

Senator Ross I. Romero proposes the following substitute bill:

NOTARY PUBLIC AMENDMENTS

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ross I. Romero

House Sponsor: David Litvack

LONG TITLE

General Description:

This bill addresses criminal liability of a notary public.

Highlighted Provisions:

This bill:

- ▶ makes it a class B misdemeanor for a notary public to engage in certain conduct, including providing legal advice of the notary is not an attorney; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

46-1-11, as repealed and reenacted by Chapter 287, Laws of Utah 1998

46-1-18, as repealed and reenacted by Chapter 287, Laws of Utah 1998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 **46-1-11** is amended to read:



26 **46-1-11. Prohibited acts -- Advertising.**

27 (1) A nonattorney notary may not provide advice or counsel to another person
28 concerning legal documents or legal proceedings, including immigration matters.

29 (2) (a) (i) A nonattorney notary who advertises notarial services in any language other
30 than English shall include in the advertisement a notice that the notary public is not an
31 attorney.

32 (ii) The notice under Subsection (2)(a)(i) must include the fees that a notary may
33 charge pursuant to Section 46-1-12 and the following statement:

34 "I AM NOT AN ATTORNEY LICENSED TO PRACTICE LAW IN UTAH AND
35 MAY NOT GIVE LEGAL ADVICE ABOUT IMMIGRATION OR ANY OTHER LEGAL
36 MATTER OR ACCEPT FEES FOR LEGAL ADVICE."

37 (b) (i) The notice required by Subsection (2)(a) shall be in English and in the language
38 of the advertisement and in letters of a conspicuous size.

39 (ii) If the advertisement is by radio or television, the statement may be modified, but
40 must include substantially the same message.

41 (c) (i) Literal translation of the phrase "Notary Public" into any language other than
42 English is prohibited if the literal translation implies that the notary is a licensed attorney.

43 (ii) In this Subsection (2)(c), "literal translation" means the translation of a word or
44 phrase without regard to the true meaning of the word or phrase in the language that is being
45 translated.

46 Section 2. Section **46-1-18** is amended to read:

47 **46-1-18. Liability.**

48 (1) A notary may be liable to any person for any damage to that person proximately
49 caused by the notary's misconduct in performing a notarization.

50 (2) (a) A surety for a notary's bond may be liable to any person for damages
51 proximately caused to that person by the notary's misconduct in performing a notarization, but
52 the surety's liability may not exceed the penalty of the bond or of any remaining bond funds
53 that have not been expended to other claimants.

54 (b) Regardless of the number of claimants under Subsection (2)(a), a surety's total
55 liability may not exceed the penalty of the bond.

56 (3) It is a class B misdemeanor, if not otherwise a criminal offense under this code, for:

- 57 (a) a notary to perform an act in violation of Section 46-1-9 or Section 46-1-11; or
58 (b) the employer of a notary to solicit the notary to perform a notarial act in violation of
59 this chapter.

S.B. 166 1st Sub. (Green) - Notary Public Amendments

Fiscal Note

2007 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
