

PUBLIC NOTARY AMENDMENTS

2006 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ross I. Romero

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends the Notaries Public Reform Act to commission attorneys licensed in the state to act as public notaries and amends certain procedures related to the application process for attorney notaries.

Highlighted Provisions:

This bill:

- ▶ authorizes the lieutenant governor to commission an attorney licensed in the state as a notary; and
- ▶ amends certain procedures related to the application process for attorneys applying as a notary.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

46-1-3, as last amended by Chapter 136, Laws of Utah 2003

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

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



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

(1) Except as provided in Subsection (3), the lieutenant governor shall commission as a notary;

(a) any qualified person who submits an application in accordance with this chapter[?];

and

(b) an attorney licensed to practice in the state who:

(i) has never been disbarred; and

(ii) pays the application fee determined under Section 63-38-3.2.

(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 lieutenant governor 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, and daytime telephone 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) 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 Utah resident or have permanent resident status under Section 245 of the Immigration and Nationality Act; and

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

(3) The lieutenant governor 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;

(c) the applicant's official misconduct while acting in the capacity of a notary; or
(d) except as provided in Subsection (5)(b), the applicant's failure to pass the written examination.

(4) A person commissioned as a notary by the lieutenant governor 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) ~~[Each]~~ (a) Except as provided in Subsection (5)(b), each applicant for a notarial commission shall take a written examination approved by the lieutenant governor and submit the examination to a testing center designated by the lieutenant governor for purposes of scoring the examination. The testing center designated by the lieutenant governor shall issue a written acknowledgment to the applicant indicating whether the applicant passed or failed the examination.

(b) An applicant who is an attorney licensed to practice law in this state does not have to take the written examination required by Subsection (5)(a).

Legislative Review Note

as of 9-7-05 2:12 PM

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 HB0165****Public Notary Amendments***01-Feb-06**10:16 AM*

State Impact

Provisions of this bill can be implemented with existing resources.

Individual and Business Impact

No significant fiscal impact.

Office of the Legislative Fiscal Analyst