

NOTARY PUBLIC REQUIREMENTS

2000 GENERAL SESSION

STATE OF UTAH

Sponsor: John L. Valentine

AN ACT RELATING TO NOTARIZATION AND AUTHENTICATION OF DOCUMENTS;
ALLOWING NOTARIES TO AUTHENTICATE ELECTRONIC SIGNATURES.

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

AMENDS:

46-1-2, as last amended by Chapter 231, Laws of Utah 1999

46-1-6, as repealed and reenacted by Chapter 287, Laws of Utah 1998

46-1-14, as repealed and reenacted by Chapter 287, Laws of Utah 1998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]~~ and which admission is made either in the presence of the notary or by an electronic communication that is as reliable as an admission made in the presence of the notary, provided that the electronic communication is authorized by law or rule, signing 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) a current document issued by a federal or state government with the individual's photograph, signature, and physical description; ~~or~~

(b) the oath or affirmation of a credible person who is personally known to the notary and who personally knows the individual~~[-]; or~~

(c) by electronic protocols as reliable as those set forth in Subsections (11)(a) or (b) and established by law or rule.

Section 2. Section **46-1-6** is amended to read:

46-1-6. Powers and limitations.

~~[A notary may perform the]~~ The following notarial acts may be performed by a notary within the state:

(1) ~~[acknowledgments;]~~ Acknowledgments, including authentication of an electronic or digital signature upon the personal knowledge or satisfactory evidence of the identity of the signer.

(a) An electronic or digital signature that is authenticated pursuant to this Subsection (1) shall be considered an authenticated electronic or digital signature.

(b) If all parties to a document consent, an authenticated electronic or digital signature may

be treated as a notarized signature on the document, unless otherwise provided by law or rule.

(c) A commissioned Notary Public acting under the supervision and control of a licensed certification authority who acknowledges and authenticates electronic or digital signatures pursuant to this Subsection (1) is protected under Title 46, Chapter 3, Utah Digital Signature Act.

(2) [~~copy~~] Copy certifications[;].

(3) [~~jurats; and~~] Jurats.

(4) [~~oaths~~] Oaths or affirmations.

Section 3. Section **46-1-14** is amended to read:

46-1-14. Entries in journal.

(1) For every notarial act, the notary may record in the journal at the time of notarization the following information including:

(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 either:

(i) a statement that the person is "personally known" to the notary; or

(ii) a description of the identification document, its issuing agency, its serial or identification number, and its date of issuance or expiration; and

(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.

(3) If a notarization is performed electronically, the notary may keep an electronic journal in which to record the information described in Subsections (1) and (2). All electronic notarizations

shall be evidenced by a digital signature.