

Title 46. Notarization and Authentication of Documents and Electronic Signatures

Chapter 1 Notaries Public Reform Act

46-1-1 Short title.

This chapter is known as the "Notaries Public Reform Act."

Repealed and Re-enacted by Chapter 222, 1988 General Session

46-1-2 Definitions.

As used in this chapter:

- (1) "Acknowledgment" means a notarial act in which a notary certifies that a signer, whose identity is personally known to the notary or proven on the basis of satisfactory evidence, has admitted, in the presence of the notary, to voluntarily signing a document for the document's stated purpose.
- (2) "Commission" means:
 - (a) to empower to perform notarial acts; and
 - (b) the written authority to perform those acts.
- (3) "Copy certification" means a notarial act in which a notary certifies that a photocopy is an accurate copy of a document that is neither a public record nor publicly recorded.
- (4) "Electronic signature" has the same meaning as provided under Section 46-4-102.
- (5) "Jurat" means a notarial act in which a notary certifies that a signer, whose identity is personally known to the notary or proven on the basis of satisfactory evidence, has made, in the notary's presence, a voluntary signature and taken an oath or affirmation vouching for the truthfulness of the signed document.
- (6) "Notarial act" and "notarization" mean any act that a notary is empowered to perform under this section.
- (7) "Notarial certificate" means the part of or attachment to a notarized document for completion by the notary and bearing the notary's signature and seal.
- (8) "Notary" means any person commissioned to perform notarial acts under this chapter.
- (9) "Oath" or "affirmation" means a notarial act in which a notary certifies that a person made a vow or affirmation in the presence of the notary on penalty of perjury.
- (10) "Official misconduct" means a notary's performance of any act prohibited or failure to perform any act mandated by this chapter or by any other law in connection with a notarial act.
- (11) "Personal knowledge of identity" means familiarity with an individual resulting from interactions with that individual over a period of time sufficient to eliminate every reasonable doubt that the individual has the identity claimed.
- (12)
 - (a) "Satisfactory evidence of identity" means identification of an individual based on:
 - (i) valid personal identification with the individual's photograph, signature, and physical description issued by the United States government, any state within the United States, or a foreign government;
 - (ii) a valid passport issued by any nation; or
 - (iii) the oath or affirmation of a credible person who is personally known to the notary and who personally knows the individual.
 - (b) "Satisfactory evidence of identity" does not include:

- (i) a driving privilege card under Subsection 53-3-207(10); or
- (ii) another document that is not considered valid for identification.

Amended by Chapter 315, 2009 General Session

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

- (1) Except as provided in Subsection (3), the lieutenant governor shall commission as a notary any qualified person who submits an application in accordance with this chapter.
- (2) A person qualified for a notarial commission shall:
 - (a) be 18 years of age or older;
 - (b) lawfully reside in this state 30 days immediately preceding the filing for a notarial commission and maintain permanent residency thereafter;
 - (c) be able to read, write, and understand English;
 - (d) submit an application to the lieutenant governor containing no significant misstatement or omission of fact and include at least:
 - (i) a statement of the applicant's personal qualifications, the applicant's residence address, a business address in this state, and daytime telephone number;
 - (ii) the applicant's age and date of birth;
 - (iii) all criminal convictions of the applicant, including any pleas of admission and nolo contendere;
 - (iv) all issuances, denials, revocations, suspensions, restrictions, and resignations of a notarial commission or other professional license involving the applicant in this or any other state;
 - (v) the acknowledgment of a passing score by the applicant on a written examination administered under Subsection (5);
 - (vi) a declaration by the applicant; and
 - (vii) an application fee determined under Section 63J-1-504;
 - (e) be a Utah resident or have permanent resident status under Section 245 of the Immigration and Nationality Act; and
 - (f) be endorsed by two residents of the state who are over the age of 18.
- (3) The lieutenant governor may deny an application based on:
 - (a) the applicant's conviction for a crime involving dishonesty or moral turpitude;
 - (b) any revocation, suspension, or restriction of a notarial commission or professional license issued to the applicant by this or any other state;
 - (c) the applicant's official misconduct while acting in the capacity of a notary; or
 - (d) the applicant's failure to pass the written examination.
- (4) A person commissioned as a notary by the lieutenant governor may perform notarial acts in any part of this state for a term of four years, unless the person resigned or the commission is revoked or suspended under Section 46-1-19.
- (5) Each applicant for a notarial commission shall take a written examination approved by the lieutenant governor and submit the examination to a testing center designated by the lieutenant governor for purposes of scoring the examination. The testing center designated by the lieutenant governor shall issue a written acknowledgment to the applicant indicating whether the applicant passed or failed the examination.

Amended by Chapter 183, 2009 General Session

46-1-4 Bond.

- (1) A notarial commission may not become effective until a constitutional oath of office and a \$5,000 bond has been filed with and approved by the lieutenant governor. The bond shall be executed by a licensed surety for a term of four years commencing on the commission's effective date and terminating on its expiration date, with payment of bond funds to any person conditioned upon the notary's misconduct while acting in the scope of his commission.
- (2) The bond required under Subsection (1) may be executed by the Office of Risk Management for notaries public employed by a state office or agency.

Amended by Chapter 136, 2003 General Session

46-1-5 Recommissioning.

An applicant for recommissioning as a notary shall submit a new application and bond and comply with the provisions of this chapter.

Amended by Chapter 287, 1998 General Session

46-1-6 Powers and limitations.

The following notarial acts may be performed by a notary within the state:

- (1) acknowledgments;
- (2) copy certifications;
- (3) jurats; and
- (4) oaths or affirmations.

Amended by Chapter 21, 2006 General Session

46-1-7 Disqualifications.

A notary may not perform a notarial act if the notary:

- (1) is a signer of the document that is to be notarized except in case of a self-proved will as provided in Section 75-2-504; or
- (2) is named in the document that is to be notarized except:
 - (a) in the case of a self-proved will as provided in Section 75-2-504; or
 - (b) in the case of a licensed attorney that is listed in the document only as representing a signer or another person named in the document;
- (3) will receive directly from a transaction connected with a financial transaction in which the notary is named individually as a principal; or
- (4) will receive directly from a real property transaction in which the notary is named individually as a grantor, grantee, mortgagor, mortgagee, trustor, trustee, beneficiary, vendor, vendee, lessor, or lessee.

Amended by Chapter 102, 2008 General Session

46-1-8 Impartiality.

- (1) A notary may not influence a person to enter into or to refuse to enter into a lawful transaction involving a notarial act by the notary.
- (2) A notary shall perform notarial acts in lawful transactions for any requesting person who tenders the appropriate fee specified in Section 46-1-12.

Repealed and Re-enacted by Chapter 287, 1998 General Session

46-1-9 False or incomplete certificate.

A notary may not:

- (1) execute a certificate containing a statement known by the notary to be false or materially incomplete; or
- (2) perform any notarial act with intent to deceive or defraud.

Repealed and Re-enacted by Chapter 287, 1998 General Session

46-1-10 Testimonials prohibited.

A notary may not endorse or promote any product, service, contest, or other offering if the notary's title or seal is used in the endorsement or promotional statement.

Repealed and Re-enacted by Chapter 287, 1998 General Session

46-1-11 Prohibited acts -- Advertising.

- (1) A nonattorney notary may not provide advice or counsel to another person concerning legal documents or legal proceedings, including immigration matters.
- (2)
 - (a)
 - (i) A nonattorney notary who advertises notarial services in any language other than English shall include in the advertisement a notice that the notary public is not an attorney.
 - (ii) The notice under Subsection (2)(a)(i) must include the fees that a notary may charge pursuant to Section 46-1-12 and the following statement:
"I AM NOT AN ATTORNEY LICENSED TO PRACTICE LAW IN UTAH AND MAY NOT GIVE LEGAL ADVICE ABOUT IMMIGRATION OR ANY OTHER LEGAL MATTER OR ACCEPT FEES FOR LEGAL ADVICE."
 - (b)
 - (i) The notice required by Subsection (2)(a) shall be in English and in the language of the advertisement and in letters of a conspicuous size.
 - (ii) If the advertisement is by radio or television, the statement may be modified, but must include substantially the same message.
 - (c)
 - (i) Literal translation of the phrase "Notary Public" into any language other than English is prohibited if the literal translation implies that the notary is a licensed attorney.
 - (ii) In this Subsection (2)(c), "literal translation" means the translation of a word or phrase without regard to the true meaning of the word or phrase in the language that is being translated.

Amended by Chapter 95, 2007 General Session

46-1-12 Fees and notice.

- (1) The maximum fees that may be charged by a notary for notarial acts are for:
 - (a) acknowledgments, \$5 per signature;
 - (b) certified copies, \$5 per page certified;
 - (c) jurats, \$5 per signature; and
 - (d) oaths or affirmations without a signature, \$5 per person.

- (2) A notary may charge a travel fee, not to exceed the approved federal mileage rate, when traveling to perform a notarial act if:
 - (a) the notary explains to the person requesting the notarial act that the travel fee is separate from the notarial fee in Subsection (1) and is neither specified nor mandated by law; and
 - (b) the notary and the person requesting the notarial act agree upon the travel fee in advance.
- (3) A notary shall display an English-language schedule of fees for notarial acts and may display a nonEnglish-language schedule of fees.
- (4)
 - (a) The fee of a notary shall not exceed \$5 per individual for each set of forms relating to a change of that individual's immigration status.
 - (b) The fee limitation in Subsection (4)(a) shall apply whether or not the notary is acting as a notary but does not apply to a licensed attorney, who is also a notary rendering professional services regarding immigration matters.

Amended by Chapter 287, 1998 General Session

46-1-13 Journal may be kept.

A notary may keep, maintain, and protect as a public record, and provide for lawful inspection a chronological, permanently bound official journal of notarial acts, containing numbered pages.

Repealed and Re-enacted by Chapter 287, 1998 General Session

46-1-14 Entries in journal.

- (1) For every notarial act, the notary may record the following information in the journal at the time of notarization:
 - (a) the date and time of day of the notarial act;
 - (b) the type of notarial act;
 - (c) a description of the document or proceeding;
 - (d) the signature and printed name and address of each person for whom a notarial act is performed;
 - (e) the evidence of identity of each person for whom a notarial act is performed, in the form of:
 - (i) a statement that the person is "personally known" to the notary;
 - (ii) a description of the identification document, its issuing agency, its serial or identification number, and its date of issuance or expiration; or
 - (iii) the signature and printed name and address of a credible witness swearing or affirming to the person's identity; and
 - (f) the fee, if any, charged for the notarial act.
- (2) A notary may record in the journal the circumstances in refusing to perform or complete a notarial act.

Amended by Chapter 21, 2006 General Session

46-1-15 Inspection of journal -- Safekeeping and custody of journal.

If a notary maintains a journal, the notary shall:

- (1) safeguard the journal and all other notarial records as valuable public documents and may not destroy the documents; and
- (2) keep the journal in the exclusive custody of the notary, not to be used by any other notary or surrendered to an employer upon termination of employment.

Repealed and Re-enacted by Chapter 287, 1998 General Session

46-1-16 Official signature -- Official seal -- Seal impression.

- (1) In completing a notarial act, a notary shall sign on the notarial certificate exactly and only the name indicated on the notary's commission.
- (2)
 - (a) A notary shall keep an official notarial seal that is the exclusive property of the notary and that may not be used by any other person.
 - (b) Upon the resignation, revocation, or expiration of a notarial commission, the seal shall be destroyed.
 - (c) Each notarial seal obtained by a notary on or after July 1, 2003 shall use purple ink.
- (3)
 - (a) A new seal shall be obtained for any new commission or recommission.
 - (b) A new seal shall be obtained if the notary changes the notary's name of record at any time during the notary's commission.
 - (c) The seal impression shall be affixed near the notary's official signature on a notarial certificate and shall include a sharp, legible, and photographically reproducible ink impression of the notarial seal that consists of:
 - (i) the notary public's name exactly as indicated on the notary's commission;
 - (ii) the words "notary public," "state of Utah," and "my commission expires on (commission expiration date)";
 - (iii) for a notary seal issued on or after July 1, 2008, the notary's commission number, exactly as indicated on the notary's commission;
 - (iv) a facsimile of the great seal of the state; and
 - (v) a rectangular border no larger than one inch by two and one-half inches surrounding the required words and seal.
- (4) An embossed seal impression that is not photographically reproducible may be used in addition to, but not in place of, the photographically reproducible seal required in this section.
- (5) The notarial seal shall be affixed in a manner that does not obscure or render illegible any information or signatures contained in the document or in the notarial certificate.
- (6) A notary acknowledgment on an annexation, subdivision, or other map or plat is considered complete without the imprint of the notary's official seal if:
 - (a) the notary signs the acknowledgment in permanent ink; and
 - (b) the following appear below or immediately adjacent to the notary's signature:
 - (i) the notary's full name and commission number appears exactly as indicated on the notary's commission;
 - (ii) the words "A notary public commissioned in Utah"; and
 - (iii) the expiration date of the notary's commission.
- (7) A notary acknowledgment on an electronic message or document is considered complete without the imprint of the notary's seal if the following information appears electronically within the message:
 - (a) the notary's full name and commission number appearing exactly as indicated on the notary's commission; and
 - (b) the words "notary public," "state of Utah," and "my commission expires on _____ (date)".

Amended by Chapter 47, 2008 General Session

46-1-17 Obtaining a seal.

- (1) A vendor may not provide a notarial seal, either inking or embossing, to a person claiming to be a notary, unless the person presents a photocopy of the person's notarial commission, attached to a notarized declaration substantially as follows:

Application for Notary Seal

I, _____ (name of person requesting seal), declare that I am a notary public duly commissioned by the state of Utah with a commission starting date of _____, a commission expiration date of _____, and a commission number of _____. As evidence, I attach to this paper a photocopy of my commission.

- (2) A vendor who provides a notarial seal in violation of this section is guilty of a class B misdemeanor.

Repealed and Re-enacted by Chapter 287, 1998 General Session

46-1-18 Liability.

- (1) A notary may be liable to any person for any damage to that person proximately caused by the notary's misconduct in performing a notarization.

- (2)
- (a) A surety for a notary's bond may be liable to any person for damages proximately caused to that person by the notary's misconduct in performing a notarization, but the surety's liability may not exceed the penalty of the bond or of any remaining bond funds that have not been expended to other claimants.
 - (b) Regardless of the number of claimants under Subsection (2)(a), a surety's total liability may not exceed the penalty of the bond.
- (3) It is a class B misdemeanor, if not otherwise a criminal offense under this code, for:
- (a) a notary to perform an act in violation of Section 46-1-9 or Section 46-1-11; or
 - (b) the employer of a notary to solicit the notary to perform a notarial act in violation of this chapter.

Amended by Chapter 95, 2007 General Session

46-1-19 Revocation or suspension.

The lieutenant governor may revoke or suspend a notarial commission on any ground for which an application for a notarial commission may be denied under Section 46-1-3.

Amended by Chapter 136, 2003 General Session

46-1-20 Change of name or address -- Bond policy rider.

- (1) Within 30 days of a change in the notary's name, the notary shall provide to the lieutenant governor:
- (a) the notary's new name, including official documentation of the name change; and
 - (b) a bond policy rider.
- (2) To obtain a bond policy rider, the notary shall:
- (a) notify the surety for the notary's bond;
 - (b) obtain a bond policy rider reflecting both the old and new name of the notary;
 - (c) return a bond policy rider, the original "Certificate of Authority of Notary Public";
 - (d) pay a \$5 fee; and
 - (e) destroy the old official seal.

- (3) Within 30 days of a change in the notary's address, the notary shall provide the notary's new address to the lieutenant governor.

Amended by Chapter 47, 2008 General Session

46-1-21 Resignation.

- (1) A notary who resigns a notarial commission shall provide to the lieutenant governor a notice indicating the effective date of resignation.
- (2) A notary who ceases to reside in this state or who becomes unable to read and write as provided in Section 46-1-3 shall resign the commission.
- (3) A notary who resigns shall destroy the official seal and certificate.

Amended by Chapter 136, 2003 General Session

46-1-22 Notice not invalidated.

If a notarial act is performed contrary to or in violation of this chapter, that fact does not of itself invalidate notice to third parties of the contents of the document notarized.

Enacted by Chapter 287, 1998 General Session

46-1-23 Dedication of fees.

The lieutenant governor shall deposit all money collected under this chapter into the General Fund as a dedicated credit to be used by the lieutenant governor to administer this chapter.

Amended by Chapter 391, 2010 General Session

**Chapter 4
Uniform Electronic Transactions Act**

**Part 1
Title, Interpretation, and Definitions**

46-4-101 Title.

This chapter is known as the "Uniform Electronic Transactions Act."

Enacted by Chapter 74, 2000 General Session

46-4-102 Definitions.

As used in this chapter:

- (1) "Agreement" means the bargain of the parties in fact, as found in their language or inferred from other circumstances and from rules, regulations, and procedures given the effect of agreements under laws otherwise applicable to a particular transaction.
- (2) "Automated transaction" means a transaction conducted or performed, in whole or in part, by electronic means or electronic records, in which the acts or records of one or both parties are not reviewed by an individual in the ordinary course in forming a contract, performing under an existing contract, or fulfilling an obligation required by the transaction.

- (3) "Computer program" means a set of statements or instructions to be used directly or indirectly in an information processing system in order to bring about a certain result.
- (4) "Contract" means the total legal obligation resulting from the parties' agreement as affected by this chapter and other applicable law.
- (5) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.
- (6) "Electronic agent" means a computer program or an electronic or other automated means used independently to initiate an action or respond to electronic records or performances in whole or in part, without review or action by an individual.
- (7) "Electronic record" means a record created, generated, sent, communicated, received, or stored by electronic means.
- (8) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.
- (9) "Governmental agency" means an executive, legislative, or judicial agency, department, board, commission, authority, institution, or instrumentality of the federal government or of a state or of a county, municipality, or other political subdivision of a state.
- (10) "Information" means data, text, images, sounds, codes, computer programs, software, databases, or the like.
- (11) "Information processing system" means an electronic system for creating, generating, sending, receiving, storing, displaying, or processing information.
- (12) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, governmental agency, public corporation, or any other legal or commercial entity.
- (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.
- (14)
 - (a) "Security procedure" means a procedure employed for the purpose of verifying that an electronic signature, record, or performance is that of a specific person or for detecting changes or errors in the information in an electronic record.
 - (b) "Security procedure" includes a procedure that requires the use of algorithms or other codes, identifying words or numbers, encryption, or callback or other acknowledgment procedures.
- (15)
 - (a) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.
 - (b) "State" includes an Indian tribe or band, or Alaskan native village, that is recognized by federal law or formally acknowledged by a state.
- (16) "Transaction" means an action or set of actions occurring between two or more persons relating to the conduct of business, commercial, or governmental affairs.

Enacted by Chapter 74, 2000 General Session

46-4-103 Scope.

- (1) Except as otherwise provided in Subsection (2), this chapter applies to electronic records and electronic signatures relating to a transaction.
- (2) This chapter does not apply to:

- (a) a transaction to the extent it is governed by a law governing the creation and execution of wills, codicils, or testamentary trusts;
- (b) Title 70A, Uniform Commercial Code, other than:
 - (i) Section 70A-1a-306; and
 - (ii) Title 70A, Chapter 2, Uniform Commercial Code - Sales, and Title 70A, Chapter 2a, Uniform Commercial Code - Leases.
- (3) This chapter applies to an electronic record or electronic signature otherwise excluded from the application of this chapter under Subsection (2) to the extent it is governed by a law other than those specified in Subsection (2).
- (4) A transaction subject to this chapter is also subject to other applicable substantive law.
- (5) Nothing in this chapter requires any county recorder to accept for recording any instrument in electronic form.

