

1 **JOURNAL OF NOTARY PUBLIC ACTS**

2 2004 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: Peter C. Knudson**5

6 **LONG TITLE**7 **General Description:**

8 This bill modifies the Notaries Public Reform Act to address notary journals.

9 **Highlighted Provisions:**

10 This bill:

- 11 ▶ requires a notary to keep a journal;
- 12 ▶ eliminates the requirement that notary journals be public records;
- 13 ▶ provides an exception related to the Department of Public Safety;
- 14 ▶ eliminates the provision related to keeping an electronic journal;
- 15 ▶ addresses inspection of a journal; and
- 16 ▶ makes technical changes.

17 **Monies Appropriated in this Bill:**

18 None

19 **Other Special Clauses:**

20 None

21 **Utah Code Sections Affected:**22 **AMENDS:**23 **46-1-13**, as repealed and reenacted by Chapter 287, Laws of Utah 199824 **46-1-14**, as last amended by Chapter 312, Laws of Utah 200025 **46-1-15**, as repealed and reenacted by Chapter 287, Laws of Utah 199826

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

28 Section 1. Section **46-1-13** is amended to read:

29 **46-1-13. Journal shall be kept.**

30 (1) A notary [may] shall:

31 (a) keep[;-] a journal meeting the requirements of Subsection (2);

32 (b) maintain[;-] and protect [as a public record,] the journal described in Subsection

33 (1)(a) in accordance with Section 46-1-15; and

34 (c) provide for lawful inspection [a chronological, permanently bound official journal
35 of notarial acts, containing numbered pages.] of the journal described in Subsection (1)(a) in
36 accordance with Section 46-1-15.

37 (2) A journal that a notary is required to keep under Subsection (1) shall:

38 (a) be the notary's official journal of the information described in Section 46-1-14;

39 (b) record notarial acts in chronological order;

40 (c) be permanently bound; and

41 (d) contain numbered pages.

42 Section 2. Section **46-1-14** is amended to read:

43 **46-1-14. Entries in journal.**

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

46 (a) the date and time of day of the notarial act;

47 (b) the type of notarial act;

48 (c) a description of the document or proceeding;

49 (d) the signature and printed name and address of each person for whom a notarial act
50 is performed;

51 (e) the evidence of identity of each person for whom a notarial act is performed, in the
52 form of [either]:

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

54 (ii) a description of;

55 (A) the identification document[,-its];

56 (B) the issuing agency[,-its] of the identification document;

57 (C) the serial or identification number[;-] of the identification document; and [its]

58 (D) the date of issuance or expiration of the identification document; [and] 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.

62 (2) A notary may record in the journal the circumstances in refusing to perform or
63 complete a notarial act.

64 (3) [If a notarization is performed electronically, the notary may keep an electronic
65 journal in which to record the information described in Subsections (1) and (2).] All electronic
66 notarizations shall be evidenced by a digital signature.

67 (4) Notwithstanding the other provisions of this section and Sections 46-1-13 and
68 46-1-15, a notary is not required to enter in a journal the information described in Subsection
69 (1) or (2) for a notarial act if:

(a) (i) the notary is an employee of the Department of Public Safety; or

71 (ii) the document notarized by the notarial act is used in the ordinary course of services
72 performed by the Department of Public Safety; and

73 (b) the Department of Public Safety maintains a copy of the document that is notarized
74 for the time period prescribed by law.

75 Section 3. Section **46-1-15** is amended to read:

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

77 [If a notary maintains a journal, the] (1) A notary shall:

[44] (a) safeguard the notary's official journal and all other notarial records [~~as valuable public documents and may not destroy the documents; and~~];

80 [2] (b) keep the notary's official journal in the exclusive custody of the notary[, not
81 to]; and

(c) allow inspection of the notary's official journal without restriction:

83 (i) by a law enforcement officer in the course of an official investigation;

(ii) if subpoenaed by a court order; or

(iii) at the direction of the lieutenant governor.

(2) A notary may not destroy the notary's official journal or any other notarial records.

(3) A notary's official journal may not:

88 (a) be used by any other notary; or

(b) be surrendered to an employer upon termination of employment.

Legislative Review Note
as of 1-8-04 12:55 PM

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

Office of Legislative Research and General Counsel

State Impact

No fiscal impact.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst