NOTARIES PUBLIC REFORM ACT AMENDMENTS

1999 GENERAL SESSION

STATE OF UTAH

Sponsor: Ben C. Ferry

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

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

AMENDS:

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

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

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

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

> **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 notary's presence, having signed a document voluntarily for its stated purpose.

> (2) "Commission" means to empower to perform notarial acts and 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) "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.

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

(6) "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.

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

(8) "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.

(9) "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.

(10) "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.

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

(a) [at least two current documents, one] a current document issued by a federal or state government with the individual's photograph, signature, and physical description[, and the other by an institution, business entity, or federal or state government with at least the individual's signature]; or

(b) the oath or affirmation of a credible person who is personally known to the notary and who personally knows the individual.

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

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

(1) Except as provided in Subsection (3), the director of the Division of Corporations and Commercial Code 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 Division of Corporations and Commercial Code 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, daytime telephone number, and voter precinct 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) an examination written by the applicant;]

(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 63-38-3.2;

(e) be a registered voter in Utah or have permanent resident status under Section 245 of the Immigration and Nationality Act; and

(f) be endorsed by two registered voters of the state.

(3) The director of the Division of Corporations and Commercial Code 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; [or]

(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 Division of Corporations and Commercial Code 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) (a) Each applicant for a notorial commission shall take a written examination approved by the division and submit the examination to a testing center designated by the division for purposes

of scoring the examination. The testing center designated by the division shall issue a written acknowledgment to the applicant indicating whether the applicant passed or failed the examination.

(b) The division shall make rules pursuant to Title 63, Chapter 46a, Utah Administrative Rulemaking Act, to implement the examination process required by Subsection (a).