Amended by Chapter 272, 2007 General Session

46-4-104 Prospective application.

This chapter applies to any electronic record or electronic signature created, generated, sent, communicated, received, or stored on or after May 1, 2000.

Enacted by Chapter 74, 2000 General Session

46-4-105 Use of electronic records and electronic signatures -- Variation by agreement.

- (1) This chapter does not require a record or signature to be created, generated, sent, communicated, received, stored, or otherwise processed or used by electronic means or in electronic form.
- (2)
 - (a) This chapter applies only to transactions between parties each of which has agreed to conduct transactions by electronic means.
 - (b) Whether or not the parties agree to conduct a transaction by electronic means is determined from the context and surrounding circumstances, including the parties' conduct.
- (3)
 - (a) A party that agrees to conduct a transaction by electronic means may refuse to conduct other transactions by electronic means.
 - (b) The right granted by Subsection (3)(a) may not be waived by agreement.
- (4)
 - (a) Except as otherwise provided in this chapter, the effect of any of its provisions may be varied by agreement.
 - (b) The presence in certain provisions of this chapter of the words "unless otherwise agreed," or words of similar import, does not imply that the effect of other provisions may not be varied by agreement.
- (5) Whether an electronic record or electronic signature has legal consequences is determined by this chapter and other applicable law.

Amended by Chapter 9, 2001 General Session

46-4-106 Construction and application.

This chapter must be construed and applied:

- (1) to facilitate electronic transactions consistent with other applicable law;

- (2) to be consistent with reasonable practices concerning electronic transactions and with the continued expansion of those practices; and
- (3) to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among the states enacting it.

Enacted by Chapter 74, 2000 General Session

Part 2

Legal Status and Requirements of Electronic Records, Signatures, and Contracts

46-4-201 Legal recognition of electronic records, electronic signatures, and electronic contracts.

- (1) A record or signature may not be denied legal effect or enforceability solely because it is in electronic form.
- (2) A contract may not be denied legal effect or enforceability solely because an electronic record was used in its formation.
- (3) If a law requires a record to be in writing, an electronic record satisfies the law.
- (4) If a law requires a signature, an electronic signature satisfies the law.

Enacted by Chapter 74, 2000 General Session

46-4-202 Provision of information in writing -- Presentation of records.

- (1)
 - (a) If parties have agreed to conduct a transaction by electronic means and a law requires a person to provide, send, or deliver information in writing to another person, the requirement is satisfied if the information is provided, sent, or delivered, as the case may be, in an electronic record capable of retention by the recipient at the time of receipt.
 - (b) An electronic record is not capable of retention by the recipient if the sender or its information processing system inhibits the ability of the recipient to print or store the electronic record.
- (2) If a law other than this chapter requires a record to be posted or displayed in a certain manner, to be sent, communicated, or transmitted by a specified method, or to contain information that is formatted in a certain manner, the following rules apply:
 - (a) the record must be posted or displayed in the manner specified in the other law;
 - (b) except as otherwise provided in Subsection (4)(b), the record must be sent, communicated, or transmitted by the method specified in the other law; and
 - (c) the record must contain the information formatted in the manner specified in the other law.
- (3) If a sender inhibits the ability of a recipient to store or print an electronic record, the electronic record is not enforceable against the recipient.
- (4) The requirements of this section may not be varied by agreement, but:
 - (a) to the extent a law other than this chapter requires information to be provided, sent, or delivered in writing but permits that requirement to be varied by agreement, the requirement under Subsection (1) that the information be in the form of an electronic record capable of retention may also be varied by agreement; and
 - (b) a requirement under a law other than this chapter to send, communicate, or transmit a record by first-class mail, postage prepaid or regular United States mail, may be varied by agreement to the extent permitted by the other law.

Enacted by Chapter 74, 2000 General Session

46-4-203 Attribution and effect of electronic record and electronic signature.

- (1)
 - (a) An electronic record or electronic signature is attributable to a person if it was the act of the person.
 - (b) The act of the person may be shown in any manner, including a showing of the efficacy of any security procedure applied to determine the person to which the electronic record or electronic signature was attributable.
- (2) The effect of an electronic record or electronic signature attributed to a person under Subsection (1) is determined from the context and surrounding circumstances at the time of its creation, execution, or adoption, including the parties' agreement, if any, and otherwise as provided by law.

Enacted by Chapter 74, 2000 General Session

46-4-204 Effect of change or error.

- (1) If a change or error in an electronic record occurs in a transmission between parties to a transaction, the following rules apply:
 - (a) If the parties have agreed to use a security procedure to detect changes or errors and one party has conformed to the procedure, but the other party has not, and the nonconforming party would have detected the change or error had that party also conformed, the conforming party may avoid the effect of the changed or erroneous electronic record.
 - (b) In an automated transaction involving an individual, the individual may avoid the effect of an electronic record that resulted from an error made by the individual in dealing with the electronic agent of another person if the electronic agent did not provide an opportunity for the prevention or correction of the error and, at the time the individual learns of the error, the individual:
 - (i) promptly notifies the other person of the error and that the individual did not intend to be bound by the electronic record received by the other person;
 - (ii) takes reasonable steps, including steps that conform to the other person's reasonable instructions, to return to the other person or, if instructed by the other person, to destroy the consideration received, if any, as a result of the erroneous electronic record; and
 - (iii) has not used or received any benefit or value from the consideration, if any, received from the other person.
- (2) If neither Subsection (1)(a) or (b) applies, the change or error has the effect provided by other law, including the law of mistake, and the parties' contract, if any.
- (3) Subsections (1)(b) and (2) may not be varied by agreement.

Enacted by Chapter 74, 2000 General Session

46-4-205 Notarization and acknowledgment.

- (1) If a law requires a signature or record to be notarized, acknowledged, verified, or made under oath, the requirement is satisfied by following the procedures and requirements of Subsection 46-1-16(7).

- (2) The electronic signature of the person authorized to perform the acts under Subsection (1), and all other information required to be included by other applicable law, shall be attached to or logically associated with the signature or record.

Amended by Chapter 21, 2006 General Session

Part 3

Retention and Admissibility of Electronic Records

46-4-301 Retention of electronic records -- Originals.

- (1) If a law requires that a record be retained, the requirement is satisfied by retaining an electronic record of the information in the record that:
 - (a) accurately reflects the information set forth in the record after it was first generated in its final form as an electronic record or otherwise; and
 - (b) remains accessible for later reference.
- (2) A requirement to retain a record in accordance with Subsection (1) does not apply to any information the sole purpose of which is to enable the record to be sent, communicated, or received.
- (3) A person may satisfy Subsection (1) by using the services of another person if the requirements of Subsection (1) are satisfied.
- (4) If a law requires a record to be presented or retained in its original form, or provides consequences if the record is not presented or retained in its original form, that law is satisfied by an electronic record retained in accordance with Subsection (1).
- (5) If a law requires retention of a check, that requirement is satisfied by retention of an electronic record of the information on the front and back of the check in accordance with Subsection (1).
- (6) A record retained as an electronic record in accordance with Subsection (1) satisfies a law requiring a person to retain a record for evidentiary, audit, or like purposes, unless a law enacted after May 1, 2000, specifically prohibits the use of an electronic record for the specified purpose.
- (7) This section does not preclude a governmental agency from specifying additional requirements for the retention of a record subject to the agency's jurisdiction.

Enacted by Chapter 74, 2000 General Session

46-4-302 Admissibility in evidence.

In a proceeding, evidence of a record or signature may not be excluded solely because it is in electronic form.

Enacted by Chapter 74, 2000 General Session

Part 4

Automated Transactions, Sending and Receiving Electronic Records, and Transferable Records

46-4-401 Automated transaction.

In an automated transaction, the following rules apply:

- (1) A contract may be formed by the interaction of electronic agents of the parties, even if no individual was aware of or reviewed the electronic agents' actions or the resulting terms and agreements.
- (2) A contract may be formed by the interaction of an electronic agent and an individual, acting on the individual's own behalf or for another person, including by an interaction in which the individual performs actions that the individual is free to refuse to perform and which the individual knows or has reason to know will cause the electronic agent to complete the transaction or performance.
- (3) The terms of the contract are determined by the substantive law applicable to it.

Enacted by Chapter 74, 2000 General Session

46-4-402 Time and place of sending and receipt.

- (1) Unless otherwise agreed between the sender and the recipient, an electronic record is sent when it:
 - (a) is addressed properly or otherwise directed properly to an information processing system that the recipient has designated or uses for the purpose of receiving electronic records or information of the type sent and from which the recipient is able to retrieve the electronic record;
 - (b) is in a form capable of being processed by that system; and
 - (c) enters an information processing system outside the control of the sender or of a person that sent the electronic record on behalf of the sender or enters a region of the information processing system designated or used by the recipient that is under the control of the recipient.
- (2) Unless otherwise agreed between a sender and the recipient, an electronic record is received when:
 - (a) it enters an information processing system that the recipient has designated or uses for the purpose of receiving electronic records or information of the type sent and from which the recipient is able to retrieve the electronic record; and
 - (b) it is in a form capable of being processed by that system.
- (3) Subsection (2) applies even if the place the information processing system is located is different from the place the electronic record is deemed to be received under Subsection (4).
- (4)
 - (a) Unless otherwise expressly provided in the electronic record or agreed between the sender and the recipient, an electronic record is deemed to be sent from the sender's place of business and to be received at the recipient's place of business.
 - (b) For purposes of this Subsection (4), the following rules apply:
 - (i) If the sender or recipient has more than one place of business, the place of business of that person is the place having the closest relationship to the underlying transaction.
 - (ii) If the sender or the recipient does not have a place of business, the place of business is the sender's or recipient's residence, as the case may be.
- (5) An electronic record is received under Subsection (2) even if no individual is aware of its receipt.
- (6) Receipt of an electronic acknowledgment from an information processing system described in Subsection (2) establishes that a record was received but, by itself, does not establish that the content sent corresponds to the content received.
- (7)

- (a) If a person is aware that an electronic record purportedly sent under Subsection (1), or purportedly received under Subsection (2), was not actually sent or received, the legal effect of the sending or receipt is determined by other applicable law.
- (b) Except to the extent permitted by the other law, the requirements of this Subsection (7) may not be varied by agreement.

Enacted by Chapter 74, 2000 General Session

46-4-403 Transferable records.

- (1) As used in this section, "transferable record" means an electronic record that:
 - (a) would be a note under Title 70A, Chapter 3, Uniform Commercial Code - Negotiable Instruments, or a document under Title 70A, Chapter 7a, Uniform Commercial Code - Documents of Title, if the electronic record were in writing; and
 - (b) the issuer of the electronic record expressly has agreed is a transferable record.
- (2) A person has control of a transferable record if a system employed for evidencing the transfer of interests in the transferable record reliably establishes that person as the person to which the transferable record was issued or transferred.
- (3) A system satisfies Subsection (2), and a person is deemed to have control of a transferable record, if the transferable record is created, stored, and assigned in such a manner that:
 - (a) a single authoritative copy of the transferable record exists that is unique, identifiable, and, except as otherwise provided in Subsections (3)(d), (e), and (f), unalterable;
 - (b) the authoritative copy identifies the person asserting control as:
 - (i) the person to which the transferable record was issued; or
 - (ii) if the authoritative copy indicates that the transferable record has been transferred, the person to which the transferable record was most recently transferred;
 - (c) the authoritative copy is communicated to and maintained by the person asserting control or its designated custodian;
 - (d) copies or revisions that add or change an identified assignee of the authoritative copy can be made only with the consent of the person asserting control;
 - (e) each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that is not the authoritative copy; and
 - (f) any revision of the authoritative copy is readily identifiable as authorized or unauthorized.
- (4)
 - (a) Except as otherwise agreed, a person having control of a transferable record is the holder, as defined in Subsection 70A-1a-201(2)(u), of the transferable record and has the same rights and defenses as a holder of an equivalent record or writing under Title 70A, Uniform Commercial Code, including, if the applicable statutory requirements under Subsection 70A-3-302(1), Section 70A-7a-501, or Section 70A-9a-308 are satisfied, the rights and defenses of a holder in due course, a holder to which a negotiable document of title has been duly negotiated, or a purchaser, respectively.
 - (b) Delivery, possession, and indorsement are not required to obtain or exercise any of the rights under Subsection (4)(a).
- (5) Except as otherwise agreed, an obligor under a transferable record has the same rights and defenses as an equivalent obligor under equivalent records or writings under Title 70A, Uniform Commercial Code.
- (6)

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

Amended by Chapter 272, 2007 General Session

Part 5

Electronic Records in Government Agencies

46-4-501 Creation and retention of electronic records and conversion of written records by governmental agencies.

- (1) A state governmental agency may, by following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules that:
 - (a) identify specific transactions that the agency is willing to conduct by electronic means;
 - (b) identify specific transactions that the agency will never conduct by electronic means;
 - (c) specify the manner and format in which electronic records must be created, generated, sent, communicated, received, and stored, and the systems established for those purposes;
 - (d) if law or rule requires that the electronic records must be signed by electronic means, specify the type of electronic signature required, the manner and format in which the electronic signature must be affixed to the electronic record, and the identity of, or criteria that must be met, by any third party used by a person filing a document to facilitate the process;
 - (e) specify control processes and procedures as appropriate to ensure adequate preservation, disposition, integrity, security, confidentiality, and auditability of electronic records; and
 - (f) identify any other required attributes for electronic records that are specified for corresponding nonelectronic records or that are reasonably necessary under the circumstances.
- (2) A state governmental agency that makes rules under this section shall submit copies of those rules, and any amendments to those rules, to the chief information officer established by Section 63F-1-201.
- (3)
 - (a) The chief information officer may prepare model rules and standards relating to electronic transactions that encourage and promote consistency and interoperability with similar requirements adopted by other Utah government agencies, other states, the federal government, and nongovernmental persons interacting with Utah governmental agencies.
 - (b) In preparing those model rules and standards, the chief information officer may specify different levels of standards from which governmental agencies may choose in order to implement the most appropriate standard for a particular application.
 - (c) Nothing in this Subsection (3) requires a state agency to use the model rules and standards prepared by the chief information officer when making rules under this section.
- (4) Except as provided in Subsection 46-4-301(6), nothing in this chapter requires any state governmental agency to:
 - (a) conduct transactions by electronic means; or
 - (b) use or permit the use of electronic records or electronic signatures.
- (5) Each state governmental agency shall:

- (a) establish record retention schedules for any electronic records created or received in an electronic transaction according to the standards developed by the Division of Archives under Subsection 63A-12-101(2)(e); and
- (b) obtain approval of those schedules from the State Records Committee as required by Subsection 63G-2-502(1)(b).

Amended by Chapter 270, 2011 General Session

46-4-502 Providing services or information electronically -- Interpretation of terms in Utah Code.

