

## 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Repealed and Re-enacted by Chapter 222, 1988 General Session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) "Before me" means that an individual appears in the presence of the notary.
- (3) "Commission" means:
  - (a) to empower to perform notarial acts; or
  - (b) the written document that gives authority to perform notarial acts, including the Certificate of Authority of Notary Public that the lieutenant governor issues to a notary.
- (4) "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.
- (5) "Electronic recording" means the audio and video recording, described in Subsection 46-1-3.6(3), of a remote notarization.
- (6) "Electronic seal" means an electronic version of the seal described in Section 46-1-16, that conforms with rules made under Subsection 46-1-3.7(1)(d), that a remote notary may attach to a notarial certificate to complete a remote notarization.
- (7) "Electronic signature" means the same as that term is defined in Section 46-4-102.
- (8) "In the presence of the notary" means that an individual:
  - (a) is physically present with the notary in close enough proximity to see and hear the notary; or
  - (b) communicates with a remote notary by means of an electronic device or process that:
    - (i) allows the individual and remote notary to communicate with one another simultaneously by sight and sound; and
    - (ii) complies with rules made under Section 46-1-3.7.
- (9) "Jurat" means a notarial act in which a notary certifies:
  - (a) the identity of a signer who:
    - (i) is personally known to the notary; or
    - (ii) provides the notary satisfactory evidence of the signer's identity;
  - (b) that the signer affirms or swears an oath attesting to the truthfulness of a document; and
  - (c) that the signer voluntarily signs the document in the presence of the notary.
- (10) "Notarial act" or "notarization" means an act that a notary is authorized to perform under Section 46-1-6.
- (11) "Notarial certificate" means the affidavit described in Section 46-1-6.5 that is:
  - (a) a part of or attached to a notarized document; and
  - (b) completed by the notary and bears the notary's signature and official seal.
- (12)
  - (a) "Notary" means an individual commissioned to perform notarial acts under this chapter.
  - (b) "Notary" includes a remote notary.

- (13) "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.
- (14) "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.
- (15)
  - (a) "Official seal" means the seal described in Section 46-1-16 that a notary may attach to a notarial certificate to complete a notarization.
  - (b) "Official seal" includes an electronic seal.
- (16) "Personally known" 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.
- (17) "Remote notarization" means a notarial act performed by a remote notary in accordance with this chapter for an individual who is not in the physical presence of the remote notary at the time the remote notary performs the notarial act.
- (18) "Remote notary" means a notary that holds an active remote notary certification under Section 46-1-3.5.
- (19)
  - (a) "Satisfactory evidence of identity" means:
    - (i) for both an in-person and remote notarization, identification of an individual based on:
      - (A) subject to Subsection (19)(b), valid personal identification with the individual's photograph, signature, and physical description that the United States government, any state within the United States, or a foreign government issues;
      - (B) subject to Subsection (19)(b), a valid passport that any nation issues; or
      - (C) the oath or affirmation of a credible person who is personally known to the notary and who personally knows the individual; and
    - (ii) for a remote notarization only, a third party's affirmation of an individual's identity in accordance with rules made under Section 46-1-3.7 by means of:
      - (A) dynamic knowledge-based authentication, which may include requiring the individual to answer questions about the individual's personal information obtained from public or proprietary data sources; or
      - (B) analysis of the individual's biometric data, which may include facial recognition, voiceprint analysis, or fingerprint analysis.
  - (b) "Satisfactory evidence of identity," for a remote notarization, requires the identification described in Subsection (19)(a)(i)(A) or passport described in Subsection (19)(a)(i)(B) to be verified through public or proprietary data sources in accordance with rules made under Section 46-1-3.7.
  - (c) "Satisfactory evidence of identity" does not include:
    - (i) a driving privilege card under Subsection 53-3-207(12); or
    - (ii) another document that is not considered valid for identification.
- (20) "Signature witnessing" means a notarial act in which an individual:
  - (a) appears in the presence of the notary and presents a document;
  - (b) provides the notary satisfactory evidence of the individual's identity, or is personally known to the notary; and
  - (c) signs the document in the presence of the notary.

Amended by Chapter 158, 2022 General Session

**46-1-3 Qualifications -- Application for notarial commission required -- Term.**

- (1) Except as provided in Subsection (4), and subject to Section 46-1-3.5, the lieutenant governor shall commission as a notary any qualified individual who submits an application in accordance with this chapter.
- (2) To qualify for a notarial commission an individual shall:
  - (a) be at least 18 years old;
  - (b) lawfully reside in the state or be employed in the state for at least 30 days immediately before the individual applies for a notarial commission;
  - (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, that includes:
    - (i) the individual's:
      - (A) name as it will appear on the commission;
      - (B) residential address;
      - (C) business address;
      - (D) daytime telephone number; and
      - (E) date of birth;
    - (ii) an affirmation that the individual meets the requirements of this section;
    - (iii) an indication of any criminal convictions the individual has received, including a plea of admission or no contest;
    - (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) an indication that the individual has passed the examination described in Subsection (6); and
    - (vi) payment of an application fee that the lieutenant governor establishes in accordance with Section 63J-1-504;
  - (e)
    - (i) be a United States citizen; or
    - (ii) have permanent resident status under Section 245 of the Immigration and Nationality Act; and
  - (f) submit to a background check described in Subsection (3).
- (3)
  - (a) The lieutenant governor shall:
    - (i) request the Division of Human Resource Management to perform a criminal background check under Subsection 53-10-108(16) on each individual who submits an application under this section;
    - (ii) require an individual who submits an application under this section to provide a signed waiver on a form provided by the lieutenant governor that complies with Subsection 53-10-108(4); and
    - (iii) provide the Division of Human Resource Management the personal identifying information of each individual who submits an application under this section.
  - (b) The Division of Human Resource Management shall:
    - (i) perform a criminal background check under Subsection 53-10-108(16) on each individual described in Subsection (3)(a)(i); and
    - (ii) provide to the lieutenant governor all information that pertains to the individual described in Subsection (3)(a)(i) that the department identifies or receives as a result of the background check.
- (4) 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 examination described in Subsection (6).
- (5)
- (a) An individual whom the lieutenant governor commissions as a notary:
    - (i) may perform notarial acts in any part of the state for a term of four years, unless the individual resigns or the commission is revoked or suspended under Section 46-1-19; and
    - (ii) except through a remote notarization performed in accordance with this chapter, may not perform a notarial act for another individual who is outside of the state.
  - (b)
    - (i) After an individual's commission expires, the individual may not perform a notarial act until the individual obtains a new commission.
    - (ii) An individual whose commission expires and who wishes to obtain a new commission shall submit a new application, showing compliance with the requirements of this section.
- (6)
- (a) Each applicant for a notarial commission shall take an examination that the lieutenant governor approves and submit the examination to a testing center that the lieutenant governor designates for purposes of scoring the examination.
  - (b) The testing center that the lieutenant governor designates shall issue a written acknowledgment to the applicant indicating whether the applicant passed or failed the examination.
- (7)
- (a) A notary shall maintain permanent residency or employment in the state during the term of the notary's notarial commission.
  - (b) A notary who does not maintain permanent residency or employment under Subsection (7)(a) shall resign the notary's notarial commission in accordance with Section 46-1-21.

Amended by Chapter 167, 2021 General Session

Amended by Chapter 344, 2021 General Session

**46-1-3.5 Remote notary qualifications -- Application -- Authority.**

- (1) An individual commissioned as a notary, or an individual applying to be commissioned as a notary, under Section 46-1-3 may apply to the lieutenant governor for a remote notary certification under this section.
- (2) The lieutenant governor shall certify an individual to perform remote notarizations as a remote notary if the individual:
  - (a) complies with Section 46-1-3 to become a commissioned notary;
  - (b) submits to the lieutenant governor, on a form created by the lieutenant governor, a correctly completed application for a remote notary certification; and
  - (c) pays to the lieutenant governor the application fee described in Subsection (4).
- (3) The lieutenant governor shall ensure that the application described in Subsection (2)(b) requires an applicant to:
  - (a) list the applicant's name as it appears or will appear on the applicant's notarial commission;
  - (b) agree to comply with the provisions of this chapter, and rules made under Section 46-1-3.7, that relate to a remote notarization; and
  - (c) provide the applicant's email address.

- (4) The lieutenant governor may establish and charge a fee in accordance with Section 63J-1-504 to an individual who seeks to obtain remote notary certification under this section.

Enacted by Chapter 192, 2019 General Session

**46-1-3.6 Remote notarization procedures.**

- (1) A remote notary who receives a remote notary certification under Section 46-1-3.5 may perform a remote notarization if the remote notary is physically located in this state.
- (2) A remote notary that performs a remote notarization for an individual that is not personally known to the remote notary shall, at the time the remote notary performs the remote notarization, establish satisfactory evidence of identity for the individual by:
  - (a) communicating with the individual using an electronic device or process that:
    - (i) allows the individual and remote notary to communicate with one another simultaneously by sight and sound; and
    - (ii) complies with rules made under Section 46-1-3.7; and
  - (b) requiring the individual to transmit to the remote notary an image of a form of identification described in Subsection 46-1-2(19)(a)(i)(A) or passport described in Subsection 46-1-2(19)(a)(i)(B) that is of sufficient quality for the remote notary to establish satisfactory evidence of identity.
- (3)
  - (a) A remote notary shall create an audio and video recording of the performance of each remote notarization and store the recording in accordance with Sections 46-1-14 and 46-1-15.
  - (b) A remote notary shall take reasonable steps, consistent with industry standards, to ensure that any non-public data transmitted or stored in connection with a remote notarization performed by the remote notary is secure from unauthorized interception or disclosure.
- (4) Notwithstanding any other provision of law, a remote notarization lawfully performed under this chapter satisfies any provision of state law that requires an individual to personally appear before, or be in the presence of, a notary at the time the notary performs a notarial act.

Enacted by Chapter 192, 2019 General Session

**46-1-3.7 Rulemaking authority for remote notarization.**

- (1) The director of elections in the Office of the Lieutenant Governor may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding standards for and types of:
  - (a) electronic software and hardware that a remote notary may use to:
    - (i) perform a remote notarization; and
    - (ii) keep an electronic journal under Section 46-1-13;
  - (b) public and proprietary data sources that a remote notary may use to establish satisfactory evidence of identity under Subsection 46-1-2(19)(b);
  - (c) dynamic knowledge-based authentication or biometric data analysis that a remote notary may use to establish satisfactory evidence of identity under Subsection 46-1-2(19)(a)(ii); and
  - (d) electronic seals a remote notary may use to complete an electronic notarial certificate.
- (2) When making a rule under this section, the director of elections in the Office of the Lieutenant Governor shall review and consider standards recommended by one or more national organizations that address the governance or operation of notaries.

Enacted by Chapter 192, 2019 General Session

**46-1-4 Bond.**

- (1) A notarial commission is not effective until:
  - (a) the notary named in the commission takes a constitutional oath of office and files a \$5,000 bond with the lieutenant governor that:
    - (i) a licensed surety executes for a term of four years beginning on the commission's effective date and ending on the commission's expiration date; and
    - (ii) conditions payment of bond funds to any person upon the notary's misconduct while acting in the scope of the notary's commission; and
  - (b) the lieutenant governor approves the oath and bond described in Subsection (1)(a).
- (2) In addition to the requirements described in Subsection (1), a remote notary certification described in Section 46-1-3.5 is not effective until:
  - (a) the notary named in the remote notary certification files with the lieutenant governor evidence that the notary has obtained \$5,000 of bond coverage, in addition to the bond coverage described in Subsection (1)(a), that:
    - (i) a licensed surety executes for a term that begins on the certification's effective date and ends on the remote notary's commission's expiration date; and
    - (ii) conditions payment of bond funds to any person upon the remote notary's misconduct while acting in the scope of the remote notary's commission; and
  - (b) the lieutenant governor approves the additional bond coverage described in Subsection (2)(a).

Amended by Chapter 192, 2019 General Session

**46-1-6 Powers and limitations.**

- (1) A notary may perform the following acts:
  - (a) a jurat;
  - (b) an acknowledgment;
  - (c) a signature witnessing;
  - (d) a copy certification; and
  - (e) an oath or affirmation.
- (2) A notary may not:
  - (a) perform an act as a notary that is not described in Subsection (1); or
  - (b) perform an act described in Subsection (1) if the individual for whom the notary performs the notarial act is not in the presence of the notary at the time the notary performs the act.

Amended by Chapter 192, 2019 General Session

**46-1-6.5 Form of notarial certificate for document notarizations.**

- (1) A correctly completed affidavit in substantially the form described in this section, that is included in or attached to a document, is sufficient for the completion of a notarization under this Title 46, Chapter 1, Notaries Public Reform Act.
- (2)
  - (a) A notary shall ensure that a signer takes the following oath or makes the following affirmation before the notary witnesses the signature for a jurat:

"Do you swear or affirm under penalty of perjury that the statements in your document are true?"

(b) An affidavit for a jurat that is in substantially the following form is sufficient under Subsection (1):

"State of Utah

§

County of \_\_\_\_\_

Subscribed and sworn to before me (notary public name), on this (date) day of (month), in the year (year), by (name of document signer).

( Notary's Official Seal) \_\_\_\_\_

Notary Signature".

(3) An affidavit for an acknowledgment that is in substantially the following form is sufficient under Subsection (1):

"State of Utah

§

County of \_\_\_\_\_

On this (date) day of (month), in the year (year), before me (name of notary public), a notary public, personally appeared (name of document signer), proved on the basis of satisfactory evidence to be the person(s) whose name(s) (is/are) subscribed to in this document, and acknowledged (he/she/they) executed the same. ( Notary's Official Seal)

\_\_\_\_\_  
Notary Signature".

(4) An affidavit for a copy certification that is in substantially the following form is sufficient under Subsection (1):

"State of Utah

§

County of \_\_\_\_\_

On this (date) day of (month), in the year (year), I certify that the preceding or attached document is a true, exact, and unaltered photocopy of (description of document), and that, to the best of my knowledge, the photocopied document is neither a public record nor a publicly recorded document.

( Notary's Official Seal) \_\_\_\_\_

Notary Signature".

(5) An affidavit for a signature witnessing that is in substantially the following form is sufficient under Subsection (1):

"State of Utah

§

County of \_\_\_\_\_

On this (date) day of (month), in the year (year), before me, (name of notary public), personally appeared (name of document signer), proved to me through satisfactory evidence of identification, which was (form of identification), to be the person whose name is signed on the preceding or attached document in my presence.( Notary's Official Seal)

\_\_\_\_\_  
Notary Signature".

(6) A remote notary shall ensure that the notarial certificate described in this section that is used for a remote notarization includes a statement that the remote notary performed the notarization remotely.

Amended by Chapter 192, 2019 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 for:
  - (a) a self-proved will as provided in Section 75-2-504; or
  - (b) a self-proved electronic will as provided in Section 75-2-1408;
- (2) is named in the document that is to be notarized except for:
  - (a) a self-proved will as provided in Section 75-2-504;
  - (b) a self-proved electronic will as provided in Section 75-2-1408;
  - (c) a licensed attorney that is listed in the document only as representing a signer or another person named in the document; or
  - (d) a licensed escrow agent, as defined in Section 31A-1-301, that:
    - (i) acts as the title insurance producer in signing closing documents; and
    - (ii) is not named individually in the closing documents as a grantor, grantee, mortgagor, mortgagee, trustor, trustee, vendor, vendee, lessor, lessee, buyer, or seller;
- (3) will receive direct compensation from a transaction connected with a financial transaction in which the notary is named individually as a principal; or
- (4) will receive direct compensation from a real property transaction in which the notary is named individually as a grantor, grantee, mortgagor, mortgagee, trustor, trustee, beneficiary, vendor, vendee, lessor, lessee, buyer, or seller.

Amended by Chapter 1, 2020 Special Session 6

**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 use the notary's title or official seal to endorse or promote any product, service, contest, or other offering.

Amended by Chapter 192, 2019 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)
  - (a) Except as provided in Subsection (1)(b), the maximum fees a notary may charge for notarial acts are:
    - (i) for an acknowledgment, \$10 per signature;
    - (ii) for a certified copy, \$10 per page certified;
    - (iii) for a jurat, \$10 per signature;
    - (iv) for an oath or affirmation without a signature, \$10 per person; and
    - (v) for each signature witnessing, \$10.
  - (b) The maximum fee a remote notary may charge for an item described in Subsection (1)(a) that the remote notary performs as a part of a remote notarization is \$25.
- (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) A notary may not charge a fee of more than \$10 per individual for each set of forms relating to a change of that individual's immigration status.
  - (b) The fee limitation described in Subsection (4)(a) applies regardless of whether 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 192, 2019 General Session

**46-1-13 Notary journal.**

- (1) 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.
- (2) A remote notary shall keep a secure electronic journal of each remote notarization the notary performs.

