

Representative Ron Bigelow proposes the following substitute bill:

NOTARY PUBLIC AMENDMENTS

2010 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Peter C. Knudson

House Sponsor: Fred R Hunsaker

LONG TITLE

General Description:

This bill modifies the Notaries Public Reform Act.

Highlighted Provisions:

This bill:

- ▶ authorizes a notary to complete a certificate that includes the name and date of the person whose signature is being certified;
- ▶ authorizes a person licensed to practice law in this state to perform a notarial act;
- ▶ authorizes the lieutenant governor to report a violation to the Utah State Bar;
- ▶ repeals provisions relating to a written examination for a notary;
- ▶ requires the lieutenant governor to provide an applicant with a copy of the law governing a notary and answers to frequently asked questions;
- ▶ requires an applicant to sign a statement that the applicant has read certain information; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None



26 **Utah Code Sections Affected:**

27 AMENDS:

28 **46-1-3**, as last amended by Laws of Utah 2009, Chapter 183

29 **46-1-9**, as repealed and reenacted by Laws of Utah 1998, Chapter 287

30 **46-1-19**, as last amended by Laws of Utah 2003, Chapter 136

31 ENACTS:

32 **46-1-3.5**, Utah Code Annotated 1953

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

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

36 **46-1-3. Qualifications -- Commissioning -- Jurisdiction and term.**

37 (1) Except as provided in Subsection (3), the lieutenant governor shall commission as a
38 notary any qualified person who submits an application in accordance with this chapter.

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

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

41 (b) lawfully reside in this state 30 days immediately preceding the filing for a notarial
42 commission and maintain permanent residency thereafter;

43 (c) be able to read, write, and understand English;

44 (d) submit an application to the lieutenant governor containing no significant
45 misstatement or omission of fact and include at least:

46 (i) a statement of the applicant's personal qualifications, the applicant's residence
47 address, a business address in this state, and daytime telephone number;

48 (ii) the applicant's age and date of birth;

49 (iii) all criminal convictions of the applicant, including any pleas of admission and
50 nolo contendere;

51 (iv) all issuances, denials, revocations, suspensions, restrictions, and resignations of a
52 notarial commission or other professional license involving the applicant in this or any other
53 state;

54 (v) ~~[the acknowledgment of a passing score by the applicant on a written examination~~
55 ~~administered]~~ a signed statement that the person has read the information provided under
56 Subsection (5);

- 57 (vi) a declaration by the applicant; and
- 58 (vii) an application fee determined under Section 63J-1-504;
- 59 (e) be a Utah resident or have permanent resident status under Section 245 of the
- 60 Immigration and Nationality Act; and
- 61 (f) be endorsed by two residents of the state who are over the age of 18.
- 62 (3) The lieutenant governor may deny an application based on:
- 63 (a) the applicant's conviction for a crime involving dishonesty or moral turpitude;
- 64 (b) any revocation, suspension, or restriction of a notarial commission or professional
- 65 license issued to the applicant by this or any other state;
- 66 (c) the applicant's official misconduct while acting in the capacity of a notary; or
- 67 (d) the applicant's failure to ~~[pass the written examination]~~ include the statement
- 68 required by Subsection (2)(d)(v).

69 (4) A person commissioned as a notary by the lieutenant governor may perform
 70 notarial acts in any part of this state for a term of four years, unless the person resigned or the
 71 commission is revoked or suspended under Section 46-1-19.

72 (5) (a) The lieutenant governor shall provide to an applicant:

- 73 (i) a copy of the law governing a notary; and
- 74 (ii) answers to frequently asked questions.

75 (b) Each applicant for a notarial commission shall ~~[take a written examination~~
 76 approved] read the information provided by the lieutenant governor ~~[and submit the~~
 77 examination to a testing center designated by the lieutenant governor for purposes of scoring
 78 the examination. The testing center designated by the lieutenant governor shall issue a written
 79 acknowledgment to the applicant indicating whether the applicant passed or failed the
 80 examination] under Subsection (5)(a).

81 Section 2. Section **46-1-3.5** is enacted to read:

82 **46-1-3.5. Attorney commissioned to perform notarial acts -- Requirements.**

83 The lieutenant governor shall:

- 84 (1) by request, provide a person licensed to practice law in this state with the
- 85 information described in Subsection 46-1-3(5)(a); and
- 86 (2) commission a person licensed to practice law in this state for a term of four years if
- 87 the person:

88 (a) is a resident of this state;

89 (b) submits to the lieutenant governor:

90 (i) a valid certificate of admission to the Utah State Bar; and

91 (ii) a signed statement that the person has read the information provided under

92 Subsection (1);

93 (c) files the bond as required by Subsection 46-1-4; and

94 (d) pays an application fee determined under Section 63J-1-504.

95 Section 3. Section **46-1-9** is amended to read:

96 **46-1-9. False or incomplete certificate.**

97 (1) A notary may not:

98 [(+)] (a) execute a certificate containing a statement known by the notary to be false or
99 materially incomplete; or

100 [(2)] (b) perform any notarial act with intent to deceive or defraud.

101 (2) A notary may perform a notarial act if:

102 (a) the notarial certificate being completed by the notary contains:

103 (i) the name of each person whose signature is being notarized, if applicable; and

104 (ii) the date of the signing, if applicable; or

105 (b) the notary legibly writes the information required by Subsection (2)(a) as part of the
106 notarial certificate.

107 Section 4. Section **46-1-19** is amended to read:

108 **46-1-19. Revocation or suspension.**

109 [The] (1) Except as provided by Subsection (2), the lieutenant governor may revoke or
110 suspend a [notarial] commission on any ground for which an application for a [notarial]
111 commission may be denied under Section 46-1-3.

112 (2) For a commission issued under Section 46-1-3.5, the lieutenant governor may
113 report a violation of this chapter to the Utah State Bar.

S.B. 22 4th Sub. (Pumpkin) - Notary Public Amendments

Fiscal Note

2010 General Session

State of Utah

State Impact

Provisions of this bill may increase dedicated credits collected by the Lt. Governor's Office from attorneys who wish to receive a notarial commission. The number of attorneys who will apply is unknown.

Individual, Business and/or Local Impact

Individual attorneys who wish to receive a notarial commission would pay a filing fee of \$45. No additional impact on businesses or local governments.
