

1 **NOTARIES PUBLIC REFORM ACT**

2 **AMENDMENTS**

3 1999 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Ben C. Ferry**

6 AN ACT RELATING TO NOTARIZATION AND AUTHENTICATION OF DOCUMENTS  
7 AND DIGITAL SIGNATURES; CLARIFYING THE EXAMINATION REQUIREMENTS FOR  
8 A NOTARIAL COMMISSION; REVISING THE DEFINITION OF EVIDENCE OF IDENTITY;  
9 AND MAKING TECHNICAL CHANGES.

10 This act affects sections of Utah Code Annotated 1953 as follows:

11 AMENDS:

12 **46-1-2**, as last amended by Chapter 287, Laws of Utah 1998

13 **46-1-3**, as last amended by Chapter 287, Laws of Utah 1998

14 *Be it enacted by the Legislature of the state of Utah:*

15 Section 1. Section **46-1-2** is amended to read:

16 **46-1-2. Definitions.**

17 As used in this chapter:

18 (1) "Acknowledgment" means a notarial act in which a notary certifies that a signer, whose  
19 identity is personally known to the notary or proven on the basis of satisfactory evidence, has  
20 admitted, in the notary's presence, having signed a document voluntarily for its stated purpose.

21 (2) "Commission" means to empower to perform notarial acts and the written authority  
22 to perform those acts.

23 (3) "Copy certification" means a notarial act in which a notary certifies that a photocopy  
24 is an accurate copy of a document that is neither a public record nor publicly recorded.

25 (4) "Jurat" means a notarial act in which a notary certifies that a signer, whose identity is  
26 personally known to the notary or proven on the basis of satisfactory evidence, has made, in the  
27 notary's presence, a voluntary signature and taken an oath or affirmation vouching for the

28 truthfulness of the signed document.

29 (5) "Notarial act" and "notarization" mean any act that a notary is empowered to perform  
30 under this section.

31 (6) "Notarial certificate" means the part of or attachment to a notarized document for  
32 completion by the notary and bearing the notary's signature and seal.

33 (7) "Notary" means any person commissioned to perform notarial acts under this chapter.

34 (8) "Oath" or "affirmation" means a notarial act in which a notary certifies that a person  
35 made a vow or affirmation in the presence of the notary on penalty of perjury.

36 (9) "Official misconduct" means a notary's performance of any act prohibited or failure to  
37 perform any act mandated by this chapter or by any other law in connection with a notarial act.

38 (10) "Personal knowledge of identity" means familiarity with an individual resulting from  
39 interactions with that individual over a period of time sufficient to eliminate every reasonable  
40 doubt that the individual has the identity claimed.

41 (11) "Satisfactory evidence of identity" means identification of an individual based on:

42 (a) ~~[at least two current documents, one]~~ a current document issued by a federal or state  
43 government with the individual's photograph, signature, and physical description~~[-and the other~~  
44 ~~by an institution, business entity, or federal or state government with at least the individual's~~  
45 ~~signature];~~ ~~h [f] or [j] h~~

46 (b) the oath or affirmation of a credible person who is personally known to the notary and  
47 who personally knows the individual ~~h [f] : [j] [;or~~

48 ~~(c) the oath or affirmation of two credible people who:~~

49 ~~—— (i) are not personally known to the notary but who personally know the individual; and~~

50 ~~—— (ii) present to the notary personal identification in the form of a current document issued~~

51 ~~by a federal or state government which includes a photograph, signature, and physical description.] h~~

52 Section 2. Section **46-1-3** is amended to read:

53 **46-1-3. Qualifications -- Commissioning -- Jurisdiction and term.**

54 (1) Except as provided in Subsection (3), the director of the Division of Corporations and  
55 Commercial Code shall commission as a notary any qualified person who submits an application  
56 in accordance with this chapter.

57 (2) A person qualified for a notarial commission shall:

58 (a) be 18 years of age or older;

- 59 (b) lawfully reside in this state 30 days immediately preceding the filing for a notarial  
 60 commission and maintain permanent residency thereafter;
- 61 (c) be able to read, write, and understand English;
- 62 (d) submit an application to the Division of Corporations and Commercial Code  
 63 containing no significant misstatement or omission of fact and include at least:
- 64 (i) a statement of the applicant's personal qualifications, the applicant's residence address,  
 65 a business address in this state, daytime telephone number, and voter precinct number;
- 66 (ii) the applicant's age and date of birth;
- 67 (iii) all criminal convictions of the applicant, including any pleas of admission and nolo  
 68 contendere;
- 69 (iv) all issuances, denials, revocations, suspensions, restrictions, and resignations of a  
 70 notarial commission or other professional license involving the applicant in this or any other state;
- 71 [~~(v) an examination written by the applicant;~~]
- 72 (v) the acknowledgment of a passing score by the applicant on a written examination  
 73 administered under Subsection (5);
- 74 (vi) a declaration by the applicant; and
- 75 (vii) an application fee determined under Section 63-38-3.2;
- 76 (e) be a registered voter in Utah or have permanent resident status under Section 245 of  
 77 the Immigration and Nationality Act; and
- 78 (f) be endorsed by two registered voters of the state.
- 79 (3) The director of the Division of Corporations and Commercial Code may deny an  
 80 application based on:
- 81 (a) the applicant's conviction for a crime involving dishonesty or moral turpitude;
- 82 (b) any revocation, suspension, or restriction of a notarial commission or professional  
 83 license issued to the applicant by this or any other state; [~~or~~]
- 84 (c) the applicant's official misconduct while acting in the capacity of a notary[-]; or
- 85 (d) the applicant's failure to pass the written examination.
- 86 (4) A person commissioned as a notary by the Division of Corporations and Commercial  
 87 Code may perform notarial acts in any part of this state for a term of four years, unless the person  
 88 resigned or the commission is revoked or suspended under Section 46-1-19.
- 89 (5) h (a) h Each applicant for a notarial commission shall take a written examination  
 89a approved

90 by the division and submit the examination to a testing center designated by the division for  
91 purposes of scoring the examination. The testing center designated by the division shall issue a  
92 written acknowledgment to the applicant indicating whether the applicant passed or failed the  
93 examination.

93a     **h (b) THE DIVISION SHALL MAKE RULES PURSUANT TO TITLE 63, CHAPTER 46a, UTAH**  
93b **ADMINISTRATIVE RULEMAKING ACT, TO IMPLEMENT THE EXAMINATION PROCESS REQUIRED BY**  
93c **SUBSECTION (a). h**

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**Legislative Review Note**  
**as of 1-20-99 9:25 AM**

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**