NOTARY PUBLIC AMENDMENTS

2010 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Peter C. Knudson

House Sponsor: Fred R Hunsaker

LONG TITLE

General Description:
This bill modifies the Notaries Public Reform Act.

Highlighted Provisions:
This bill:
- authorizes a notary to complete a certificate that includes the name and date of the person whose signature is being certified;
- authorizes a person licensed to practice law in this state to perform a notarial act;
- authorizes the lieutenant governor to report a violation to the Utah State Bar;
- repeals provisions relating to a written examination for a notary;
- requires the lieutenant governor to provide an applicant with a copy of the law governing a notary and answers to frequently asked questions;
- requires an applicant to sign a statement that the applicant has read certain information; and
- makes technical changes.

Monies Appropriated in this Bill:
None

Other Special Clauses:
None

Utah Code Sections Affected:
AMENDS:
- 46-1-3, as last amended by Laws of Utah 2009, Chapter 183
- 46-1-9, as repealed and reenacted by Laws of Utah 1998, Chapter 287
Be it enacted by the Legislature of the state of Utah:

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


(1) Except as provided in Subsection (3), the lieutenant governor shall commission as a notary any qualified person who submits an application in accordance with this chapter.

(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] a signed statement that the person has read the information provided under Subsection (5);

(vi) a declaration by the applicant; and
(vii) an application fee determined under Section 63J-1-504;
(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.

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 written examination required by Subsection (2)(d)(v).

(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) (a) The lieutenant governor shall provide to an applicant:
(i) a copy of the law governing a notary; and
(ii) answers to frequently asked questions.
(b) Each applicant for a notarial commission shall read the information provided 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 under Subsection (5)(a).

Section 2. Section 46-1-3.5 is enacted to read:
46-1-3.5. Attorney commissioned to perform notarial acts -- Requirements.
The lieutenant governor shall:
(1) by request, provide a person licensed to practice law in this state with the information described in Subsection 46-1-3(5)(a); and

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(2) commission a person licensed to practice law in this state for a term of four years if the person:

(a) is a resident of this state;

(b) submits to the lieutenant governor:

(i) a valid certificate of admission to the Utah State Bar; and

(ii) a signed statement that the person has read the information provided under Subsection (1);

(c) files the bond as required by Section 46-1-4; and

(d) pays an application fee determined under Section 63J-1-504.

Section 3. Section 46-1-9 is amended to read:

46-1-9. False or incomplete certificate.

(1) A notary may not:

(a) execute a certificate containing a statement known by the notary to be false or materially incomplete; or

(b) perform any notarial act with intent to deceive or defraud.

(2) A notary may perform a notarial act if:

(a) the notarial certificate being completed by the notary contains:

(i) the name of each person whose signature is being notarized, if applicable; and

(ii) the date of the signing, if applicable; or

(b) the notary legibly writes the information required by Subsection (2)(a) as part of the notarial certificate.

Section 4. Section 46-1-19 is amended to read:

46-1-19. Revocation or suspension.

(1) Except as provided by Subsection (2), the lieutenant governor may revoke or suspend a [notarial] commission on any ground for which an application for a [notarial] commission may be denied under Section 46-1-3.

(2) For a commission issued under Section 46-1-3.5, the lieutenant governor may report a violation of this chapter to the Utah State Bar.