Amended by Chapter 192, 2019 General Session

**46-1-14 Entries in journal -- Required information.**

- (1) A notary may, for each notarial act the notary performs, and a remote notary shall, for each notarial act the remote notary performs remotely, record the following information in the journal described in Section 46-1-13 at the time of notarization:
  - (a) the date and time of day of the notarial act;
  - (b) the type of notarial act;
  - (c) the type title, or a description of the document, electronic record, or proceeding that is the subject of the notarial act;
  - (d) the signature and printed name and address of each individual for whom a notarial act is performed;
  - (e) the evidence of identity of each individual 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 and the identification document's issuing agency, serial or identification number, and date of issuance or expiration;
    - (iii) the signature and printed name and address of a credible witness swearing or affirming to the person's identity; or
    - (iv) if used for a remote notarization, a description of the dynamic knowledge-based authentication or biometric data analysis that was used to provide satisfactory evidence of identity under Subsection 46-1-2(19)(a)(ii); and
  - (f) the fee, if any, the notary charged for the notarial act.
- (2) A notary may record in the journal a description of the circumstances under which the notary refused to perform or complete a notarial act.
- (3)
  - (a) A remote notary shall include with the journal a copy of the electronic recording of the remote notarization.
  - (b) The electronic recording is not a public record and is not a part of the notary's journal.
- (4) A remote notary shall maintain, or ensure that a person that the notary designates as a custodian under Subsection 46-1-15(2)(b)(i) maintains, for a period of five years, the information described in Subsections (1) and (3) for each remote notarization the notary performs.

Amended by Chapter 192, 2019 General Session

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

- (1) Except as provided in Subsection (2)(b), if a notary maintains a journal, the notary shall:
  - (a) keep the journal in the notary's exclusive custody; and
  - (b) ensure that the journal is not used by any other person for any purpose.
- (2)
  - (a) A remote notary shall:

- (i) ensure that the electronic journal and electronic recording described in Section 46-1-14 that is maintained by the remote notary is a secure and authentic record of the remote notarizations that the notary performs;
  - (ii) maintain a backup electronic journal and electronic recording; and
  - (iii) protect the backup electronic journal and electronic recording described in Subsection (2)(a)(ii) from unauthorized access or use.
- (b)
- (i) A remote notary may designate as a custodian of the remote notary's electronic journal and electronic recording described in Section 46-1-14:
    - (A) subject to Subsection (3), the remote notary's employer that employs the remote notary to perform notarizations; or
    - (B) except as provided in Subsection (2)(b)(iii), an electronic repository that grants the remote notary sole access to the electronic journal and electronic recording and does not allow the person who operates the electronic repository or any other person to access the journal, information in the journal, or the electronic recording for any purpose.
  - (ii) A remote notary that designates a custodian under Subsection (2)(b)(i) shall execute an agreement with the custodian that requires the custodian to comply with the safety and security requirements of this chapter with regard to the electronic journal, the information in the electronic journal, and the electronic recording.
  - (iii) An electronic repository described in Subsection (2)(b)(i)(B) may access an electronic journal, information contained in an electronic journal, and the electronic recording:
    - (A) for a purpose solely related to completing, in accordance with this chapter, the notarization for which the journal or information in the journal is accessed;
    - (B) for a purpose solely related to complying with the requirements to retain and store records under this chapter; or
    - (C) if required under a court order.
- (3) The notary's employer may not require the notary to surrender the journal or the electronic recording upon termination of the notary's employment.

Amended by Chapter 192, 2019 General Session

**46-1-16 Official signature -- Official seal -- Destruction of seal -- Unlawful use of seal -- Criminal penalties.**

- (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) Except as provided in Subsection (2)(d), a notary shall keep an official seal, and a remote notary shall keep an electronic seal and electronic signature, that is the exclusive property of the notary.
  - (b) Except as provided in Subsection (2)(d), a notary's official seal, electronic seal, or electronic signature may not be used by any other person.
  - (c)
    - (i) Each official seal used for an in-person notarization shall be in purple ink.
    - (ii) Each official seal used for a remote notarization shall be rendered in black.
  - (d)
    - (i) A remote notary may allow a person that provides an electronic seal to the remote notary under Section 46-1-17 to act as guardian over the electronic seal.

