

Representative Loraine T. Pace proposes the following substitute bill:

**MANAGEMENT OF NOTARIES PUBLIC BY
LIEUTENANT GOVERNOR**

2003 GENERAL SESSION

STATE OF UTAH

Sponsor: Loraine T. Pace

This act modifies provisions relating to Notaries Public by transferring the administration of the Notaries Public Reform Act from the Division of Corporations and Commercial Code to the lieutenant governor. The act designates the money collected under the Notaries Public Reform Act as dedicated credits.

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

AMENDS:

17-20-3, as last amended by Chapter 152, Laws of Utah 1988

46-1-3, as last amended by Chapter 158, Laws of Utah 2000

46-1-4, as last amended by Chapter 287, Laws of Utah 1998

46-1-19, as repealed and reenacted by Chapter 287, Laws of Utah 1998

46-1-20, as enacted by Chapter 287, Laws of Utah 1998

46-1-21, as enacted by Chapter 287, Laws of Utah 1998

ENACTS:

46-1-23, Utah Code Annotated 1953

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

Section 1. Section **17-20-3** is amended to read:

17-20-3. County clerk -- Record of notaries public.

The county clerk of each county receiving certifications of notaries public from the ~~[Division of Corporations and Commercial Code]~~ lieutenant governor shall keep and maintain an indexed record for that purpose, showing the names of all persons holding notarial



26 commissions, with the dates of issuance and expiration.

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

28 **46-1-3. Qualifications -- Commissioning -- Jurisdiction and term.**

29 (1) Except as provided in Subsection (3), the [~~director of the Division of Corporations~~
30 ~~and Commercial Code~~] lieutenant governor shall commission as a notary any qualified person
31 who submits an application in accordance with this chapter.

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

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

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

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

37 (d) submit an application to the [~~Division of Corporations and Commercial Code~~]
38 lieutenant governor containing no significant misstatement or omission of fact and include at
39 least:

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

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

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

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

48 (v) the acknowledgment of a passing score by the applicant on a written examination
49 administered under Subsection (5);

50 (vi) a declaration by the applicant; and

51 (vii) an application fee determined under Section 63-38-3.2; and

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

54 (f) be endorsed by two residents of the state who are over the age of 18.

55 (3) The [~~director of the Division of Corporations and Commercial Code~~] lieutenant
56 governor may deny an application based on:

57 (a) the applicant's conviction for a crime involving dishonesty or moral turpitude;

58 (b) any revocation, suspension, or restriction of a notarial commission or professional
59 license issued to the applicant by this or any other state;

60 (c) the applicant's official misconduct while acting in the capacity of a notary; or

61 (d) the applicant's failure to pass the written examination.

62 (4) A person commissioned as a notary by the [~~Division of Corporations and~~
63 ~~Commercial Code~~] lieutenant governor may perform notarial acts in any part of this state for a
64 term of four years, unless the person resigned or the commission is revoked or suspended under
65 Section 46-1-19.

66 (5) [~~(a)~~] Each applicant for a notarial commission shall take a written examination
67 approved by the [~~division~~] lieutenant governor and submit the examination to a testing center
68 designated by the [~~division~~] lieutenant governor for purposes of scoring the examination. The
69 testing center designated by the [~~division~~] lieutenant governor shall issue a written
70 acknowledgment to the applicant indicating whether the applicant passed or failed the
71 examination.

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

75 Section 3. Section **46-1-4** is amended to read:

76 **46-1-4. Bond.**

77 (1) A notarial commission may not become effective until a constitutional oath of
78 office and a \$5,000 bond has been filed with and approved by the [~~Division of Corporations~~
79 ~~and Commercial Code~~] lieutenant governor. The bond shall be executed by a licensed surety
80 for a term of four years commencing on the commission's effective date and terminating on its
81 expiration date, with payment of bond funds to any person conditioned upon the notary's
82 misconduct while acting in the scope of his commission.

83 (2) The bond required under Subsection (1) may be executed by the Office of Risk
84 Management for notaries public employed by a state office or agency.

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

86 **46-1-19. Revocation or suspension.**

87 The [~~Division of Corporations and Commercial Code~~] lieutenant governor may revoke

88 or suspend a notarial commission on any ground for which an application for a notarial
89 commission may be denied under Section 46-1-3.

90 Section 5. Section **46-1-20** is amended to read:

91 **46-1-20. Change of name or address.**

92 (1) Within 30 days after the change of the notary's name or address, the notary shall
93 provide to the [~~Division of Corporations and Commercial Code~~] lieutenant governor a bond
94 policy rider.

95 (2) To obtain a bond policy rider, the notary shall:

96 (a) notify the surety for the notary's bond;

97 (b) obtain a bond policy rider reflecting both the old and new name of the notary or the
98 old and new address of the notary;

99 (c) return a bond policy rider, the original "Certificate of Authority of Notary Public";

100 (d) pay a \$5 fee; and

101 (e) destroy the old official seal.

102 Section 6. Section **46-1-21** is amended to read:

103 **46-1-21. Resignation.**

104 (1) A notary who resigns a notarial commission shall provide to the [~~Division of~~
105 ~~Corporations and Commercial Code~~] lieutenant governor a notice indicating the effective date
106 of resignation.

107 (2) A notary who ceases to reside in this state or who becomes unable to read and write
108 as provided in Section 46-1-3 shall resign the commission.

109 (3) A notary who resigns shall destroy the official seal and certificate.

110 Section 7. Section **46-1-23** is enacted to read:

111 **46-1-23. Dedication of fees.**

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

115 (2) All funding for the administration of this chapter shall be nonlapsing.

Legislative Review Note

as of 1-28-03 7:16 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel