

**NOTARY PUBLIC AMENDMENTS**

2021 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Merrill F. Nelson**

Senate Sponsor: Scott D. Sandall

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**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

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*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



28 lieutenant governor shall commission as a notary any qualified ~~[person]~~ individual who  
29 submits an application in accordance with this chapter.

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

31 (a) be at least 18 years old;

32 (b) lawfully reside in the state or be employed in the state for at least 30 days  
33 immediately before the individual applies for a notarial commission;

34 (c) be able to read, write, and understand English;

35 (d) submit an application to the lieutenant governor containing no significant  
36 misstatement or omission of fact, that includes:

37 (i) the individual's:

38 (A) name as it will appear on the commission;

39 (B) residential address;

40 (C) business address;

41 (D) daytime telephone number; and

42 (E) date of birth;

43 (ii) an affirmation that the individual meets the requirements of this section;

44 (iii) an indication of any criminal convictions the individual has received, including a  
45 plea of admission or no contest;

46 (iv) all issuances, denials, revocations, suspensions, restrictions, and resignations of a  
47 notarial commission or other professional license involving the applicant in this or any other  
48 state;

49 (v) an indication that the individual has passed the examination described in  
50 Subsection (6); and

51 (vi) payment of an application fee that the lieutenant governor establishes in  
52 accordance with Section [63J-1-504](#);

53 (e) (i) be a United States citizen; or

54 (ii) have permanent resident status under Section 245 of the Immigration and  
55 Nationality Act; and

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

57 (3) (a) The lieutenant governor shall:

58 (i) request the Department of Human Resource Management to perform a criminal

59 background check under Subsection 53-10-108(16) on each individual who submits an  
60 application under this section;

61 (ii) require an individual who submits an application under this section to provide a  
62 signed waiver on a form provided by the lieutenant governor that complies with Subsection  
63 53-10-108(4); and

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

66 (b) The Department of Human Resource Management shall:

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

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

72 (4) The lieutenant governor may deny an application based on:

73 (a) the applicant's conviction for a crime involving dishonesty or moral turpitude;

74 (b) any revocation, suspension, or restriction of a notarial commission or professional  
75 license issued to the applicant by this or any other state;

76 (c) the applicant's official misconduct while acting in the capacity of a notary; or

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

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

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

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

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

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

89 (6) (a) Each applicant for a notarial commission shall take an examination that the

90 lieutenant governor approves and submit the examination to a testing center that the lieutenant  
91 governor designates for purposes of scoring the examination.

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

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

97 (b) A notary who does not maintain permanent residency or employment under  
98 Subsection (7)(a) shall resign the notary's notarial commission in accordance with Section  
99 [46-1-21](#).

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

101 **46-1-21. Resignation.**

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

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

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