NOTARY PUBLIC AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Merrill F. Nelson

Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill amends requirements for notaries public.

Highlighted Provisions:

This bill:

• expands eligibility for individuals to qualify for a notarial commission to individuals who are employed in the state; and

• amends resignation requirements to account for the eligibility expansion.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

46-1-3, as last amended by Laws of Utah 2019, Chapter 192

46-1-21, as last amended by Laws of Utah 2019, Chapter 192

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 -- Application for notarial commission required -- Term.

(1) Except as provided in Subsection (4), and subject to Section 46-1-3.5, the lieutenant governor shall commission as a notary any qualified individual who submits an application in accordance with this chapter.
To qualify for a notarial commission an individual shall:

(a) be at least 18 years old;
(b) lawfully reside in the state or be employed in the state for at least 30 days immediately before the individual applies for a notarial commission;
(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, that includes:

(i) the individual's:
(A) name as it will appear on the commission;
(B) residential address;
(C) business address;
(D) daytime telephone number; and
(E) date of birth;
(ii) an affirmation that the individual meets the requirements of this section;
(iii) an indication of any criminal convictions the individual has received, including a plea of admission or no contest;
(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) an indication that the individual has passed the examination described in Subsection (6); and
(vi) payment of an application fee that the lieutenant governor establishes in accordance with Section 63J-1-504;

(e) (i) be a United States citizen; or
(ii) have permanent resident status under Section 245 of the Immigration and Nationality Act; and

(f) submit to a background check described in Subsection (3).

(3) (a) The lieutenant governor shall:
(i) request the Department of Human Resource Management to perform a criminal background check under Subsection 53-10-108(16) on each individual who submits an application under this section;

(ii) require an individual who submits an application under this section to provide a signed waiver on a form provided by the lieutenant governor that complies with Subsection 53-10-108(4); and

(iii) provide the Department of Human Resource Management the personal identifying information of each individual who submits an application under this section.

(b) The Department of Human Resource Management shall:

(i) perform a criminal background check under Subsection 53-10-108(16) on each individual described in Subsection (3)(a)(i); and

(ii) provide to the lieutenant governor all information that pertains to the individual described in Subsection (3)(a)(i) that the department identifies or receives as a result of the background check.

(4) 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) the applicant's failure to pass the examination described in Subsection (6).

(5) (a) An individual whom the lieutenant governor commissions as a notary:

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

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

(b) (i) After an individual's commission expires, the individual may not perform a notarial act until the individual obtains a new commission.
(ii) An individual whose commission expires and who wishes to obtain a new commission shall submit a new application, showing compliance with the requirements of this section.

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

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

(7) (a) A notary shall maintain permanent residency or employment in the state during the term of the notary's notarial commission.

(b) A notary who does not maintain permanent residency or employment under Subsection (7)(a) shall resign the notary's notarial commission in accordance with Section 46-1-21.

Section 2. Section 46-1-21 is amended to read:


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

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

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