all of the powers of a notary public under any law of this state.

(8) This section shall not be construed as abrogating the provisions of any other act relating to notaries public, attorneys, or the practice of law in this state.

**118.12 Certification of civil-law notary's authority; apostilles.—**

If certification of a civil-law notary's authority is necessary for a particular document or transaction, it must be obtained from the Secretary of State. Upon the receipt of a written request from a civil-law notary and the fee prescribed by the Secretary of State, the Secretary of State shall issue a certification of the civil-law notary's authority, in a form prescribed by the Secretary of State, which shall include a statement explaining the legal qualifications and authority of a civil-law notary in this state. The fee prescribed for the issuance of the certification under this section or an apostille under s. 15.16 may not exceed \$10 per document. The Department of State may adopt rules to implement this section.

**TITLE XXIII. MOTOR VEHICLES  
CHAPTER 319. TITLE CERTIFICATES**

**319.23 Application for, and issuance of, certificate of title.—**

(3) If a certificate of title has not previously been issued for a motor vehicle or mobile home in this state, the application, unless otherwise provided for in this chapter, shall be accompanied by a proper bill of sale or sworn statement of ownership, or a duly certified copy thereof, or by a certificate of title, bill of sale, or other evidence of ownership required by the law of the state or county from which the motor vehicle or mobile home was brought into this state. The application shall also be accompanied by:

(a)1. A sworn affidavit from the seller and purchaser verifying that the vehicle identification number shown on the affidavit is identical to the vehicle identification number shown on the motor vehicle; or

2. An appropriate departmental form evidencing that a physical examination has been made of the motor vehicle by the owner and by a duly constituted law enforcement officer in any state, a licensed motor vehicle dealer, a license inspector as provided by s. 320.58, or a notary public commissioned by this state and that the vehicle identification number shown on such form is identical to the vehicle identification number shown on the motor vehicle; and

(b) If the vehicle is a used car original, a sworn affidavit from the owner verifying that the odometer reading shown on the affidavit is identical to the odometer reading shown on the motor vehicle in accordance with the requirements of 49 C.F.R. s. 580.5 at the time that application for title is made. For the purposes of this section, the term "used car original" means a used vehicle coming into and being titled in this state for the first time.

(c) If the vehicle is an ancient or antique vehicle, as defined in s. 320.086, the application shall be accompanied by a certificate of title; a bill of sale and a registration; or a bill of sale and an affidavit by the owner defending the title from all claims. The bill of sale must contain a complete vehicle description to include the vehicle identification or engine number, year make, color, selling price, and signatures of the seller and purchaser.

Verification of the vehicle identification number is not required for any new motor vehicle; any mobile home; any trailer or semitrailer with a net weight of less than 2,000 pounds; or any travel trailer, camping trailer, truck camper, or fifth-wheel recreation trailer.

## **CHAPTER 320 MOTOR VEHICLE LICENSES**

### **320.04 Registration service charge.—**

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(2) No tax collector, deputy tax collector, or employee of the state or any county shall charge, collect, or receive any fee or compensation for services performed as notary public in connection with or incidental to the issuance of license plates or titles. The provisions of this subsection and of s. 116.38(2) prohibiting the charging, collecting, or receiving of notary public fees do not apply to any privately owned license plate agency appointed by the county manager of a charter county which has an appointed tax collector.

## **TITLE XXX. SOCIAL WELFARE CHAPTER 425. RURAL ELECTRIC COOPERATIVES**

**425.26 Trustees, officers or members, notaries.—**No person who is authorized to take acknowledgments under the laws of this state shall be disqualified from taking acknowledgments of instruments executed in favor of a cooperative or to which it is a party, by reason of being an officer, director or member of such cooperative.

## **TITLE XXXII. REGULATION OF PROFESSIONS AND OCCUPATIONS CHAPTER 454. ATTORNEYS AT LAW**

**454.23 Penalties.—**Any person not licensed or otherwise authorized to practice law in this state who practices law in this state or holds himself or herself out to the public as qualified to practice law in this state, or who willfully pretends to be, or willfully takes or uses any name, title, addition, or description implying that he or she is qualified, or recognized by law as qualified, to practice law in this state, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

## **TITLE HIVIII. BANKS AND BANKING CHAPTER 655. FINANCIAL INSTITUTIONS GENERALLY**

### **655.94 Special remedies for nonpayment of rent.—**

(1) If the rental due on a safe-deposit box has not been paid for 3 months, the lessor may send a notice by certified mail to the last known address of the lessee stating that the safe-deposit box will be opened and its contents stored at the expense of the lessee unless payment of the rental is made within 30 days. If the rental is not paid within 30 days from the mailing of the notice, the box may be opened in the presence of an officer of the lessor and of a notary public. The contents shall be sealed in a package by a notary public

who shall write on the outside the name of the lessee and the date of the opening. The notary public shall execute a certificate reciting the name of the lessee, the date of the opening of the box, and a list of its contents. The certificate shall be included in the package, and a copy of the certificate shall be sent by certified mail to the last known address of the lessee. The package shall then be placed in the general vaults of the lessor at a rental not exceeding the rental previously charged for the box. The lessor has a lien on the package and its contents to the extent of any rental due and owing plus the actual, reasonable costs of removing the contents from the safe-deposit box.

## **TITLE XXXIX. COMMERCIAL RELATIONS**

### **CHAPTER 668. ELECTRONIC COMMERCE**

#### **PART II. UNIFORM ELECTRONIC TRANSACTIONS ACT**

##### **668.50 Uniform Electronic Transaction Act. —**

###### **(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.

## **TITLE XL. REAL AND PERSONAL PROPERTY**

### **CHAPTER 689. CONVEYANCES OF LAND AND DECLARATIONS OF TRUST**

##### **689.01 How real estate conveyed.—**

(1) No estate or interest of freehold, or for a term of more than 1 year, or any uncertain interest of, in or out of any messuages, lands, tenements or hereditaments shall be created, made, granted, transferred or released in any other manner than by instrument in writing, signed in the presence of two subscribing witnesses by the party creating, making, granting, conveying, transferring or releasing such estate, interest, or term of more than 1 year, or by the party's lawfully authorized agent, unless by will and testament, or other testamentary appointment, duly made according to law; and no estate or interest, either of freehold, or of term of more than 1 year, or any uncertain interest of, in, to, or out of any messuages, lands, tenements or hereditaments, shall be assigned or surrendered unless it be by instrument signed in the presence of two subscribing witnesses by the party so assigning or surrendering, or by the party's lawfully authorized agent, or by the act and operation of law. No seal shall be necessary to give validity to any instrument executed in conformity with this section. Corporations may execute any and all conveyances in accordance with the provisions of this section or ss. 692.01 and 692.02.

(2) For purposes of this chapter:



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

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

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

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

## **CHAPTER 695. RECORD OF CONVEYANCES OF REAL ESTATE**

**695.03 Acknowledgment and proof; validation of certain acknowledgments; legalization or authentication before foreign officials.**—To entitle any instrument concerning real property to be recorded, the execution must be acknowledged by the party executing it, proved by a subscribing witness to it, or legalized or authenticated in one of the following forms:

(1) **WITHIN THIS STATE.**—An acknowledgment or proof may be taken, administered, or made within this state by or before a judge, clerk, or deputy clerk of any court; a United States commissioner or magistrate; or a notary public or civil-law notary of this state, and the certificate of acknowledgment or proof must be under the seal of the court or officer, as the case may be.

(2) **OUTSIDE THIS STATE BUT WITHIN THE UNITED STATES.**—An acknowledgment or a proof taken, administered, or made outside of this state but within the United States may be taken, administered, or made by or before a civil-law notary of this state or a commissioner of deeds appointed by the Governor of this state; a judge or clerk of any court of the United States or of any state, territory, or district; by or before a United States commissioner or magistrate; or by or before any notary public, justice of the peace, master in chancery, or registrar or recorder of deeds of any state, territory, or district having a seal, and the certificate of acknowledgment or proof must be under the seal of the court or officer, as the case may be. If the acknowledgment or proof is taken, administered, or made before a notary public who does not affix a seal, it is sufficient for the notary public to type, print, or write by hand on the instrument, “I am a Notary Public of the State of \_\_\_\_\_ (state), and my commission expires on \_\_\_\_\_ (date).”

(3) **OUTSIDE OF THE UNITED STATES OR WITHIN FOREIGN COUNTRIES.**—An acknowledgment, an affidavit, an oath, a legalization, an authentication, or a proof taken, administered, or made outside of the United States or in a foreign country may be

taken, administered, or made by or before a commissioner of deeds appointed by the Governor of this state to act in such country; before a notary public of such foreign country or a civil-law notary of this state or of such foreign country who has an official seal; before an ambassador, envoy extraordinary, minister plenipotentiary, minister, commissioner, charge d'affaires, consul general, consul, vice consul, consular agent, or other diplomatic or consular officer of the United States appointed to reside in such country; or before a military or naval officer authorized by 10 U.S.C. s. 1044a to perform the duties of notary public, and the certificate of acknowledgment, legalization, authentication, or proof must be under the seal of the officer. A certificate legalizing or authenticating the signature of a person executing an instrument concerning real property and to which a civil-law notary or notary public of that country has affixed her or his official seal is sufficient as an acknowledgment. For the purposes of this section, the term "civil-law notary" means a civil-law notary as defined in chapter 118 or an official of a foreign country who has an official seal and who is authorized to make legal or lawful the execution of any document in that jurisdiction, in which jurisdiction the affixing of her or his official seal is deemed proof of the execution of the document or deed in full compliance with the laws of that jurisdiction.

(4) COMPLIANCE AND VALIDATION.—The affixing of the official seal or the electronic equivalent thereof under s. 117.021 or other applicable law, including part II of chapter 117, conclusively establishes that the acknowledgment or proof was taken, administered, or made in full compliance with the laws of this state or, as applicable, the laws of the other state, or of the foreign country governing notarial acts. All affidavits, oaths, acknowledgments, legalizations, authentications, or proofs taken, administered, or made in any manner as set forth in subsections (1), (2), and (3) are validated and upon recording may not be denied to have provided constructive notice based on any alleged failure to have strictly complied with this section, as currently or previously in effect, or the laws governing notarization of instruments.

This subsection does not preclude a challenge to the validity or enforceability of an instrument or electronic record based upon fraud, forgery, impersonation, duress, incapacity, undue influence, minority, illegality, unconscionability, or any other basis not related to the notarial act or constructive notice provided by recording.

### **695.031 Affidavits and acknowledgments by members of armed forces and their spouses.—**

(1) In addition to the manner, form and proof of acknowledgment of instruments as now provided by law, any person serving in or with the Armed Forces of the United States, including the Army, Navy, Marine Corps, Coast Guard, or any component or any arm or service of any thereof, including any female auxiliary of any thereof, and any person whose duties require his or her presence with the Armed Forces of the United States, as herein designated, or otherwise designated by law or military or naval command, may acknowledge any instrument, wherever located, either within or without the state, or without the United States, before any commissioned officer in active service of the Armed Forces of the United States, as herein designated, or otherwise designated by law, or military or naval command, or order, with the rank of second lieutenant or higher in the Army or Marine Corps, or of any component or any arm or service of either thereof, including any female auxiliary of any thereof, or ensign or higher in the Navy or

United States Coast Guard, or of any component or any arm or service of either thereof, including any female auxiliary of any thereof.

(2) The instrument shall not be rendered invalid by the failure to state therein the place of execution or acknowledgment. No authentication of the officer's certificate of acknowledgment or otherwise shall be required, and no seal shall be necessary, but the officer taking the acknowledgment shall endorse thereon or attach thereto a certificate substantially in the following form:

On this \_\_\_\_ day of \_\_\_\_, (year), before me \_\_\_\_, the undersigned officer, personally appeared \_\_\_\_, known to me (or satisfactorily proven) to be serving in or with, or whose duties require her or his presence with the Armed Forces of the United States, and to be the person whose name is subscribed to the within instrument, and acknowledged that she or he executed the same for the purposes therein contained, and the undersigned does further certify that she or he is at the date of this certificate a commissioned officer of the rank stated below and is in the active service of the Armed Forces of the United States.

(Signature of commissioned officer.)

(Rank of commissioned officer and command or branch of service to which officer is attached.)

**695.25 Short form of acknowledgment.—**

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

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

STATE OF \_\_\_\_

COUNTY OF \_\_\_\_

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

(Signature of person taking acknowledgment)

(Name typed, printed or stamped)

(Title or rank)

(Serial number, if any)

(2) For a corporation:

STATE OF \_\_\_\_

COUNTY OF \_\_\_\_

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

(Signature of person taking acknowledgment)

(Name typed, printed or stamped)

(Title or rank)

(Serial number, if any)

(3) For a limited liability company:

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

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

(Signature of person taking acknowledgment)

(Name typed, printed or stamped)

(4) For a partnership:

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

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

(Signature of person taking acknowledgment)

(Name typed, printed or stamped)

(Title or rank)

(Serial number, if any)

(5) For an individual acting as principal by an attorney in fact:

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

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

(Signature of person taking acknowledgment)

(Name typed, printed or stamped)

(Title or rank)

(Serial number, if any)

(6) By any public officer, trustee, or personal representative:

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

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

(Signature of person taking acknowledgment)

(Name typed, printed or stamped)

(Title or rank)

(Serial number, if any)

**695.26 Requirements for recording instruments affecting real property.—**

(1) No instrument by which the title to real property or any interest therein is conveyed, assigned, encumbered, or otherwise disposed of shall be recorded by the clerk of the circuit court unless:

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(c) The name of each witness to the instrument is legibly printed, typewritten, or stamped upon such instrument immediately beneath the signature of such witness and the post office address of each such person is legibly printed, typewritten, or stamped upon such instrument;

(d) The name of any notary public or other officer authorized to take acknowledgments or proofs whose signature appears upon the instrument is legibly printed, typewritten, or stamped upon such instrument immediately beneath the signature of such notary public or other officer authorized to take acknowledgment or proofs.

\*This is not the only recording requirement but it is the only one that is directly related to the notarization. This section does not apply to: documents executed before July 1, 1991: an instrument executed, acknowledged, or proved outside of the state: or a will. For a complete understanding of recording requirements, please review all of s.695.26, Florida Statutes, or contact the recording section of the county clerk’s office.

**CHAPTER 695 UNIFORM REAL PROPERTY ELECTRONIC RECORDING ACT**

**695.27 Uniform Real Property Electronic Recording Act.—**

**(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.

**TITLE XLII. ESTATES AND TRUSTS**

**CHAPTER 732. PROBATE CODE: INTESTATE SUCCESSION AND WILLS**

**732.503 Self-proof of will.—**

(1) A will or codicil executed in conformity with s. 732.502 may be made self-proved at the time of its execution or at any subsequent date by the acknowledgment of it by the testator and the affidavits of the witnesses, made before an officer authorized to administer oaths and evidenced by the officer’s certificate attached to or following the will, in substantially the following form:

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

I, \_\_\_\_\_, declare to the officer taking my acknowledgment of this instrument, and to the subscribing witnesses, that I signed this instrument as my will.

(Testator)

We, \_\_\_\_\_ and \_\_\_\_\_, have been sworn by the officer signing below, and declare to that officer on our oaths that the testator declared the instrument to be the testator's will and signed it in our presence and that we each signed the instrument as a witness in the presence of the testator and of each other.

(Signature of Testator)

(Signature of Witness)

(Signature of Witness)

Acknowledged and subscribed before me by means of  physical presence or  online notarization by the testator, (type or print testator's name),  who is personally known to me or  has produced (state type of identification--see s. 117.05(5)(b)2.) as identification, and sworn to and subscribed before me by each of the following witnesses: (type or print name of first witness) who  is personally known to me or  has produced (state type of identification--see s. 117.05(5)(b)2.) as identification, by means of  physical presence or  online notarization; and (type or print name of second witness) who  is personally known to me or  has produced (state type of identification--see s. 117.05(5)(b)2.) as identification, by means of  physical presence or  online notarization. Subscribed by me in the presence of the testator and the subscribing witnesses, by the means specified herein, all on (date).

(Signature of Officer)

(Print, type, or stamp commissioned name of Notary Public)

(2) A will or codicil made self-proved under former law, or executed in another state and made self-proved under the laws of that state, shall be considered as self-proved under this section.

## **TITLE XLIII. DOMESTIC RELATIONS**

### **CHAPTER 741. MARRIAGE; DOMESTIC VIOLENCE**

#### **741.07 Persons authorized to solemnize matrimony.—**

(1) All regularly ordained ministers of the gospel or elders in communion with some church, or other ordained clergy, and all judicial officers, including retired judicial officers, clerks of the circuit courts, and notaries public of this state may solemnize the rights of matrimonial contract, under the regulations prescribed by law. Nothing in this section shall make invalid a marriage which was solemnized by any member of the clergy, or as otherwise provided by law prior to July 1, 1978.

(2) Any marriage which may be had and solemnized among the people called "Quakers," or "Friends," in the manner and form used or practiced in their societies, according to their rites and ceremonies, shall be good and valid in law; and wherever the words "minister" and "elder" are used in this chapter, they shall be held to include all of the persons connected with the Society of Friends, or Quakers, who perform or have charge of the marriage ceremony according to their rites and ceremonies.

#### **741.08 Marriage not to be solemnized without a license.—**Before any of the persons

named in s. 741.07 shall solemnize any marriage, he or she shall require of the parties a marriage license issued according to the requirements of s. 741.01, and within 10 days after solemnizing the marriage he or she shall make a certificate thereof on the license, and shall transmit the same to the office of the county court judge or clerk of the circuit court from which it issued.

**741.10 Proof of marriage where no certificate available.**—When any marriage is or has been solemnized by any of the persons named in s. 741.07, and such person has not made a certificate thereof on the marriage license as required by s. 741.08, or when the marriage license has been lost, or when by reason of death or other cause the proper certificate cannot be obtained, the marriage may be proved by affidavit before any officer authorized to administer oaths made by two competent witnesses who were present and saw the marriage ceremony performed, which affidavit may be filed and recorded in the office of the county court judge or clerk of the circuit court from which the marriage license issued, with the same force and effect as in cases in which the proper certificate has been made, returned and recorded.

**TITLE XLVI. CRIMES  
CHAPTER 775. DEFINITIONS; GENERAL PENALTIES;  
REGISTRATION OF CRIMINALS**

**775.082 Penalties; applicability of sentencing structures; mandatory minimum sentences for certain reoffenders previously released from prison.**—

(3) A person who has been convicted of any other designated felony may be punished as follows:

(d) For a felony of the third degree, by a term of imprisonment not exceeding 5 years.

(4) A person who has been convicted of a designated misdemeanor may be sentenced as follows:

(a) For a misdemeanor of the first degree, by a definite term of imprisonment not exceeding 1 year;

(b) For a misdemeanor of the second degree, by a definite term of imprisonment not exceeding 60 days.

**775.083 Fines.**—

(1) A person who has been convicted of an offense other than a capital felony may be sentenced to pay a fine in addition to any punishment described in s. 775.082; when specifically authorized by statute, he or she may be sentenced to pay a fine in lieu of any punishment described in s. 775.082. A person who has been convicted of a noncriminal violation may be sentenced to pay a fine. Fines for designated crimes and for noncriminal violations shall not exceed:

(a) \$15,000, when the conviction is of a life felony.

(b) \$10,000, when the conviction is of a felony of the first or second degree.

(c) \$5,000, when the conviction is of a felony of the third degree.

(d) \$1,000, when the conviction is of a misdemeanor of the first degree.

(e) \$500, when the conviction is of a misdemeanor of the second degree or a noncriminal violation.

(f) Any higher amount equal to double the pecuniary gain derived from the offense by the offender or double the pecuniary loss suffered by the victim.

(g) Any higher amount specifically authorized by statute.

Fines imposed in this subsection shall be deposited by the clerk of the court in the fine and forfeiture fund established pursuant to s. 142.01. If a defendant is unable to pay a fine, the court may defer payment of the fine to a date certain.

(2) In addition to the fines set forth in subsection (1), court costs shall be assessed and collected in each instance a defendant pleads nolo contendere to, or is convicted of, or adjudicated delinquent for, a felony, a misdemeanor, or a criminal traffic offense under state law, or a violation of any municipal or county ordinance if the violation constitutes a misdemeanor under state law. The court costs imposed by this section shall be \$50 for a felony and \$20 for any other offense and shall be deposited by the clerk of the court into an appropriate county account for disbursement for the purposes provided in this subsection. A county shall account for the funds separately from other county funds as crime prevention funds. The county, in consultation with the sheriff, must expend such funds for crime prevention programs in the county, including safe neighborhood programs under ss. 163.501-163.523.

(3) The purpose of this section is to provide uniform penalty authorization for criminal offenses and, to this end, a reference to this section constitutes a general reference under the doctrine of incorporation by reference.

## **CHAPTER 839. OFFENSES BY PUBLIC OFFICERS AND EMPLOYEES**

**839.11 Extortion by officers of the state.**—Any officer of this state who willfully charges, receives, or collects any greater fees or services than the officer is entitled to charge, receive, or collect by law is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

### **838.022 Official misconduct.**—

(1) It is unlawful for a public servant, with corrupt intent to obtain a benefit for any person or to cause harm to another, to:

(a) Falsify, or cause another person to falsify, any official record or official document;

(b) Conceal, cover up, destroy, mutilate, or alter any official record or official document or cause another person to perform such an act; or

(c) Obstruct, delay, or prevent the communication of information relating to the commission of a felony that directly involves or affects the public agency or public entity served by the public servant.

(2) For the purposes of this section:

(a) The term “public servant” does not include a candidate who does not otherwise qualify as a public servant.

(b) An official record or official document includes only public records.

(3) Any person who violates this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

## **FLORIDIA ADMINISTRATIVE CODE**



**CHAPTER 1. DEPARTMENT OF STATE  
CHAPTER 1N. DIVISION OF CORPORATIONS  
CHAPTER 1N-5. ELECTRONIC NOTARIZATION**

**1N-5.001 Definitions.**

(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.

Rulemaking Authority 117.021(5) FS. Law Implemented 117.021 FS. History—New 1-26-10.

**1N-5.002 Notary’s Electronic Signature.**

(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(NIST800-63), Electronic Authentication Guideline Version 1.0.2., available at NIST's website [www.csrc.nist.gov](http://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.SP.800-63-2.pdf>.

Rulemaking Authority 117.021(5) FS. Law Implemented 117.021 FS. History—New 1-26-10, Amended 6-27-16.

## CHAPTER 1N-6 FLORIDA CIVIL-LAW NOTARY

### 1N-6.001 Florida Civil-law Notary.

(1) Application:

(a) Florida Civil-law Notaries appointed pursuant to this rule may continue to use the title "Florida International Notary" wherever that title is used or required to be used under this rule. Persons wishing to be appointed by the Secretary of State as Florida Civil-law Notaries may request an application by writing to the following address and requesting Form Number DS-DE-38, titled "Application for Appointment as a Florida Civil-law Notary," Effective October 8, 1998, which form is hereby incorporated by reference. All other forms discussed in this rule may be obtained by writing the same address:

Department of State

Office of the Secretary

PL-02

The Capitol

Tallahassee, Florida 32399-0250

(b) The application to become a Florida Civil-law Notary must be complete and on the above form prescribed by the Department of State. The application must be accompanied by:

1. A certificate of good standing from the Supreme Court of Florida issued within 90 days of the date of application showing that the applicant is currently a member of the Florida Bar and has been a member of The Florida Bar for at least five years.

2. An application processing fee in the amount of fifty dollars.

(2) Educational programs:

(a) Persons or entities who wish to submit a proposed civil-law notary curriculum or course of study to the Department of State for consideration as to its acceptability by the Department of State may do so. Any such curriculum or course of study submitted for the Department of State's approval should incorporate all of the following elements:

1. The nature and characteristics of notarial practice in civil-law jurisdictions including a review of the historical development of civil-law notarial practice;

2. A comparison of notarial functions and the nature and characteristics of notarial practice under Chapter 117, F.S., and civil-law notarial functions and practices under

Chapter 118, F.S., including a review of the historical development of common law notarial practice;

3. The nature and characteristics of the Florida Civil-law notary, including a comparison of notarial practice in civil-law countries and practice as a non-lawyer notary public under Chapter 117, F.S.;

4. The similarities and differences between practicing as a Florida Civil-law Notary and the traditional practice of law in the State of Florida;

5. The purposes of and uses of authentic acts, and the rules regulating the execution of authentic acts, administration of oaths, and taking of acknowledgments by Florida Civil-law Notaries;

6. Solemnization of marriage by a Florida Civil-law Notary;

7. Florida laws relevant to practice as a Florida Civil-law Notary;

8. Rules regulating The Florida Bar including the Rules of Discipline and the Rules of Professional Conduct;

9. The potential malpractice liability of Florida Civil-law Notary.

(b) The Department of State shall maintain a list of the currently approved Florida Civil-law Notary education programs and shall make the list available upon request. Each education program shall be subject to annual renewal.

(c) Persons who have had a curriculum or course of study approved by the Department may also administer the Department's civil-law notary test under the Department's supervision, but may not charge a fee in excess of \$200 to any person for administering a test to that person. All test materials are confidential property of the Department of State and any person who compromises the confidentiality of the test materials or allows another to do so shall not in the future be authorized by the Department to serve as a test administrator.

(3) Examination:

(a) A Florida Civil-law Notary application shall be valid for a period of one year from the date on which the application was received by the Department of State during which time the applicant must complete the Florida Civil-law Notary examination. If the applicant completes the examination, with a satisfactory score of 70%, within the one year period prescribed above, the applicant remains eligible for appointment as a Florida Civil-law Notary even though the appointment itself may occur more than one year after the date on which the application was received.

(b) After reviewing the application for completeness and accuracy of information, determining that all necessary documents accompany the application, and that the applicant meets the requirements of this rule and Section 118.10, F.S., the Department of State will provide the applicant with a certificate of eligibility to take the Florida Civil-law Notary examination and a list of examination dates and corresponding examination locations.

(c) The applicant who has been certified as eligible must notify the Department of State at least two weeks in advance of any scheduled examination that the applicant intends to take a scheduled examination. If notice is not received, or if the notice is untimely, the applicant will not be admitted to the examination.

(d) Upon appearing at the examination location, and prior to entering the examination facility, the applicant must present to the examination authorities the certificate of eligibility issued to the applicant by the Department of State, a governmentally issued

identification card which bears the applicant's picture, and pay the examination fee.

(4) Appointment, Revocation, Voluntary Resignation:

(a) Upon completion of each examination session and after the examinations are scored, the testing authority shall promptly forward the examination results to the Department of State. The Department of State shall then notify the applicants of their respective test scores and shall appoint those persons with satisfactory scores of 70% as Florida Civil-law Notaries.

(b) Upon accepting appointment as a Florida Civil-law Notary, the applicant shall file within 90 days after appointment with the Department of State Form Number DS-DE-42, titled "Appointment of Protocol Custodian and Seal Filing," Effective October 8, 1998, which form is hereby incorporated herein by reference. The applicant shall identify a Florida Civil-law Notary in good standing with the Department of State and The Florida Bar who has agreed to take custody of the applicant's protocol in the event that the applicant's appointment is ever suspended or revoked, or if the applicant dies or becomes incapacitated. If for any reason a Florida Civil-law Notary chooses to change secondary custodial notaries, the Florida Civil-law Notary shall promptly notify the Department of State in writing and shall make the appropriate change in the civil-law notary's annual report.

(c) Unless suspended or revoked in accordance with this rule, an appointment as a Florida Civil-law Notary shall continue in force for so long as the applicant is a member in good standing of The Florida Bar, subject to the requirement that the applicant must file an annual report with the Florida Department of State at the address noted above on Form Number DS-DE-39, titled "Florida Civil-law Notary Annual Report," effective October 8, 1998, which form is hereby incorporated by reference. The annual report shall include the civil-law notary's current business address and telephone number and the identity and signature of another Florida Civil-law Notary who has agreed to take custody of the civil-law notary's protocol upon the suspension, revocation, incapacitation or death of the civil-law notary. A processing fee payable to the Department of State in the amount of fifty dollars shall accompany the annual report. Failure to file an annual report with the Florida Department of State shall result in revocation of the civil-law notary's appointment.

(5) Form and content of signatures and seals; registration of signatures and seals:

(a) A Florida Civil-law Notary's original hand written signature and seal shall be registered with the Department of State. No Florida Civil-law Notary shall take any official action or execute any document as a civil-law notary until his seal has properly registered.

(b) Except for those documents executed by digital signature as provided under subparagraph (6)(b)2. this rule, the Florida Civil-law Notary's original handwritten signature and an original rubber stamp or embossed impression of the civil-law notary's seal shall be affixed by the civil-law notary to all documents executed by the civil-law notary while acting in as a Florida Civil-law Notary under Chapter 118, F.S.. The civil-law notary shall not allow any other person to sign or seal a document using the civil-law notary's official signature or seal.

(c) The civil-law notary's seal may be an embossing seal or a rubber stamp and may be circular or square in shape and shall not be more than two inches nor less than one inch in diameter if circular, or more than two inches on each side nor less than one inch

on each side if square.

(d) A registered signature and seal may be changed by applying to the Department of State at the address listed above for Form Number DS-DE-41, Effective October 8, 1998, which form is hereby incorporated herein by reference. An application to change a signature or seal shall be considered an amendment to the notary's application and shall be accompanied by a processing fee of \$25.00.

(6)(a) Form and content of authentic acts:(b) Each authentic act shall contain:

1. The handwritten signature and original seal of the Florida Civil-law Notary.

2. The signature and seal may be incorporated into public key certificate which complies with the requirements of Rule 1-10.001, F.A.C. When serving as part of an authentication instrument, the public key certificate of a Florida Civil-law Notary must clearly show the Florida Civil-law Notary's signature and seal are registered with the Department of State.

3. The typewritten full name of the Florida Civil-law Notary in the form in which the notary's application for appointment was originally submitted to the Department of State and the words "Florida Civil-law Notary" typewritten in the English language.

4. The current business address and telephone number of the Florida Civil-law Notary typewritten in the English language.

5. A statement typewritten in the English language that "Under the laws of the State of Florida, Section 118.10, F.S., this authentic act is legally equivalent to the authentic acts of civil-law notaries in all jurisdictions outside the geographic borders of the United States and is issued on the authority of the Florida Secretary of State."

6. The date on which the authentic act was signed and sealed by the Florida Civil-law Notary and the signatures of the parties to the transaction.

7. All words or statements required to appear in the English language may also appear in any other language.

8. An authentic act may also contain such other information or material as may be required to satisfy any legal requirements, or to satisfy ethical or legal concerns, or the business needs of the parties to the transaction or of the Florida Civil-law Notary including statements attesting to the signatures on accompanying documents if executed in the Florida Civil-law Notary's presence, and any witnessing signatures; a statement confirming the legality of the transaction and the contents of any documents and any limitations thereon; any facts contained in the documents or relied on by any interested party and any limitations thereon.

(7) Procedures for the administration of oaths; taking of acknowledgments and solemnizations of marriage:

(a) A Florida Civil-law Notary may administer an oath and make a certificate thereof when it is necessary for the execution of any writing or document to be attested, protested, or published under seal of a notary public. In administering the oath, the Florida Civil-law Notary must require the signer to voluntarily swear or affirm that the statements contained in the documents are true.

(b) A Florida Civil-law Notary may administer an acknowledgment of deeds and other instruments of writing for record. Such acknowledgment does not require that an oath be taken, but the signer must acknowledge that the execution of the document is his or her voluntary act. The Florida Civil-law Notary may not take an acknowledgment of execution in lieu of an oath if an oath is required.

(c) A Florida Civil-law Notary may not administer an oath to a person or take his or her acknowledgment unless he or she personally knows, as defined in Section 117.05(5)(a), F.S., or has satisfactory evidence, as defined in Section 117.05(5)(b), F.S., that the person whose oath is to be administered or whose acknowledgment is to be taken, is the individual who is described in and who is executing the authentic act or other instrument. A Florida Civil-law Notary may not administer an oath to a person or take his or her acknowledgment unless the person whose oath is being administered or whose acknowledgment is to be taken is in the presence of the Florida Civil-law Notary at the time the oath is being administered or the acknowledgment is being taken.

(d) An oath or acknowledgment taken or administered by a Florida Civil-law Notary shall be signed in the presence of the notary, and where otherwise required by law witnessed in the presence of the Florida Civil-law Notary, and shall be executed with the civil-law notary's handwritten signature and original seal.

(e) A Florida Civil-law Notary may use any of the forms prescribed in Chapter 117, F.S., for administering oaths or taking acknowledgments but shall not be required to do so, and an oath or acknowledgment may be, but is not required to be, incorporated into any document executed by a civil-law notary as an authentic act. This section does relieve the civil-law notary of the obligation to secure the signatures of other witnesses where otherwise required by law.

(8) The Florida Civil-law Notary's Protocol:

(a) A Florida Civil-law Notary's protocol shall be maintained in a secure, fireproof location at the Florida Civil-law Notary's principal place of business;

(b) The protocol shall contain an original copy or photocopy of each of the Florida Civil-law Notary's authentic acts in date sequence, and an original photocopy of any supporting or related documents, which shall be permanently archived in the protocol. The protocol shall also contain, in date sequence, a photocopy or original copy of any document containing, incorporating or depending upon, an acknowledgment, oath or solemnization executed by the civil-law notary, which shall include a copy of any certificate made by the civil-law notary.

(c) The protocol shall contain or be accompanied by an index to its contents in date order. In addition to the date on which act, oath, acknowledgment, or solemnization was executed, each entry in the index shall identify the party or parties who paid the notary's fee.

(d) The protocol shall be available for inspection by the Department of State during reasonable business hours and copies of any documents contained in the protocol shall be furnished to the Department upon request. The contents of the protocol shall otherwise be considered confidential and shall be made available only to persons who have a legal interest in a particular transaction.

(e) A Florida Civil-law Notary who takes custody of the protocol of another Florida Civil-law Notary's protocol because of suspension or incapacitation shall maintain the protocol until the suspension period expires or the incapacitation is relieved. When a Florida Civil-law Notary takes custody of another Florida Civil-law Notary's protocol because of revocation or death the custodial Florida Civil-law Notary shall permanently maintain the protocol in accordance with this rule.

(9) Discipline; suspension and revocation:

(a) A Florida Civil-law Notary shall be disciplined for violation of this rule. All complaints to the Department of State concerning the conduct or acts of a Florida Civil-

law Notary will also be referred to The Florida Bar for a determination by the Bar as to whether the complaint alleges a violation of the rules of The Florida Bar governing the conduct and discipline of lawyers.

(b) All complaints to the Department of State concerning the conduct or acts of a Florida Civil-law Notary which on their face appear to establish facts which if proven true would constitute an act of misrepresentation or fraud in the creation or execution of an authentication instrument will be investigated by the Department of State to determine whether cause exists to suspend the Florida Civil-law Notary's appointment or reprimand the Florida Civil-law Notary.

(c) After investigation and upon a determination by the Department that one or more acts of misrepresentation, fraud or violation of this rule has been committed by a Florida Civil-law Notary, the Department of State shall, after considering the extent of the fraud or misrepresentation including the number of persons involved and the effect on those persons; the number of acts of misrepresentation or fraud; any financial loss or other injury that may have resulted; and the degree of culpability of the Florida Civil-law Notary:

1. Issue a letter of warning to the Florida Civil-law Notary including the Department's findings;
2. Order compliance with this rule;
3. Order restitution;
4. Order suspension of the appointment of the Florida Civil-law Notary;
5. Order revocation of the appointment of the Florida Civil-law Notary.

(d) Any order under this rule which requires payment of restitution or results in the suspension or revocation of the appointment of a Florida Civil-law Notary shall be accompanied by a notice of final agency action as required by Chapter 120, F.S., and the Florida Civil-law Notary shall be entitled to a hearing in accordance with the requirements of Sections 120.57 and 120.569, F.S.

(e) A former Florida Civil-law Notary whose appointment has been finally revoked shall not be eligible to apply for a new appointment as a Florida Civil-law Notary for a period of at least five years.

(f) A Florida Civil-law Notary may voluntarily resign from an appointment by notifying the Department of State in writing at the above address of the intention to do so. Any voluntary resignation from an appointment as a Florida Civil-law Notary shall be permanent and the resigned Florida Civil-law Notary may only resume service as a Florida Civil-law Notary after successfully completing a new application and examination process.

Rulemaking Authority 118.10(5) FS. Law Implemented 118.10 FS. History — New 6-15-98, Amended 10-8-98, Formerly 1C-18.001.

