

REMOTE NOTARIZATION STANDARDS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Craig Hall

Senate Sponsor: Kirk A. Cullimore

LONG TITLE

Committee Note:

The Government Operations Interim Committee recommended this bill.

General Description:

This bill modifies the Notaries Public Reform Act to allow a notarization to be performed remotely.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ establishes requirements for and a process by which the lieutenant governor may certify a notary as a remote notary;
- ▶ establishes requirements for the process by which a remote notary may perform a remote notarization, including standards for:
 - determining and individual's identity; and
 - the equipment, software, and hardware by which a remote notary may perform a remote notarization;
- ▶ grants rulemaking authority to the director of elections in the Office of the Lieutenant Governor;
- ▶ amends the fees a notary may charge for performing a notarization;
- ▶ requires a remote notary to keep an electronic journal, including an audio and video recording, of each notarization the remote notary performs;



- 28 ▶ amends provisions related to the security, maintenance, and custody of a notary's
- 29 journal;
- 30 ▶ amends provisions related to the obtaining, use, surrendering, and destruction of a
- 31 notary's official seal; and
- 32 ▶ makes technical and conforming changes.

33 Money Appropriated in this Bill:

34 None

35 Other Special Clauses:

36 None

37 Utah Code Sections Affected:

38 AMENDS:

- 39 **46-1-2**, as last amended by Laws of Utah 2017, Chapter 259
- 40 **46-1-3**, as last amended by Laws of Utah 2017, Chapter 259
- 41 **46-1-4**, as last amended by Laws of Utah 2017, Chapter 259
- 42 **46-1-6**, as repealed and reenacted by Laws of Utah 2017, Chapter 259
- 43 **46-1-6.5**, as enacted by Laws of Utah 2017, Chapter 259
- 44 **46-1-10**, as repealed and reenacted by Laws of Utah 1998, Chapter 287
- 45 **46-1-12**, as last amended by Laws of Utah 1998, Chapter 287
- 46 **46-1-13**, as repealed and reenacted by Laws of Utah 1998, Chapter 287
- 47 **46-1-14**, as last amended by Laws of Utah 2006, Chapter 21
- 48 **46-1-15**, as last amended by Laws of Utah 2017, Chapter 259
- 49 **46-1-16**, as last amended by Laws of Utah 2017, Chapter 259
- 50 **46-1-17**, as repealed and reenacted by Laws of Utah 1998, Chapter 287
- 51 **46-1-18**, as last amended by Laws of Utah 2017, Chapter 259
- 52 **46-1-21**, as last amended by Laws of Utah 2003, Chapter 136

53 ENACTS:

- 54 **46-1-3.5**, Utah Code Annotated 1953
- 55 **46-1-3.6**, Utah Code Annotated 1953
- 56 **46-1-3.7**, Utah Code Annotated 1953



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

59 Section 1. Section 46-1-2 is amended to read:

60 **46-1-2. Definitions.**

61 As used in this chapter:

62 (1) "Acknowledgment" means a notarial act in which a notary certifies that a signer,
63 whose identity is personally known to the notary or proven on the basis of satisfactory
64 evidence, has admitted, in the presence of the notary, to voluntarily signing a document for the
65 document's stated purpose.

66 (2) "Commission" means:

67 (a) to empower to perform notarial acts; or

68 (b) the written document that gives authority to perform notarial acts, including the
69 Certificate of Authority of Notary Public that the lieutenant governor issues to a notary.

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

73 (4) "Electronic seal" means an electronic version of the seal described in Section
74 46-1-16, that conforms with rules made under Subsection 46-1-3.7(1)(d), that a remote notary
75 may attach to a notarial certificate to complete a remote notarization.

76 [~~4~~] (5) "Electronic signature" means the same as that term is defined in Section
77 46-4-102.

78 (6) "In the presence of the notary" means that an individual:

79 (a) is physically present with the notary in close enough proximity to see and hear the
80 notary; or

81 (b) communicates with a remote notary by means of an electronic device or process
82 that:

83 (i) allows the individual and remote notary to communicate with one another
84 simultaneously by sight and sound; and

85 (ii) complies with rules made under Section 46-1-3.7.

86 [~~5~~] (7) "Jurat" means a notarial act in which a notary certifies:

87 (a) the identity of a signer who:

88 (i) is personally known to the notary; or

89 (ii) provides the notary satisfactory evidence of the signer's identity;

90 (b) that the signer affirms or swears an oath attesting to the truthfulness of a document;
91 and

92 (c) that the signer voluntarily signs the document in the presence of the notary.

93 ~~[(6)]~~ (8) "Notarial act" or "notarization" means an act that a notary is authorized to
94 perform under Section 46-1-6.

95 ~~[(7)]~~ (9) "Notarial certificate" means the affidavit described in Section 46-1-6.5 that is:

96 (a) a part of or attached to a notarized document; and

97 (b) completed by the notary and bears the notary's signature and official seal.

98 ~~[(8)]~~ (10) (a) "Notary" means ~~[any person]~~ an individual commissioned to perform
99 notarial acts under this chapter.

100 (b) "Notary" includes a remote notary.

101 ~~[(9)]~~ (11) "Oath" or "affirmation" means a notarial act in which a notary certifies that a
102 person made a vow or affirmation in the presence of the notary on penalty of perjury.

103 ~~[(10)]~~ (12) "Official misconduct" means a notary's performance of any act prohibited or
104 failure to perform any act mandated by this chapter or by any other law in connection with a
105 notarial act.

106 (13) (a) "Official seal" means the seal described in Section 46-1-16 that a notary may
107 attach to a notarial certificate to complete a notarization.

108 (b) "Official seal" includes an electronic seal.

109 ~~[(11)]~~ (14) "Personally known" means familiarity with an individual resulting from
110 interactions with that individual over a period of time sufficient to eliminate every reasonable
111 doubt that the individual has the identity claimed.

112 (15) "Remote notarization" means a notarial act performed by a remote notary in
113 accordance with this chapter for an individual who is not in the physical presence of the remote
114 notary at the time the remote notary performs the notarial act.

115 (16) "Remote notary" means a notary that holds an active remote notary certification
116 under Section 46-1-3.5.

117 ~~[(12)]~~ (17) (a) "Satisfactory evidence of identity" means:

118 (i) for both an in-person and remote notarization, identification of an individual based
119 on:

120 ~~[(i)]~~ (A) subject to Subsection (17)(b), valid personal identification with the

121 individual's photograph, signature, and physical description that the United States government,
 122 any state within the United States, or a foreign government issues;

123 ~~[(ii)]~~ (B) subject to Subsection (17)(b), a valid passport that any nation issues; or

124 ~~[(iii)]~~ (C) the oath or affirmation of a credible person who is personally known to the
 125 notary and who personally knows the individual~~[-];~~ and

126 (ii) for a remote notarization only, a third party's affirmation of an individual's identity
 127 in accordance with rules made under Section 46-1-3.7 by means of:

128 (A) dynamic knowledge-based authentication, which may include requiring the
 129 individual to answer questions about the individual's personal information obtained from
 130 public or proprietary data sources; or

131 (B) analysis of the individual's biometric data, which may include facial recognition,
 132 voiceprint analysis, or fingerprint analysis.

133 (b) "Satisfactory evidence of identity," for a remote notarization, requires the
 134 identification described in Subsection (17)(a)(i)(A) or passport described in Subsection
 135 (17)(a)(i)(B) to be verified through public or proprietary data sources in accordance with rules
 136 made under Section 46-1-3.7.

137 ~~[(b)]~~ (c) "Satisfactory evidence of identity" does not include:

138 (i) a driving privilege card under Subsection 53-3-207(10); or

139 (ii) another document that is not considered valid for identification.

140 ~~[(13)]~~ (18) "Signature witnessing" means a notarial act in which an individual:

141 (a) appears in person before a notary and presents a document;

142 (b) provides the notary satisfactory evidence of the individual's identity, or is
 143 personally known to the notary; and

144 (c) signs the document in the presence of the notary.

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

146 **46-1-3. Qualifications -- Application for notarial commission required -- Term.**

147 (1) Except as provided in Subsection (3), and subject to Section 46-1-3.5, the
 148 lieutenant governor shall commission as a notary any qualified person who submits an
 149 application in accordance with this chapter.

150 (2) To qualify for a notarial commission an individual shall:

151 (a) be at least 18 years old;

- 152 (b) lawfully reside in the state for at least 30 days immediately before the individual
153 applies for a notarial commission;
- 154 (c) be able to read, write, and understand English;
- 155 (d) submit an application to the lieutenant governor containing no significant
156 misstatement or omission of fact, that includes:
- 157 (i) the individual's:
- 158 (A) name as it will appear on the commission;
- 159 (B) residential address;
- 160 (C) business address;
- 161 (D) daytime telephone number; and
- 162 (E) date of birth;
- 163 (ii) an affirmation that the individual meets the requirements of this section;
- 164 (iii) an indication of any criminal convictions the individual has received, including a
165 plea of admission or no contest;
- 166 (iv) all issuances, denials, revocations, suspensions, restrictions, and resignations of a
167 notarial commission or other professional license involving the applicant in this or any other
168 state;
- 169 (v) an indication that the individual has passed the examination described in
170 Subsection (5); and
- 171 (vi) payment of an application fee that the lieutenant governor establishes in
172 accordance with Section [63J-1-504](#); and
- 173 (e) (i) be a United States citizen; or
- 174 (ii) have permanent resident status under Section 245 of the Immigration and
175 Nationality Act.
- 176 (3) The lieutenant governor may deny an application based on:
- 177 (a) the applicant's conviction for a crime involving dishonesty or moral turpitude;
- 178 (b) any revocation, suspension, or restriction of a notarial commission or professional
179 license issued to the applicant by this or any other state;
- 180 (c) the applicant's official misconduct while acting in the capacity of a notary; or
- 181 (d) the applicant's failure to pass the examination described in Subsection (5).
- 182 (4) (a) An individual whom the lieutenant governor commissions as a notary;

183 (i) may perform notarial acts in any part of the state for a term of four years, unless the
184 person resigns or the commission is revoked or suspended under Section 46-1-19[-]; and

185 (ii) except through a remote notarization performed in accordance with this chapter,
186 may not perform a notarial act for another individual who is outside of the state.

187 (b) (i) After an individual's commission expires, the individual may not perform a
188 notarial act until the individual obtains a new commission.

189 (ii) An individual whose commission expires and who wishes to obtain a new
190 commission shall submit a new application, showing compliance with the requirements of this
191 section.

192 (5) (a) Each applicant for a notarial commission shall take an examination that the
193 lieutenant governor approves and submit the examination to a testing center that the lieutenant
194 governor designates for purposes of scoring the examination.

195 (b) The testing center that the lieutenant governor designates shall issue a written
196 acknowledgment to the applicant indicating whether the applicant passed or failed the
197 examination.

198 (6) (a) A notary shall maintain permanent residency in the state during the term of the
199 notary's notarial commission.

200 (b) A notary who does not maintain permanent residency under Subsection (6)(a) shall
201 resign the notary's notarial commission in accordance with Section 46-1-21.

202 Section 3. Section 46-1-3.5 is enacted to read:

203 **46-1-3.5. Remote notary qualifications -- Application -- Authority.**

204 (1) An individual commissioned as a notary, or an individual applying to be
205 commissioned as a notary, under Section 46-1-3 may apply to the lieutenant governor for a
206 remote notary certification under this section.

207 (2) The lieutenant governor shall certify an individual to perform remote notarizations
208 as a remote notary if the individual:

209 (a) complies with Section 46-1-3 to become a commissioned notary;

210 (b) submits to the lieutenant governor, on a form created by the lieutenant governor, a
211 correctly completed application for a remote notary certification; and

212 (c) pays to the lieutenant governor the application fee described in Subsection (4).

213 (3) The lieutenant governor shall ensure that the application described in Subsection

214 (2)(b) requires an applicant to:

215 (a) list the applicant's name as it appears or will appear on the applicant's notarial
216 commission;

217 (b) agree to comply with the provisions of this chapter, and rules made under Section
218 46-1-3.7, that relate to a remote notarization; and

219 (c) provide the applicant's email address.

220 (4) The lieutenant governor may establish and charge a fee in accordance with Section
221 63J-1-504 to an individual who seeks to obtain remote notary certification under this section.

222 Section 4. Section 46-1-3.6 is enacted to read:

223 **46-1-3.6. Remote notarization procedures.**

224 (1) A remote notary who receives a remote notary certification under Section 46-1-3.5
225 may perform a remote notarization if the remote notary is physically located in this state.

226 (2) A remote notary that performs a remote notarization for an individual that is not
227 personally known to the remote notary shall, at the time the remote notary performs the remote
228 notarization, establish satisfactory evidence of identity for the individual by:

229 (a) communicating with the individual using an electronic device or process that:

230 (i) allows the individual and remote notary to communicate with one another
231 simultaneously by sight and sound; and

232 (ii) complies with rules made under Section 46-1-3.7; and

233 (b) requiring the individual to transmit to the remote notary an image of a form of
234 identification described in Subsection 46-1-2(17)(a)(i)(A) or passport described in Subsection
235 46-1-2(17)(a)(i)(B) that is of sufficient quality for the remote notary to establish satisfactory
236 evidence of identity.

237 (3) A remote notary shall create an audio and video recording of the performance of
238 each remote notarization and store the recording in accordance with Sections 46-1-14 and
239 46-1-15.

240 Section 5. Section 46-1-3.7 is enacted to read:

241 **46-1-3.7. Rulemaking authority for remote notarization.**

242 (1) The director of elections in the Office of the Lieutenant Governor may make rules
243 in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding
244 standards for and types of:

- 245 (a) electronic software and hardware that a remote notary may use to:
 246 (i) perform a remote notarization; and
 247 (ii) keep an electronic journal under Section [46-1-13](#);
 248 (b) public and proprietary data sources that a remote notary may use to establish
 249 satisfactory evidence of identity under Subsection [46-1-2\(17\)\(b\)](#);
 250 (c) dynamic knowledge-based authentication or biometric data analysis that a remote
 251 notary may use to establish satisfactory evidence of identity under Subsection [46-1-2\(17\)\(a\)\(ii\)](#);
 252 and
 253 (d) electronic seals a remote notary may use to complete an electronic notarial
 254 certificate.
- 255 (2) When making a rule under this section, the director of elections in the Office of the
 256 Lieutenant Governor shall review and consider standards recommended by one or more
 257 national organizations that address the governance or operation of notaries.
- 258 Section 6. Section **46-1-4** is amended to read:
- 259 **46-1-4. Bond.**
- 260 (1) A notarial commission is not effective until:
 261 [~~(1)~~] (a) the notary named in the commission takes a constitutional oath of office and
 262 files a \$5,000 bond with the lieutenant governor that:
 263 [~~(a)~~] (i) a licensed surety executes for a term of four years beginning on the
 264 commission's effective date and ending on the commission's expiration date; and
 265 [~~(b)~~] (ii) conditions payment of bond funds to any person upon the notary's misconduct
 266 while acting in the scope of the notary's commission; and
 267 [~~(2)~~] (b) the lieutenant governor approves the oath and bond [~~are approved by the~~
 268 lieutenant governor].
- 269 (2) In addition to the requirements described in Subsection (1), a remote notary
 270 certification described in Section [46-1-3.5](#) is not effective until:
 271 (a) the notary named in the remote notary certification files, in addition to the bond
 272 described in Subsection (1)(a), a \$5,000 bond with the lieutenant governor, that:
 273 (i) a licensed surety executes for a term that begins on the certification's effective date
 274 and ends on the remote notary's commission's expiration date; and
 275 (ii) conditions payment of bond funds to any person upon the remote notary's

276 misconduct while acting in the scope of the remote notary's commission; and

277 (b) the lieutenant governor approves the oath and bond.

278 Section 7. Section 46-1-6 is amended to read:

279 **46-1-6. Powers and limitations.**

280 (1) A notary may perform the following acts:

281 (a) a jurat;

282 (b) an acknowledgment;

283 (c) a signature witnessing;

284 (d) a copy certification; and

285 (e) an oath or affirmation.

286 (2) A notary may not:

287 (a) perform an act as a notary that is not described in Subsection (1); or

288 (b) perform an act described in Subsection (1) if the [person] individual for whom the
289 notary performs the notarial act is not in the [physical] presence of the notary at the time the
290 notary performs the act.

291 Section 8. Section 46-1-6.5 is amended to read:

292 **46-1-6.5. Form of notarial certificate for document notarizations.**

293 (1) A correctly completed affidavit in substantially the form described in this section,
294 that is included in or attached to a document, is sufficient for the completion of a notarization
295 under this Title 46, Chapter 1, Notaries Public Reform Act.

296 (2) (a) A notary shall ensure that a signer takes the following oath or makes the
297 following affirmation before the notary witnesses the signature for a jurat:

298 "Do you swear or affirm under penalty of perjury that the statements in your document
299 are true?"

300 (b) An affidavit for a jurat that is in substantially the following form is sufficient under
301 Subsection (1):

302 "State of Utah

303 §

304 County of _____

305 Subscribed and sworn to before me (notary public name), on this (date) day of (month),
306 in the year (year), by (name of document signer).

307 ([Notary] Notary's Official Seal) _____

308 Notary Signature".

309 (3) An affidavit for an acknowledgment that is in substantially the following form is
310 sufficient under Subsection (1):

311 "State of Utah

312 §

313 County of _____

314 On this (date) day of (month), in the year (year), before me (name of notary public), a
315 notary public, personally appeared (name of document signer), proved on the basis of
316 satisfactory evidence to be the person(s) whose name(s) (is/are) subscribed to in this document,
317 and acknowledged (he/she/they) executed the same.

318 ([Notary] Notary's Official Seal) _____

319 Notary Signature".

320 (4) An affidavit for a copy certification that is in substantially the following form is
321 sufficient under Subsection (1):

322 "State of Utah

323 §

324 County of _____

325 On this (date) day of (month), in the year (year), I certify that the preceding or attached
326 document is a true, exact, and unaltered photocopy of (description of document), and that, to
327 the best of my knowledge, the photocopied document is neither a public record nor a publicly
328 recorded document.

329 ([Notary] Notary's Official Seal) _____

330 Notary Signature".

331 (5) An affidavit for a signature witnessing that is in substantially the following form is
332 sufficient under Subsection (1):

333 "State of Utah

334 §

335 County of _____

336 On this (date) day of (month), in the year (year), before me, (name of notary public),
337 personally appeared (name of document signer), proved to me through satisfactory evidence of

338 identification, which was (form of identification), to be the person whose name is signed on the
339 preceding or attached document in my presence.

340 (~~Notary~~) Notary's Official Seal _____
341 Notary Signature".

342 (6) A remote notary shall ensure that the notarial certificate described in this section
343 that is used for a remote notarization includes a statement that the remote notary performed the
344 notarization remotely.

345 Section 9. Section **46-1-10** is amended to read:

346 **46-1-10. Testimonials prohibited.**

347 A notary may not use the notary's title or official seal to endorse or promote any
348 product, service, contest, or other offering [if the notary's title or seal is used in the
349 endorsement or promotional statement].

350 Section 10. Section **46-1-12** is amended to read:

351 **46-1-12. Fees and notice.**

352 (1) The maximum [~~fees that may be charged by a notary~~] fee a notary may charge for
353 notarial acts are [for]:

- 354 (a) [~~acknowledgments, \$5~~] for an acknowledgment, \$10 per signature;
- 355 (b) [~~certified copies, \$5~~] for a certified copy, \$10 per page certified;
- 356 (c) [~~jurats, \$5~~] for a jurat, \$10 per signature; [and]
- 357 (d) [~~oaths or affirmations~~] for an oath or affirmation without a signature, [\$5] \$10 per
358 person[-]; and
- 359 (e) for each signature witnessing, \$10.

360 (2) A notary may charge a travel fee, not to exceed the approved federal mileage rate,
361 when traveling to perform a notarial act if:

362 (a) the notary explains to the person requesting the notarial act that the travel fee is
363 separate from the notarial fee in Subsection (1) and is neither specified nor mandated by law;
364 and

365 (b) the notary and the person requesting the notarial act agree upon the travel fee in
366 advance.

367 (3) A notary shall display an English-language schedule of fees for notarial acts and
368 may display a nonEnglish-language schedule of fees.

369 (4) (a) [~~The fee of a notary shall not exceed \$5~~] A notary may not charge a fee of more
370 than \$10 per individual for each set of forms relating to a change of that individual's
371 immigration status.

372 (b) The fee limitation described in Subsection (4)(a) [~~shall apply whether or not~~]
373 applies regardless of whether the notary is acting as a notary but does not apply to a licensed
374 attorney, who is also a notary rendering professional services regarding immigration matters.

375 Section 11. Section **46-1-13** is amended to read:

376 **46-1-13. Notary journal.**

377 (1) A notary may keep, maintain, and protect as a public record, and provide for lawful
378 inspection a chronological, permanently bound official journal of notarial acts, containing
379 numbered pages.

380 (2) A remote notary shall keep a secure electronic journal of each remote notarization
381 the notary performs.

382 Section 12. Section **46-1-14** is amended to read:

383 **46-1-14. Entries in journal -- Required information.**

384 (1) [~~For every notarial act, the notary may~~] A notary may, for each notarial act the
385 notary performs, and a remote notary shall, for each notarial act the notary performs remotely,
386 record the following information in the journal described in Section [46-1-13](#) at the time of
387 notarization:

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

389 (b) the type of notarial act;

390 (c) [~~a~~] the type title, or a description of the document, electronic record, or proceeding
391 that is the subject of the notarial act;

392 (d) the signature and printed name and address of each [~~person~~] individual for whom a
393 notarial act is performed;

394 (e) the evidence of identity of each [~~person~~] individual for whom a notarial act is
395 performed, in the form of:

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

397 (ii) a description of the identification document[~~, its~~] and the identification document's
398 issuing agency, [~~its~~] serial or identification number, and [~~its~~] date of issuance or expiration;

399 [~~or~~]

400 (iii) the signature and printed name and address of a credible witness swearing or
401 affirming to the person's identity; [~~and~~] or

402 (iv) if used for a remote notarization, a description of the dynamic knowledge-based
403 authentication or biometric data analysis that was used to provide satisfactory evidence of
404 identity under Subsection 46-1-2(17)(a)(ii);

405 (f) a copy of the audio and video recording described in Subsection 46-1-3.6(3); and
406 [~~f~~] (g) the fee, if any, the notary charged for the notarial act.

407 (2) A notary may record in the journal a description of the circumstances [~~in refusing~~]
408 under which the notary refused to perform or complete a notarial act.

409 (3) A remote notary shall maintain, or ensure that a person that the notary designates as
410 a custodian under Subsection 46-1-15(2)(b)(i) maintains, for a period of five years, the
411 information described in Subsection (1) for each remote notarization the notary performs.

412 Section 13. Section 46-1-15 is amended to read:

413 **46-1-15. Inspection of journal -- Safekeeping and custody of journal.**

414 (1) [~~H~~] Except as provided in Subsection (2)(b), if a notary maintains a journal, the
415 notary shall:

416 (a) keep the journal in the notary's exclusive custody; and

417 (b) ensure that the journal is not used by any other person for any purpose.

418 (2) (a) A remote notary shall:

419 (i) ensure that the electronic journal described in Section 46-1-113 that is maintained
420 by the remote notary is a secure and authentic record of the remote notarizations that the notary
421 performs;

422 (ii) maintain a backup electronic journal, including a backup of the audio and video
423 recordings described in Subsection 46-1-3.6(3); and

424 (iii) protect the backup electronic journal described in Subsection (2)(a)(ii) from
425 unauthorized access or use.

426 (b) (i) A remote notary may designate as a custodian of the remote notary's electronic
427 journal described in Section 46-1-113:

428 (A) subject to Subsection (3), the remote notary's employer that employs the remote
429 notary to perform notarizations; or

430 (B) an electronic repository that grants the remote notary sole access to the electronic

431 journal and that, unless required under a court order, does not allow the person who operates
432 the electronic repository or any other person to access the journal, or information in the journal,
433 for any purpose.

434 (ii) A remote notary that designates a custodian under Subsection (2)(b)(i) shall
435 execute an agreement with the custodian that requires the custodian to comply with the safety
436 and security requirements of this chapter with regards to the electronic journal and the
437 information in the electronic journal.

438 ~~[(2)]~~ (3) The notary's employer may not require the notary to surrender the journal
439 upon termination of the notary's employment.

440 Section 14. Section **46-1-16** is amended to read:

441 **46-1-16. Official signature -- Official seal -- Destruction of seal -- Unlawful use of**
442 **seal -- Criminal penalties.**

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

445 (2) (a) A notary shall keep an official ~~[notarial]~~ seal, and a remote notary shall keep an
446 electronic seal and electronic signature, that is the exclusive property of the notary ~~[and that]~~.

447 (b) A notary's official seal, electronic seal, or electronic signature may not be used by
448 any other person.

449 ~~[(b) Upon the resignation, revocation, or expiration of a notarial commission, the~~
450 ~~notary shall destroy the notary's seal.]~~

451 (c) Each ~~[notarial seal obtained by a notary shall use purple ink]~~ official seal shall be
452 purple.

453 (3) (a) A notary shall obtain a new official seal:

454 (i) when the notary receives a new commission; or

455 (ii) if the notary changes the notary's name of record at any time during the notary's
456 commission.

457 (b) ~~[A]~~ Subject to Subsection (3)(c), a notary shall affix the official seal [impression]
458 near the notary's official signature on a notarial certificate and shall include a sharp, legible,
459 and photographically reproducible [ink impression of the notarial] rendering of the official seal
460 that consists of:

461 (i) the notary public's name exactly as indicated on the notary's commission;

- 462 (ii) the words "notary public," "state of Utah," and "my commission expires on
- 463 (commission expiration date)";
- 464 (iii) the notary's commission number, exactly as indicated on the notary's commission;
- 465 (iv) a facsimile of the great seal of the state; and
- 466 (v) a rectangular border no larger than one inch by two and one-half inches surrounding
- 467 the required words and official seal.

468 (c) When performing a remote notarization, a remote notary shall attach the remote
469 notary's electronic signature and electronic seal under Subsection (3)(b) to an electronic
470 notarial certificate in a manner that makes evident any subsequent change or modification to:

- 471 (i) the notarial certificate; or
- 472 (ii) any electronic record, that is a part of the notarization, to which the notarial
473 certificate is attached.

474 (4) A notary may use an embossed seal impression that is not photographically
475 reproducible in addition to, but not in place of, the photographically reproducible official seal
476 required in this section.

477 (5) A notary shall affix the [~~notarial~~] official seal in a manner that does not obscure or
478 render illegible any information or signatures contained in the document or in the notarial
479 certificate.

480 (6) A notary may not use [~~a notarial~~] an official seal independent of a notarial
481 certificate.

482 (7) [~~A~~] Except for a notarial certificate that is completed as a part of a remote
483 notarization, a notarial certificate on an annexation, subdivision, or other map or plat is
484 considered complete without the imprint of the notary's official seal if:

- 485 (a) the notary signs the notarial certificate in permanent ink; and
- 486 (b) the following appear below or immediately adjacent to the notary's signature:
 - 487 (i) the notary's name and commission number appears exactly as indicated on the
 - 488 notary's commission;
 - 489 (ii) the words "A notary public commissioned in Utah"; and
 - 490 (iii) the expiration date of the notary's commission.

491 (8) A notarial certificate on an electronic message or document is considered complete
492 without the [~~imprint of the~~] notary's official seal if the following information appears

493 electronically within the message or document:

494 (a) the notary's name and commission number appearing exactly as indicated on the
495 notary's commission; and

496 (b) the words "notary public," "state of Utah," and "my commission expires on _____
497 (date)".

498 (9) (a) When a notary resigns or the notary's commission expires or is revoked, the
499 notary shall:

500 (i) destroy the notary's official seal and certificate; and

501 (ii) if the notary is a remote notary, destroy any coding, disk, certificate, card, software,
502 or password that enables the remote notary to affix the remote notary's electronic signature or
503 electronic seal to a notarial certificate.

504 (b) A former remote notary shall certify to the lieutenant governor in writing that the
505 former remote notary has complied with Subsection (9)(a)(ii) within 10 days after the day on
506 which the notary resigns or the notary's commission expires or is revoked.

507 (10) (a) A person who, without authorization, knowingly obtains, conceals, damages,
508 or destroys the certificate, disk, coding, card, program, software, or hardware enabling a remote
509 notary to affix an official electronic signature or electronic seal to an electronic record is guilty
510 of a class A misdemeanor.

511 (b) A remote notary shall immediately notify the lieutenant governor if the notary
512 becomes aware that the notary's electronic signature, electronic seal, electronic journal, or
513 information from the journal, has been lost, stolen, or used unlawfully.

514 Section 15. Section **46-1-17** is amended to read:

515 **46-1-17. Obtaining official seal.**

516 (1) A [~~vendor~~] person may not provide [~~a notarial seal, either inking or embossing, to a~~
517 ~~person~~] an official seal to an individual claiming to be a notary, unless the [~~person presents a~~
518 ~~photocopy of the person's~~] individual presents a copy of the individual's notarial commission,
519 attached to a notarized declaration substantially as follows:

520 Application for [~~Notary~~] Notary's Official Seal

521 I, _____ (name of [~~person~~] individual requesting seal), declare that I am
522 a notary public duly commissioned by the state of Utah with a commission starting date of
523 _____, a commission expiration date of _____, and a commission number of _____

524 _____ . As evidence, I attach to this [~~paper a photocopy~~] statement a copy of my
525 commission.

526 (2) (a) Except as provided in Subsection (2)(b), an individual may not create, obtain, or
527 possess an electronic seal unless the individual is a remote notary.

528 (b) A person is not guilty of a violation of Subsection (2)(a) if the person is a business
529 that creates, obtains, or possesses an electronic seal for the sole purpose of providing the
530 electronic seal to a certified remote notary.

531 [~~2~~] (3) A [~~vendor~~] person who provides [~~a notarial~~], creates, obtains, or possess an
532 official seal in violation of this section is guilty of a class [B] (A) misdemeanor.

533 Section 16. Section **46-1-18** is amended to read:

534 **46-1-18. Liability.**

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

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

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

543 (3) It is a class [B] (A) misdemeanor, if not otherwise a criminal offense under this
544 code, for:

- 545 (a) a notary to violate a provision of this chapter; or
- 546 (b) the employer of a notary to solicit the notary to violate a provision of this chapter.

547 Section 17. Section **46-1-21** is amended to read:

548 **46-1-21. Resignation.**

549 (1) A notary who resigns a notarial commission shall provide to the lieutenant
550 governor a notice indicating the effective date of resignation.

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

553 (3) A notary who resigns shall destroy the official seal and certificate in accordance
554 with Subsection **46-1-16(9)**.