- (1) To provide services or information electronically, a state governmental entity may implement the terms listed in Subsection (2) in accordance with this section:
 - (a) when the term is used in the Utah Code; and
 - (b) if the implementation is not:
 - (i) inconsistent with the manifest intent of the Legislature; or
 - (ii) repugnant to the context of the statute.
- (2) Subsection (1) applies to the terms listed in this Subsection (2).
 - (a) "Copy" may include an electronic version of a document.
 - (b) "Mail" may include sending a document electronically if the recipient can accept and process the electronic writing.
 - (c) "Mailing address" may include an electronic mailing address capable of receiving and processing an electronic writing.
 - (d) "Sign" or "signature" may include any form of electronic signature authorized by the governmental agency.
 - (e) "Written" or "writing" may include information that is:
 - (i) inscribed on a tangible medium; or
 - (ii)
 - (A) stored in an electronic or other medium; and
 - (B) is retrievable in a perceivable form.

Amended by Chapter 20, 2003 General Session

46-4-503 Government products and services provided electronically.

- (1) Notwithstanding Section 46-4-501, a state governmental agency that administers one or more of the following transactions shall allow those transactions to be conducted electronically:
 - (a) an application for or renewal of a professional or occupational license issued under Title 58, Occupations and Professions;
 - (b) the renewal of a drivers license;
 - (c) an application for a hunting or fishing license;
 - (d) the filing of:
 - (i) a return under Title 59, Chapter 10, Individual Income Tax Act, or Title 59, Chapter 12, Sales and Use Tax Act;
 - (ii) a court document, as defined by the Judicial Council; or
 - (iii) a document under Title 70A, Uniform Commercial Code;
 - (e) a registration for:
 - (i) a product; or
 - (ii) a brand;
 - (f) a renewal of a registration of a motor vehicle;

- (g) a registration under:
 - (i) Title 16, Corporations;
 - (ii) Title 42, Names; or
 - (iii) Title 48, Partnership - Unincorporated Business Entities; or
- (h) submission of an application for benefits:
 - (i) under Title 35A, Chapter 3, Employment Support Act;
 - (ii) under Title 35A, Chapter 4, Employment Security Act; or
 - (iii) related to accident and health insurance.
- (2) The state system of public education, in coordination with the Utah Education and Telehealth Network, shall make reasonable progress toward making the following services available electronically:
 - (a) secure access by parents and students to student grades and progress reports;
 - (b) email communications with:
 - (i) teachers;
 - (ii) parent-teacher associations; and
 - (iii) school administrators;
 - (c) access to school calendars and schedules; and
 - (d) teaching resources that may include:
 - (i) teaching plans;
 - (ii) curriculum guides; and
 - (iii) media resources.
- (3) A state governmental agency shall:
 - (a) in carrying out the requirements of this section, take reasonable steps to ensure the security and privacy of records that are private or controlled as defined by Title 63G, Chapter 2, Government Records Access and Management Act;
 - (b) in addition to those transactions listed in Subsections (1) and (2), determine any additional services that may be made available to the public through electronic means; and
 - (c) as part of the agency's information technology plan required by Section 63F-1-204, report on the progress of compliance with Subsections (1) through (3).
- (4) Notwithstanding the other provisions of this part, a state governmental agency is not required by this part to conduct a transaction electronically if:
 - (a) conducting the transaction electronically is not required by federal law; and
 - (b) conducting the transaction electronically is:
 - (i) impractical;
 - (ii) unreasonable; or
 - (iii) not permitted by laws pertaining to privacy or security.
- (5)
 - (a) For purposes of this Subsection (5), "one-stop shop" means the consolidation of access to diverse services and agencies at one location including virtual colocation.
 - (b) State agencies that provide services or offer direct assistance to the business community shall participate in the establishment, maintenance, and enhancement of an integrated Utah business web portal known as Business.utah.gov. The purpose of the business web portal is to provide "one-stop shop" assistance to businesses.
 - (c) State agencies shall partner with other governmental and nonprofit agencies whose primary mission is to provide services or offer direct assistance to the business community in Utah in fulfilling the requirements of this section.
 - (d) The following state entities shall comply with the provisions of this Subsection (5):

- (i) Governor's Office of Economic Development, which shall serve as the managing partner for the website;
 - (ii) Department of Workforce Services;
 - (iii) Department of Commerce;
 - (iv) Tax Commission;
 - (v) Department of Administrative Services - Division of Purchasing and General Services, including other state agencies operating under a grant of authority from the division to procure goods and services in excess of \$5,000;
 - (vi) Department of Agriculture;
 - (vii) Department of Natural Resources; and
 - (viii) other state agencies that provide services or offer direct assistance to the business sector.
- (e) The business services available on the business web portal may include:
- (i) business life cycle information;
 - (ii) business searches;
 - (iii) employment needs and opportunities;
 - (iv) motor vehicle registration;
 - (v) permit applications and renewal;
 - (vi) tax information;
 - (vii) government procurement bid notifications;
 - (viii) general business information;
 - (ix) business directories; and
 - (x) business news.

Amended by Chapter 348, 2016 General Session