## **CHAPTER 1N-7. REMOTE ONLINE NOTARIZATION**

### **1N-7.001 Remote Online Notarization**

(1) Words and terms defined in Section 117.201, F.S., shall have the same meaning in this chapter. For the purpose of this chapter the following words and terms shall have the following meanings, unless the context clearly indicates otherwise:

(a) "Registrant" means any person registering applying as for an online public notary pursuant to Section 117.225, F.S.

(b) “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.

(c) “Department” means the Florida Department of State.

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

(e) “Electronic notarization” and “electronic notarial act” means an official act authorized under Section 117.021(1), F.S., using electronic documents and electronic signatures.

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

(g) “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.

(h) “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.

(i) “Retained under the online 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.

(j) “Tamper-evident technology” means technology that allows a person inspecting a record to determine whether there has been any tampering with the integrity of a certificate of electronic notarial act logically associated with a record or with the attachment or association of the notarial act with that electronic document.

(2) A registrant shall submit form DOC 1N-7(<http://www.flrules.org/Gateway/reference.asp?No=Ref-11541>), effective 01/2020 herein incorporated by reference.

(3) The registrant shall:

(a) Submit a payment registration fee of \$10 by check payable to the Florida Department of State; and

(b) Submit the application by:

1. U.S. mail to P.O. Box 6327, Tallahassee, FL 32314;
2. In person delivery; or
3. Courier service.

4. In person delivery and courier service will go to 2415 North Monroe St., Suite 810, Tallahassee 32303.

(4) A registration is effective upon filing by the Florida Department State and expires on the date of expiration, termination, or resignation of the registrant’s:

(a) Notary Public commission issued under Section 117.01, F.S.;

(b) Appointment as a civil-law Notary pursuant to Section 118.10, F.S., and Chapter 1N-5, F.A.C.; or

(c) Appointment as a commissioner of deeds pursuant to Section 721.97, F.S.

(5) All qualifications and registration requirements applicable for an applicant’s registration shall apply to a renewal registration.



(6) The online notary public's electronic journal, electronic signature, and electronic seal shall be retained under the online notary public's sole control. The online notary public may not allow another person to use the online notary public's electronic journal, electronic signature, or electronic seal.

(7) An online notary public shall attach the online notary public's electronic signature and seal to the electronic notarial certificate of an electronic document in a manner that is capable of independent verification and renders any subsequent change or modification to the electronic document evident.

(8) Online notaries public shall utilize remote online notary service providers to facilitate their performance of online notarization.

(9) The remote online service provider utilized by the online notaries public shall comply with the standards and requirements pursuant to Section 117.295, F.S., and utilize tamper-evident technologies.

Rulemaking Authority 117.295 FS. Law Implemented 117.225, 117.295 FS. History—New 2-16-20.

#### **1N-7.005 Online Notary Public and RON Service Provider Required Information.**

(1) Online notary public.

(a) Within 30 day of the effective date of this rule, a currently registered online notary public shall provide the Florida Department of State the name of the online notary public's RON service providers, the effective dates during which the online notary public used each RON service provider, and, if applicable, the name of any secured repositories to which the online notary public may have delegated his or her duties pursuant to Section 117.245(4), F.S., from January 1, 2022, and thereafter.

(b) An individual registering as an online notary public, shall provide this information at the time of his or her registration.

(c) The online notary public shall submit this information on Form Number DS-DOC-50, titled "Online Notary Public: Required Information," Effective 02/2022, which form is hereby incorporated by reference and is available on the Department of State's website at <https://dos.myflorida.com/sunbiz/other-services/notaries/notary-forms/> or <http://www.flrules.org/Gateway/reference.asp?No=Ref-14032>.

(d) An online notary public that changes, adds, or removes a RON service provider or secured repository from the online notary public's use shall submit to the Department within 30 days of the change an amended Form DS-DOC-50 identifying the online notary public's updated RON service providers and, if applicable, secured repositories.

(2) RON service provider.

(a) Within 30 day of the effective date of this rule, and annually thereafter, a RON service provider shall provide the Florida Department of State, a self-certification form confirming that its audio-video communication technology and related processes, services software, data storage, or other services provided to online notaries public for the performance of online notarization satisfy the requirements of Chapter 117, F.S., and any rules promulgated by the Florida Department of State pursuant to Section 117.295, F.S.

(b) The RON service provider's self-certification is effective for a period of 1 year after the date the RON service provider files it with the Department.

(c) If applicable, the RON service provider shall, at the same time it files its self-certification, identify any secure repositories to which the RON service provider may

have delegated its duties pursuant to Section 117.245(4), F.S., from January 1, 2022, and thereafter.

(d) The RON service provider shall submit this information on Form Number DS-DOC-51, titled “RON Service Provider: Self-Certification and Required Information,” Effective 02/2022, which form is hereby incorporated by reference and is available on the Department of State’s website at <https://dos.myflorida.com/sunbiz/other-services/notaries/notary-forms/> or <http://www.flrules.org/Gateway/reference.asp?No=Ref-14033>.

(e) A RON service provider that, pursuant to Section 117.245(4), F.S., delegates its duties to a secured repository after it has already filed its annual certification shall submit to the Department an amended Form DS-DOC-51 within 30 days after making such delegation.

(f) An entity that seeks to begin providing RON service provider functions after the effective date of this rule shall submit the information required by this section prior to providing RON service provider functions.

Rulemaking Authority 117.295 FS. Law Implemented 117.245, 117.295 FS. History—New 2-22-22.