- (ii) Except as provided in Subsection (2)(d)(iii), a guardian described in Subsection (2)(d)(i) shall store the seal in a secure manner that prevents any person from:
    - (A) accessing the seal, other than the guardian and the remote notary named on the seal; or
    - (B) using the seal to perform a notarization, other than the remote notary named on the seal.
  - (iii) A guardian that a notary designates under Subsection (2)(d)(i) may access and use the seal of the notary:
    - (A) for a purpose solely related to completing, in accordance with this chapter, the notarization, by the notary, for which the seal is accessed or used;
    - (B) for a purpose solely related to complying with the requirements to obtain, store, and protect the seal under this chapter; or
    - (C) if required under a court order.
- (3)
- (a) A notary shall obtain a new official seal:
    - (i) when the notary receives a new commission; or
    - (ii) if the notary changes the notary's name of record at any time during the notary's commission.
  - (b) Subject to Subsection (3)(c), a notary shall affix the official seal near the notary's official signature on a notarial certificate and shall include a sharp, legible, and photographically reproducible rendering of the official 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) 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 official seal.
  - (c) When performing a remote notarization, a remote notary shall attach the remote notary's electronic signature and electronic seal under Subsection (3)(b) to an electronic notarial certificate in a manner that makes evident any subsequent change or modification to:
    - (i) the notarial certificate; or
    - (ii) any electronic record, that is a part of the notarization, to which the notarial certificate is attached.
- (4) A notary may use an embossed seal impression that is not photographically reproducible in addition to, but not in place of, the photographically reproducible official seal required in this section.
- (5) A notary shall affix the official seal 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 may not use an official seal independent of a notarial certificate.
- (7) Except for a notarial certificate that is completed as a part of a remote notarization, a notarial certificate 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 notarial certificate in permanent ink; and
  - (b) the following appear below or immediately adjacent to the notary's signature:
    - (i) the notary's 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.

- (8) A notarial certificate on an electronic message or document is considered complete without the notary's official seal if the following information appears electronically within the message or document:
- (a) the notary's 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)".
- (9)
- (a) When a notary resigns or the notary's commission expires or is revoked, the notary shall:
    - (i) destroy the notary's official seal and certificate; and
    - (ii) if the notary is a remote notary, destroy any coding, disk, certificate, card, software, or password that enables the remote notary to affix the remote notary's electronic signature or electronic seal to a notarial certificate.
  - (b) A former remote notary shall certify to the lieutenant governor in writing that the former remote notary has complied with Subsection (9)(a)(ii) within 10 days after the day on which the notary resigns or the notary's commission expires or is revoked.
- (10)
- (a) A person who, without authorization, knowingly obtains, conceals, damages, or destroys the certificate, disk, coding, card, program, software, or hardware enabling a remote notary to affix an official electronic signature or electronic seal to an electronic record is guilty of a class B misdemeanor.
  - (b) A remote notary shall immediately notify the lieutenant governor if the notary becomes aware that the notary's electronic signature, electronic seal, electronic journal, or information from the journal has been lost, stolen, or used unlawfully.

Amended by Chapter 192, 2019 General Session

**46-1-17 Obtaining official seal.**

- (1) A person may not provide an official seal to an individual claiming to be a notary, unless the individual presents a copy of the individual's notarial commission, attached to a notarized declaration substantially as follows:
- Application for Notary's Official Seal
- I, \_\_\_\_\_ (name of individual 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 statement a copy of my commission.
- (2)
- (a) Except as provided in Subsection (2)(b), an individual may not create, obtain, or possess an electronic seal unless the individual is a remote notary.
  - (b) A person is not guilty of a violation of Subsection (2)(a) if the person is a business that creates, obtains, or possesses an electronic seal for the sole purpose of providing the electronic seal to a certified remote notary.
- (3) A person who provides, creates, obtains, or possesses an official seal in violation of this section is guilty of a class B misdemeanor.

Amended by Chapter 192, 2019 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.
  - (c) An employer of a notary public is also liable for damages proximately caused by the notary's misconduct in performing a notarization if:
    - (i) the notary public was acting within the course and scope of the notary public's employment; and
    - (ii) the employer had knowledge of, consented to, or permitted the misconduct.
- (3) It is a class B misdemeanor, if not otherwise a criminal offense under this code, for:
  - (a) a notary to violate a provision of this chapter; or
  - (b) a notary's employer to solicit the notary to violate a provision of this chapter.

Amended by Chapter 192, 2019 General Session

Amended by Chapter 313, 2019 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 after the day on which a notary changes 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 that a notary obtains in accordance with Subsection (2).
- (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 the bond policy rider;
  - (d) destroy the original commission; and
  - (e) destroy the old official seal.
- (3) A notary is not required to change the notary's name by adopting the surname of the notary's spouse.
- (4) Within 30 days of the day on which a notary's residential or business address changes, the notary shall provide the notary's new residential or business address to the lieutenant governor.

Amended by Chapter 259, 2017 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, who ceases to be employed in the 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 in accordance with Subsection 46-1-16(9).

Amended by Chapter 167, 2021 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