

28 **46-4-205**, as enacted by Chapter 74, Laws of Utah 2000



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

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

32 **46-1-2. Definitions.**

33 As used in this chapter:

34 (1) "Acknowledgment" means a notarial act in which a notary certifies that a signer,
35 whose identity is personally known to the notary or proven on the basis of satisfactory
36 evidence, has admitted~~[, and which admission is made either]~~ ~~H~~→ [f] **in the presence of the**
36a **notary [f] ←H** ~~[or by~~
37 ~~an electronic communication that is as reliable as an admission made in the presence of the~~
38 ~~notary, provided that the electronic communication is authorized by law or rule,]~~ signing a
39 document voluntarily for its stated purpose.

40 (2) "Commission" means to empower to perform notarial acts and the written authority
41 to perform those acts.

42 (3) "Copy certification" means a notarial act in which a notary certifies that a
43 photocopy is an accurate copy of a document that is neither a public record nor publicly
44 recorded.

45 (4) "Jurat" means a notarial act in which a notary certifies that a signer, whose identity
46 is personally known to the notary or proven on the basis of satisfactory evidence, has made, in
47 the notary's presence, a voluntary signature and taken an oath or affirmation vouching for the
48 truthfulness of the signed document.

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

51 (6) "Notarial certificate" means the part of or attachment to a notarized document for
52 completion by the notary and bearing the notary's signature and seal.

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

55 (8) "Oath" or "affirmation" means a notarial act in which a notary certifies that a person
56 made a vow or affirmation in the presence of the notary on penalty of perjury.

57 (9) "Official misconduct" means a notary's performance of any act prohibited or failure
58 to perform any act mandated by this chapter or by any other law in connection with a notarial

59 act.

60 (10) "Personal knowledge of identity" means familiarity with an individual resulting
61 from interactions with that individual over a period of time sufficient to eliminate every
62 reasonable doubt that the individual has the identity claimed.

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

64 (a) a current document issued by a federal or state government with the individual's
65 photograph, signature, and physical description; or

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

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

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

71 **46-1-6. Powers and limitations.**

72 The following notarial acts may be performed by a notary within the state:

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

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

77 ~~[(b) If all parties to a document consent, an authenticated electronic or digital signature~~
78 ~~may be treated as a notarized signature on the document, unless otherwise provided by law or~~
79 ~~rule.]~~

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

84 (2) Copy certifications.

85 (3) Jurats.

86 (4) Oaths or affirmations.

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

88 **46-1-14. Entries in journal.**

89 (1) For every notarial act, the notary may record in the journal at the time of

90 notarization the following information including:

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

92 (b) the type of notarial act;

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

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

96 (e) the evidence of identity of each person for whom a notarial act is performed, in the
97 form of either:

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

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

101 (iii) the signature and printed name and address of a credible witness swearing or
102 affirming to the person's identity; and

103 (f) the fee, if any, charged for the notarial act.

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

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

109 Section 4. Section **46-1-16** is amended to read:

110 **46-1-16. Official signature -- Official seal -- Seal impression.**

111 (1) In completing a notarial act, a notary shall sign on the notarial certificate exactly
112 and only the name indicated on the notary's commission.

113 (2) (a) A notary shall keep an official notarial seal that is the exclusive property of the
114 notary and that may not be used by any other person. Upon the resignation, revocation, or
115 expiration of a notarial commission, the seal shall be destroyed.

116 (b) Each notarial seal obtained by a notary on or after July 1, 2003 shall use purple ink.

117 (3) A new seal shall be obtained for any new commission or recommission. A new
118 seal shall be obtained if the notary changes the notary's name or address of record at any time
119 during the notary's four-year commission. The seal impression shall be affixed near the notary's
120 official signature on a notarial certificate and shall include a sharp, legible, and

121 photographically reproducible ink impression of the notarial seal that consists of:

122 (a) the notary public's name exactly as indicated on the commission;

123 (b) the words "notary public," "state of Utah," and "my commission expires
124 (commission expiration date)";

125 (c) the address of the notary's business or residence;

126 (d) a facsimile of the great seal of the state of Utah; and

127 (e) a rectangular border no larger than one inch by two and one-half inches surrounding
128 the required words and seal.

129 (4) An embossed seal impression that is not photographically reproducible may be used
130 in addition to, but not in place of, the photographically reproducible seal required in this
131 section.

132 (5) The notarial seal shall be affixed in a manner that does not obscure or render
133 illegible any information or signatures contained in the document or in the notarial certificate.

134 (6) A notary acknowledgment on an annexation, subdivision, or other transparent map
135 or plat is considered complete without the imprint of the notary's official seal if:

136 (a) the notary signs the acknowledgment in permanent ink; and

137 (b) the following appear below or immediately adjacent to the notary's signature:

138 (i) the notary's full name;

139 (ii) the words "A notary public commissioned in Utah"; and

140 (iii) the expiration date of the notary's commission.

141 (7) A notary acknowledgment on an electronic message or document is considered
142 complete without the imprint of the notary's seal if [~~(a) the electronic message or document~~
143 ~~has been digitally signed pursuant to Section 46-3-401 in the presence of a notary; (b) the~~
144 ~~notary has confirmed that the digital signature on the electronic message or document is~~
145 ~~verifiable by the public key listed in the certificate issued to the signer in accordance with~~
146 ~~Section 46-3-403; (c) the notary electronically signs the acknowledgment with a digital~~
147 ~~signature pursuant to Section 46-3-401; and (d)] the following information appears
148 electronically within the message [~~digitally signed by the notary]:~~~~

149 [(i)] (a) the notary's full name and commission number exactly as indicated on their
150 commission; [~~and]~~

151 [(ii)] (b) the words "notary public," "state of Utah," and "my commission expires

152 on _____ (date)"; and
153 [(iii)] (c) the address of the notary's business or residence exactly as indicated on their
154 commission.

155 Section 5. Section **46-4-205** is amended to read:

156 **46-4-205. Notarization and acknowledgment.**

157 If a law requires a signature or record to be notarized, acknowledged, verified, or made
158 under oath, the requirement is satisfied by following the procedures and requirements of
159 Subsection 46-1-16(7) if the electronic signature of the person authorized to perform those acts,
160 together with all other information required to be included by other applicable law, is attached
161 to or logically associated with the signature or record.

Legislative Review Note
as of 2-21-05 11:03 AM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number HB0375

Revisions to General State Government-Notary Law Amendments

22-Feb-05

12:35 PM

State Impact

No fiscal impact.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst