

UTAH CODE ANNOTATED

TITLE 13. COMMERCE AND TRADE

CHAPTER 49. IMMIGRATION CONSULTANTS REGISTRATION ACT

13-49-304. Translations -- Prohibited acts.

(1) For purposes of this section, "literal translation" of a word or phrase from one language means the translation of a word or phrase without regard to the true meaning of the word or phrase in the language that is being translated.

(2) An immigration consultant may not, with the intent to mislead, literally translate, from English into another language, words or titles, including, "notary public," "notary," "licensed," "attorney," "lawyer," or any other terms that imply that the person is an attorney, in any document, including an advertisement, stationery, letterhead, business card, or other comparable written material describing the immigration consultant.

Enacted by Chapter 375, 2012 General Session

Amended by Chapter 236, 2015 General Session

TITLE 17. COUNTIES

CHAPTER 21A. UNIFORM REAL PROPERTY ELECTRONIC RECORDING ACT PART II. ELECTRONIC DOCUMENTS

17-21a-202. Validity of electronic documents.

(1) If a law requires, as a condition for recording, that a document be an original, be on paper or another tangible medium, or be in writing, the requirement is satisfied by an electronic document satisfying this chapter.

(2) If a law requires, as a condition for recording, that a document be signed, the requirement is satisfied by an electronic signature.

(3)(a) A requirement that a document or a signature associated with a document be notarized, acknowledged, verified, witnessed, or made under oath is satisfied if the electronic signature of the person authorized to perform that act, and all other information required to be included, is attached to or logically associated with the document or signature.

(b) A physical or electronic image of a stamp, impression, or seal need not accompany an electronic signature.

Enacted by Chapter 89, 2014 General Session

TITLE 46. NOTARIZATION AND AUTHENTICATION OF DOCUMENTS AND DIGITAL SIGNATURES

CHAPTER 1. NOTARIES PUBLIC REFORM ACT

46-1-1 Short title.

This chapter is known as the "Notaries Public Reform Act."

Repealed and Re-enacted by Chapter 222, 1988 General Session

46-1-2 Definitions.

As used in this chapter:

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

stated purpose.

(2) “Before me” means that an individual appears in the presence of the notary.

(3) “Commission” means:

(a) to empower to perform notarial acts; or

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

(4) “Copy certification” means a notarial act in which a notary certifies that a photocopy is an accurate copy of a document that is neither a public record nor publicly recorded.

(5) “Electronic notarization” means:

(a) a remote notarization; or

(b) a notarization:

(i) in an electronic format;

(ii) of a document that may be recorded electronically under Subsection 17-21-18.5

(5); and

(iii) that conforms with rules made under Section 46-1-3.7

(6) “Electronic recording” means the audio and video recording, described in Subsection 46-1-3.6(3), of a remote notarization.

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

(8) “Electronic signature” means the same as that term is defined in Section 46-4-102.

(9) “In the presence of the notary” means that an individual:

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

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

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

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

(10) “Jurat” means a notarial act in which a notary certifies:

(a) the identity of a signer who:

(i) is personally known to the notary; or

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

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

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

(11) “Notarial act” or “notarization” means an act that a notary is authorized to perform under Section 46-1-6.

(12) “Notarial certificate” means the affidavit described in Section 46-1-6.5 that is:

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

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

(13)

(a) “Notary” means an individual commissioned to perform notarial acts under this chapter.

(b) “Notary” includes a remote notary.

(14) “Oath” or “affirmation” means a notarial act in which a notary certifies that a person made a vow or affirmation in the presence of the notary on penalty of perjury.

(15) “Official misconduct” means a notary’s performance of any act prohibited or failure to perform any act mandated by this chapter or by any other law in connection with a notarial act.

(16)

(a) “Official seal” means the seal described in Section 46-1-16 that a notary may attach to a

notarial certificate to complete a notarization.

(b) “Official seal” includes an electronic seal.

(17) “Personally known” means familiarity with an individual resulting from interactions with that individual over a period of time sufficient to eliminate every reasonable doubt that the individual has the identity claimed.

(18) “Remote notarization” means a notarial act performed by a remote notary in accordance with this chapter for an individual who is not in the physical presence of the remote notary at the time the remote notary performs the notarial act.

(19) “Remote notary” means a notary that holds an active remote notary certification under Section 46-1-3.5.

(20)

(a) “Satisfactory evidence of identity” means:

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

(A) subject to Subsection (20)(b), valid personal identification with the individual’s photograph, signature, and physical description that the United States government, any state within the United States, or a foreign government issues;

(B) subject to Subsection (20)(b), a valid passport that any nation issues; or

(C) the oath or affirmation of a credible person who is personally known to the notary and who personally knows the individual; and

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

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

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

(b) “Satisfactory evidence of identity,” for a remote notarization, requires the identification described in Subsection (20)(a)(i)(A) or passport described in Subsection (20)(a)(i)(B) to be verified through public or proprietary data sources in accordance with rules made under Section 46-1-3.7.

(c) “Satisfactory evidence of identity” does not include:

(i) a driving privilege card under Subsection 53-3-207(12); or

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

(21) “Signature witnessing” means a notarial act in which an individual:

(a) appears in the presence of the notary and presents a document;

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

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

Enacted by Chapter 222, 1988 General Session

Amended by Chapter 106, 1990 General Session

Amended by Chapter 287, 1998 General Session

Amended by Chapter 231, 1999 General Session

Amended by Chapter 312, 2000 General Session

Amended by Chapter 21, 2006 General Session

Amended by Chapter 237, 2007 General Session

Amended by Chapter 47, 2008 General Session

Amended by Chapter 315, 2009 General Session

Amended by Chapter 259, 2017 General Session

Amended by Chapter 192, 2019 General Session

Amended by Chapter 158, 2022 General Session

Amended by Chapter 391, 2024 General Session

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.

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

(b) The Division 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.
- Enacted by Chapter 222, 1998 General Session
 Amended by Chapter 43, 1995 General Session
 Amended by Chapter 287, 1998 General Session
 Amended by Chapter 231, 1999 General Session
 Amended by Chapter 158, 2000 General Session
 Amended by Chapter 136, 2003 General Session
 Amended by Chapter 382, 2008 General Session
 Amended by Chapter 183, 2009 General Session
 Amended by Chapter 259, 2017 General Session
 Amended by Chapter 192, 2019 General Session
 Amended by Chapter 120, 2024 General Session
 Amended by Chapter 167, 2021 General Session
 Amended by Chapter 344, 2021 General Session

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

- (1) An individual commissioned as a notary, or an individual applying to be commissioned as a notary, under Section 46-1-3 may apply to the lieutenant governor for a remote notary certification under this section.
- (2) The lieutenant governor shall certify an individual to perform remote notarizations as a remote notary if the individual:
- (a) complies with Section 46-1-3 to become a commissioned notary;
 - (b) submits to the lieutenant governor, on a form created by the lieutenant governor, a

correctly completed application for a remote notary certification; and

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

(3) The lieutenant governor shall ensure that the application described in Subsection (2)(b) requires an applicant to:

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

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

(c) provide the applicant's email address.

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

Enacted by Chapter 192, 2019 General Session

46-1-3.6 Remote notarization procedures.

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

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

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

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

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

(b) requiring the individual to transmit to the remote notary an image of a form of identification described in Subsection 46-1-2(20)(a)(i)(A) or passport described in Subsection 46-1-2(20)(a)(i)(B) that is of sufficient quality for the remote notary to establish satisfactory evidence of identity.

(3)

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

(b) A remote notary shall take reasonable steps, consistent with industry standards, to ensure that any non-public data transmitted or stored in connection with a remote notarization performed by the remote notary is secure from unauthorized interception or disclosure.

(4) Notwithstanding any other provision of law, a remote notarization lawfully performed under this chapter satisfies any provision of state law that requires an individual to personally appear before, or be in the presence of, a notary at the time the notary performs a notarial act.

Amended by Chapter 391, 2024 General Session

46-1-3.7 Rulemaking authority for remote notarization.

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

(a) electronic software and hardware that:

(i) a notary may use to perform an electronic notarization; and

(ii) a remote notary may use to keep an electronic journal under Section 46-1-13;

(b) public and proprietary data sources that a remote notary may use to establish satisfactory evidence of identity under Subsection 46-1-2(20)(b);

(c) dynamic knowledge-based authentication or biometric data analysis that a remote notary may use to establish satisfactory evidence of identity under Subsection 46-1-2(20)(a)(ii); and

(d) electronic seals a notary may use to complete an electronic notarial certificate.

(2) When making a rule under this section, the director of elections in the Office of the Lieutenant Governor shall review and consider standards recommended by one or more national organizations that address the governance or operation of notaries.

Amended by Chapter 391, 2024 General Session

46-1-4 Bond.

(1) A notarial commission is not effective until:

(a) the notary named in the commission takes a constitutional oath of office and files a \$5,000 bond with the lieutenant governor that:

(i) a licensed surety executes for a term of four years beginning on the commission's effective date and ending on the commission's expiration date; and

(ii) conditions payment of bond funds to any person upon the notary's misconduct while acting in the scope of the notary's commission; and

(b) the lieutenant governor approves the oath and bond described in Subsection (1)(a).

(2) In addition to the requirements described in Subsection (1), a remote notary certification described in Section 46-1-3.5 is not effective until:

(a) the notary named in the remote notary certification files with the lieutenant governor evidence that the notary has obtained \$5,000 of bond coverage, in addition to the bond coverage described in Subsection (1)(a), that:

(i) a licensed surety executes for a term that begins on the certification's effective date and ends on the remote notary's commission's expiration date; and

(ii) conditions payment of bond funds to any person upon the remote notary's misconduct while acting in the scope of the remote notary's commission; and

(b) the lieutenant governor approves the additional bond coverage described in Subsection (2)(a).

Enacted by Chapter 222, 1988 General Session

Amended by Chapter 106, 1990 General Session

Amended by Chapter 286, 1990 General Session

Amended by Chapter 287, 1998 General Session

Amended by Chapter 136, 2003 General Session

Amended by Chapter 259, 2017 General Session

Amended by Chapter 192, 2019 General Session

46-1-5. Recommissioning (Repealed).

Enacted by Chapter 222, 1988 General Session

Amended by Chapter 287, 1998 General Session

Repealed by Chapter 259, 2017 General Session

46-1-6 Powers and limitations.

(1) A notary may perform the following acts:

(a) a jurat;

(b) an acknowledgment;

(c) a signature witnessing;

(d) a copy certification; and

(e) an oath or affirmation.

(2) A notary may not:

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

(b) perform an act described in Subsection (1) if the individual for whom the notary performs

the notarial act is not in the presence of the notary at the time the notary performs the act.

Amended by Chapter 313, 1994 General Session

Repealed and Re-enacted by Chapter 287, 1998 General Session

Amended by Chapter 192, 2019 General Session

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

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

(2)

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

“Do you swear or affirm under penalty of perjury that the statements in your document are true?”

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

“State of Utah

County of _____

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

(Notary’s Official Seal) _____

Notary Signature”.

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

“State of Utah

County of _____

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

(Notary’s Official Seal) _____

Notary Signature”.

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

“State of Utah

County of _____

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

(Notary’s Official Seal) _____

Notary Signature”.

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

“State of Utah

County of _____

On this (date) day of (month), in the year (year), before me, (name of notary public), personally appeared (name of document signer), proved to me through satisfactory evidence of identification, which was (form of identification), to be the person whose name is signed on the preceding or attached document in my presence.

(Notary's Official Seal) _____
Notary Signature”.

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

Repeals and Re-enacted by Chapter 287, 1998 General Session

Amended by Chapter 21, 2006 General Session

Repealed and Reenacted by Chapter 259, 2017 General Session

Amended by Chapter 192, 2019 General Session

46-1-7 Disqualifications.

A notary may not perform a notarial act if the notary:

(1) is a signer of the document that is to be notarized except in case of a self-proved will as provided in Section 75-2-504;

(2) is named in the document that is to be notarized except in the case of a:

(a) self-proved will as provided in Section 75-2-504;

(b) licensed attorney that is listed in the document only as representing a signer or another person named in the document; or

(c) licensed escrow agent, as defined in Section 31A-1-301, that:

(i) acts as the title insurance producer in signing closing documents; and

(ii) is not named individually in the closing documents as a grantor, grantee, mortgagor, mortgagee, trustor, trustee, vendor, vendee, lessor, lessee, buyer, or seller;

(3) will receive direct compensation from a transaction connected with a financial transaction in which the notary is named individually as a principal; or

(4) will receive direct compensation from a real property transaction in which the notary is named individually as a grantor, grantee, mortgagor, mortgagee, trustor, trustee, beneficiary, vendor, vendee, lessor, lessee, buyer, or seller.

Repealed and Re-enacted by Chapter 222, 1988 General Session

Amended by Chapter 287, 2008 General Session

Amended by Chapter 259, 2017 General Session

Amended by Chapter 1, 2020 Special Session 6

46-1-8 Impartiality.

(1) A notary may not influence a person to enter into or to refuse to enter into a lawful transaction involving a notarial act by the notary.

(2) A notary shall perform notarial acts in lawful transactions for any requesting person who tenders the appropriate fee specified in Section 46-1-12.

Amended by Chapter 54, 1993 General Session

Repealed and Re-enacted by Chapter 287, 1998 General Session

46-1-9 False or incomplete certificate.

A notary may not:

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

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

Repealed and Re-enacted by Chapter 222, 1988 General Session

Repealed and Re-enacted by Chapter 287, 1998 General Session

46-1-10 Testimonials prohibited.

A notary may not use the notary's title or official seal to endorse or promote any product,

service, contest, or other offering.

Amended by Chapter 54, 1993 General Session

Repealed and Re-enacted by Chapter 287, 1998 General Session

Amended by Chapter 192, 2019 General Session

46-1-11 Prohibited acts -- Advertising.

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

(2)

(a)

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

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

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

(b)

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

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

(c)

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

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

Enacted by Chapter 222, 1988 General Session

Repealed and Re-enacted by Chapter 287, 1998 General Session

Amended by Chapter 95, 2007 General Session

46-1-12 Fees and notice.

(1)

(a) Except as provided in Subsection (1)(b), the maximum fees a notary may charge for notarial acts are:

(i) for an acknowledgment, \$10 per signature;

(ii) for a certified copy, \$10 per page certified;

(iii) for a jurat, \$10 per signature;

(iv) for an oath or affirmation without a signature, \$10 per person; and

(v) for each signature witnessing, \$10.

(b) The maximum fee a remote notary may charge for an item described in Subsection (1)(a) that the remote notary performs as a part of a remote notarization is \$25.

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

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

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

(3) A notary shall display an English-language schedule of fees for notarial acts and may

display a nonEnglish-language schedule of fees.

(4)

(a) A notary may not charge a fee of more than \$10 per individual for each set of forms relating to a change of that individual's immigration status.

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

Enacted by Chapter 222, 1988 General Session

Amended by Chapter 287, 1998 General Session

Amended by Chapter 192, 2019 General Session

46-1-13 Notary journal.

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

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

Enacted by Chapter 287, 1998 General Session

Amended by Chapter 192, 2019 General Session

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

(1) A notary may, for each notarial act the notary performs, and a remote notary shall, for each notarial act the remote notary performs remotely, record the following information in the journal described in Section 46-1-13 at the time of notarization:

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

(b) the type of notarial act;

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

(d) the signature and printed name and address of each individual for whom a notarial act is performed;

(e) the evidence of identity of each individual for whom a notarial act is performed, in the form of:

(i) a statement that the person is personally known to the notary;

(ii) a description of the identification document and the identification document's issuing agency, serial or identification number, and date of issuance or expiration;

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

(iv) if used for a remote notarization, a description of the dynamic knowledge-based authentication or biometric data analysis that was used to provide satisfactory evidence of identity under Subsection 46-1-2(20)(a)(ii); and

(f) the fee, if any, the notary charged for the notarial act.

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

(3)

(a) A remote notary shall include with the journal a copy of the electronic recording of the remote notarization.

(b) The electronic recording is not a public record and is not a part of the notary's journal.

(4) A remote notary shall maintain, or ensure that a person that the notary designates as a

custodian under Subsection 46-1-15(2)(b)(i) maintains, for a period of five years, the information described in Subsections (1) and (3) for each remote notarization the notary performs.

Enacted by Chapter 287, 1998 General Session

Amended by Chapter 312, 2000 General Session

Amended by Chapter 21, 2006 General Session

Amended by Chapter 192, 2019 General Session

Amended by Chapter 391, 2024 General Session

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

(1) Except as provided in Subsection (2)(b), if a notary maintains a journal, the notary shall:

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

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

(2)

(a) A remote notary shall:

(i) ensure that the electronic journal and electronic recording described in Section 46-1-14 that is maintained by the remote notary is a secure and authentic record of the remote notarizations that the notary performs;

(ii) maintain a backup electronic journal and electronic recording; and

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

(b)

(i) A remote notary may designate as a custodian of the remote notary's electronic journal and electronic recording described in Section 46-1-14:

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

(B) except as provided in Subsection (2)(b)(iii), an electronic repository that grants the remote notary sole access to the electronic journal and electronic recording and does not allow the person who operates the electronic repository or any other person to access the journal, information in the journal, or the electronic recording for any purpose.

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

(iii) An electronic repository described in Subsection (2)(b)(i)(B) may access an electronic journal, information contained in an electronic journal, and the electronic recording:

(A) for a purpose solely related to completing, in accordance with this chapter, the notarization for which the journal or information in the journal is accessed;

(B) for a purpose solely related to complying with the requirements to retain and store records under this chapter; or

(C) if required under a court order.

(3) The notary's employer may not require the notary to surrender the journal or the electronic recording upon termination of the notary's employment.

Enacted by Chapter 287, 1998 General Session

Amended by Chapter 259, 2017 General Session

Amended by Chapter 192, 2019 General Session

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

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

(2)

(a) Except as provided in Subsection (2)(d), a notary shall keep an official seal, and a remote notary shall keep an electronic seal and electronic signature, that is the exclusive property of the notary.

(b) Except as provided in Subsection (2)(d), a notary's official seal, electronic seal, or electronic signature may not be used by any other person.

(c)

(i) Each official seal used for an in-person notarization shall be in purple ink.

(ii) Each official seal used for a remote notarization shall be rendered in black.

(d)

(i) A remote notary may allow a person that provides an electronic seal to the remote notary under Section 46-1-17 to act as guardian over the electronic seal.

(ii) Except as provided in Subsection (2)(d)(iii), a guardian described in Subsection (2)(d)(i) shall store the seal in a secure manner that prevents any person from:

(A) accessing the seal, other than the guardian and the remote notary named on the seal; or

(B) using the seal to perform a notarization, other than the remote notary named on the seal.

(iii) A guardian that a notary designates under Subsection (2)(d)(i) may access and use the seal of the notary:

(A) for a purpose solely related to completing, in accordance with this chapter, the notarization, by the notary, for which the seal is accessed or used;

(B) for a purpose solely related to complying with the requirements to obtain, store, and protect the seal under this chapter; or

(C) if required under a court order.

(3)

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

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

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

(b) Subject to Subsection (3)(c), a notary shall affix the official seal near the notary's official signature on a notarial certificate and shall include a sharp, legible, and photographically reproducible rendering of the official seal that consists of:

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

(ii) the words "notary public," "state of Utah," and "my commission expires on (commission expiration date)";

(iii) the notary's commission number, exactly as indicated on the notary's commission;

(iv) a facsimile of the great seal of the state; and

(v) a rectangular border no larger than one inch by two and one-half inches surrounding the required words and official seal.

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

(i) the notarial certificate; or

(ii) any electronic record, that is a part of the notarization, to which the notarial certificate is attached.

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

section.

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

(6) A notary may not use an official seal independent of a notarial certificate.

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

(a) the notary signs the notarial certificate in permanent ink; and

(b) the following appear below or immediately adjacent to the notary's signature:

(i) the notary's name and commission number appears exactly as indicated on the notary's commission;

(ii) the words "A notary public commissioned in Utah"; and

(iii) the expiration date of the notary's commission.

(8) A notarial certificate on an electronic message or document is considered complete without the notary's official seal if the following information appears electronically within the message or document:

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

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

(9)

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

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

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

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

(10)

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

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

Enacted by Chapter 222, 1998 General Session

Repealed and Re-enacted by Chapter 287, 1998 General Session

Amended by Chapter 211, 2003 General Session

Amended by Chapter 21, 2006 General Session

Amended by Chapter 47, 2008 General Session

Amended by Chapter 259, 2017 General Session

Amended by Chapter 192, 2019 General Session

46-1-17 Obtaining official seal.

(1) A person may not provide an official seal to an individual claiming to be a notary, unless the individual presents a copy of the individual's notarial commission, attached to a notarized declaration substantially as follows:

Application for Notary's Official Seal

I, _____ (name of individual requesting seal), declare that I am a notary public duly commissioned by the state of Utah with a commission starting date of _____, a commission expiration date of _____, and a commission number of _____. As evidence, I attach to this statement a copy of my commission.

(2)

(a) Except as provided in Subsection (2)(b), an individual may not create, obtain, or possess an electronic seal unless:

(i) the individual is a notary; and

(ii) the electronic seal complies with the standards established by rule under Subsection 46-1-3.7(1)(d).

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

(3) A person who provides, creates, obtains, or possesses an official seal in violation of this section is guilty of a class B misdemeanor.

Repealed and Re-enacted by Chapter 287, 1998 General Assembly

Amended by Chapter 192, 2019 General Session

Amended by Chapter 391, 2024 General Session

46-1-18 Liability.

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

(2)

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

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

(c) An employer of a notary public is also liable for damages proximately caused by the notary's misconduct in performing a notarization if:

(i) the notary public was acting within the course and scope of the notary public's employment; and

(ii) the employer had knowledge of, consented to, or permitted the misconduct.

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

(a) a notary to violate a provision of this chapter; or

(b) a notary's employer to solicit the notary to violate a provision of this chapter.

Enacted by Chapter 106, 1990 General Session

Repealed and Re-enacted by Chapter 287, 1998 General Session

Amended by Chapter 95, 2007 General Session

Amended by Chapter 259, 2017 General Session

Amended by Chapter 192, 2019 General Session

Amended by Chapter 313, 2019 General Session

46-1-19 Revocation or suspension.

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.

Enacted by Chapter 54, 1993 General Session

Repealed and Re-enacted by Chapter 287, 1998 General Session

Amended by Chapter 136, 2003 General Session

46-1-20 Change of name or address -- Bond policy rider.

(1) Within 30 days after the day on which a notary changes the notary's name, the notary shall provide to the lieutenant governor:

- (a) the notary's new name, including official documentation of the name change; and
- (b) a bond policy rider that a notary obtains in accordance with Subsection (2).

(2) To obtain a bond policy rider, the notary shall:

- (a) notify the surety for the notary's bond;
- (b) obtain a bond policy rider reflecting both the old and new name of the notary;
- (c) return the bond policy rider;
- (d) destroy the original commission; and
- (e) destroy the old official seal.

(3) A notary is not required to change the notary's name by adopting the surname of the notary's spouse.

(4) Within 30 days of the day on which a notary's residential or business address changes, the notary shall provide the notary's new residential or business address to the lieutenant governor.

Enacted by Chapter 287, 1998 General Session

Amended by Chapter 136, 2003 General Session

Amended by Chapter 47, 2008 General Session

Amended by Chapter 259, 2017 General Session

46-1-21 Resignation.

(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).

Enacted by Chapter 287, 1998 General Session

Amended by Chapter 136, 2003 General Session

Amended by Chapter 192, 2019 General Session

Amended by Chapter 167, 2021 General Session

46-1-22 Notice not invalidated.

If a notarial act is performed contrary to or in violation of this chapter, that fact does not of itself invalidate notice to third parties of the contents of the document notarized.

Enacted by Chapter 287, 1998 General Session

46-1-23 Dedication of fees.

The lieutenant governor shall deposit all money collected under this chapter into the General Fund as a dedicated credit to be used by the lieutenant governor to administer this chapter.

Amended by Chapter 391, 2010 General Session

Amended by Chapter 136, 2003 General Session

**CHAPTER 4. UNIFORM ELECTRONIC TRANSACTIONS ACT
PART 2. LEGAL STATUS AND REQUIREMENTS OF ELECTRONIC RECORDS,
SIGNATURES, AND CONTRACTS**

46-4-205. Notarization and acknowledgment.

(1) If a law requires a signature or record to be notarized, acknowledged, verified, or made under oath, the requirement is satisfied by following the procedures and requirements of Subsection 46-1-16(8).

(2) The electronic signature of the person authorized to perform the acts under Subsection (1), and all other information required to be included by other applicable law, shall be attached to or logically associated with the signature or record.

Enacted by Chapter 74, 2000 General Session

Amended by Chapter 21, 2006 General Session

Amended by Chapter 259, 2017 General Session

TITLE 57. REAL ESTATE

CHAPTER 2. ACKNOWLEDGMENTS

57-2-10. Proof of execution -- How made.

The proof of the execution of any conveyance whereby real estate is conveyed or may be affected shall be:

(1) by the testimony of a subscribing witness, if there is one; or,

(2) when all the subscribing witnesses are dead, or cannot be had, by evidence of the handwriting of the party, and of a subscribing witness, if there is one, given by a credible witness to each signature.

Revised Statutes 1898 & Compiled Laws 1907, § 1991

Compiled Laws 1917, § 4891

Revised Statutes 1933 & Compiled Laws 1943, 78-2-9.

57-2-11. Witness must be known or identified.

No proof by a subscribing witness shall be taken unless such witness shall be personally known to the officer taking the proof to be the person whose name is subscribed to the conveyance as a witness thereto, or shall be proved to be such by the oath or affirmation of a credible witness personally known to such officer.

Revised Statutes 1898 & Compiled Laws 1907, § 1993

Compiled Laws 1917, § 4893

Revised Statutes 1933 & Compiled Laws 1943, 78-2-10.

57-2-12. Certificate of proof by subscribing witness.

No certificate of such proof shall be made unless such subscribing witness shall prove that the person whose name is subscribed thereto as a party is the person described in, and who executed, the same; that such person executed the conveyance, and that such person subscribed his name thereto as a witness thereof at the request of the maker of such instrument.

Revised Statutes 1898 & Compiled Laws 1907

Compiled Laws 1917, § 4893

Revised Statutes 1933 & Compiled Laws 1943, 78-2-11

Amended by Chapter 365, 2024 General Session

57-2-13. Form for certificate of proof.

The certificate of proof shall be substantially in the following form, to wit:

State of Utah, County of _____

On this _____ (month\day\year), before me personally appeared _____, personally known to me (or satisfactorily proved to me by the oath of _____, a competent and credible

witness for that purpose, by me duly sworn) to be the same person whose name is subscribed to the above instrument as a witness thereto, who, being by me duly sworn, deposed and said ____ resides in ____, county of ____, and state of Utah; that as a subscribing witness was present and saw ____, personally known to the subscribing witness to be the signer of the above instrument as a party thereto, sign and deliver the same, and heard the party acknowledge that the party executed the same, and that the subscribing witness thereupon signed his/her name as a subscribing witness thereto at the request of said ____.

Revised Statutes 1898 & Compiled Laws 1907

Compiled Laws 1917, § 4894

Revised Statutes 1933 & Compiled Laws 1943, 78-2-12

Amended by Chapter 75, 2010 General Session

Amended by Chapter 302, 2025 General Session

57-2-14. Proof of handwriting.

No proof by evidence of the handwriting of a party, or of the subscribing witness or witnesses, shall be taken unless the officer taking the same shall be satisfied that all the subscribing witnesses to such conveyance are dead, out of the jurisdiction, or cannot be had to prove the execution thereof.

Revised Statutes 1898 & Compiled Laws 1907, § 1995

Compiled Laws 1917, § 4895

Revised Statutes 1933 & Compiled Laws 1943, 78-2-13

57-2-15. Evidence required for certificate of proof.

No certificate of any such proof shall be made unless a competent and credible witness shall state on oath or affirmation that the competent and credible witness personally knew the person whose name is subscribed thereto as a party, well knows the subscribing party's signature, stating the competent and credible witness's means of knowledge, and believes the name of the party subscribed thereto as a party was subscribed by such person; nor unless a competent and credible witness shall in like manner state that the competent and credible witness personally knew the person whose name is subscribed to such conveyance as a witness, well knows the subscribing witness's signature, stating the competent and credible witness's means of knowledge, and believes the name subscribed thereto as a witness was thereto subscribed by such person.

Revised Statutes 1898 & Compiled Laws 1907, § 1996

Compiled Laws 1917, § 4896

Revised Statutes 1933 & Compiled Laws 1943, 78-2-9

Amended by Chapter 365, 2024 General Session

57-2-16. Subpoena to subscribing witness.

Upon the application of any grantee in any conveyance required by law to be recorded, or of any person claiming under such grantee, verified under the oath of the applicant, that any witness to such conveyance residing in the county where such application is made refuses to appear and testify touching the execution thereof, and that such conveyance cannot be proved without the subscribing witness's evidence, any officer authorized to take the acknowledgment or proof of such conveyance may issue a subpoena requiring such witness to appear before such officer and testify touching the execution thereof.

Revised Statutes 1898 & C.L. 1907, § 1997

Compiled Laws 1917, § 4897

Revised Statutes 1933 & Compiled Laws 1943, 78-2-15

Amended by Chapter 365, 2024 General Session

57-2-17. Disobedience of subpoenaed witness -- Contempt -- Proof aliunde.

Every person who, being served with a subpoena, shall without reasonable cause refuse or neglect to appear, or, appearing, shall refuse to answer upon oath touching the matters aforesaid, shall be liable to the party injured for such damages as may be sustained by the injured party on account of such neglect or refusal, and may also be dealt with for contempt as provided by law; but no person shall be required to attend who resides out of the county in which the proof is to be taken, nor unless the subscribing witness's reasonable expenses shall have first been tendered to the subscribing witness; provided, that if it shall appear to the satisfaction of the officer so authorized to take such acknowledgment that such subscribing witness purposely hides, or keeps out of the way, so that the subscribing witness cannot be served with a subpoena or taken on attachment after the use of due diligence to that end, or in case of the subscribing witness's continued failure or refusal to testify for the space of one hour after the subscribing witness's appearance shall have been compelled by process, then said conveyance or other instrument may be proved and admitted to record in the same manner as if such subscribing witness thereto were dead.

Revised Statutes 1898 & C.L. 1907, § 1998

Compiled Laws 1917, § 4898

Revised Statutes 1933 & Compiled Laws 1943, 78-2-16

Amended by Chapter 365, 2024 General Session

CHAPTER 2A. RECOGNITION OF ACKNOWLEDGMENTS

57-2a-1. Short title.

This chapter is known as the "Recognition of Acknowledgments Act."

Enacted by Chapter 155, 1988 General Session

57-2a-2. Definitions.

As used in this chapter:

(1) "Acknowledged before me" means:

- (a) that the person acknowledging appeared before the person taking the acknowledgment;
- (b) that the person acknowledging executed the document;
- (c) that, in the case of:

- (i) a natural person, the natural person executed the document for the purposes stated in it;

- (ii) a corporation, the officer or agent acknowledged the officer or agent held the position or title set forth in the document or certificate, the officer or agent signed the document on behalf of the corporation by proper authority, and the document was the act of the corporation for the purpose stated in it;

- (iii) a partnership, the partner or agent acknowledged the partner or agent signed the document on behalf of the partnership by proper authority, and the partner or agent executed the document as the act of the partnership for the purposes stated in it;

- (iv) a person acknowledging as principal by an attorney in fact, that person executed the document by proper authority as the act of the principal for the purposes stated in it; or

- (v) a person acknowledging as a public officer, trustee, administrator, guardian, or other representative, that person signed the document by proper authority, and he executed the document in the capacity and for the purposes stated in it; and

- (d) that the person taking the acknowledgment:

- (i) either knew or had satisfactory evidence that the person acknowledging was the person named in the document or certificate; and

(ii) in the case of a person executing a document in a representative capacity, either had satisfactory evidence or received the sworn statement or affirmation of the person acknowledging that the person had the proper authority to execute the document.

(2) “Notarial act” means any act a notary public is authorized by state law to perform, including administering oaths and affirmations, taking acknowledgments of documents, and attesting documents.

Enacted by Chapter 155, 1988 General Session

57-2a-3. Persons authorized to perform notarial acts.

(1) Notarial acts performed in this state shall be performed by:

- (a) a judge or court clerk having a seal;
- (b) a notary public; or
- (c) a county clerk or county recorder.

(2) The following persons authorized under the laws and regulations of other governments may perform notarial acts outside this state for use in this state with the same effect as if performed by a notary public of this state:

- (a) a notary public authorized to perform notarial acts in the place where the act is performed;
- (b) a judge, clerk, or deputy clerk of any court of record in the place where the notarial act is performed;
- (c) an officer of the foreign service of the United States, a consular agent, or any other person authorized by regulation of the United States Department of State to perform notarial acts in the place where the act is performed;
- (d) a commissioned officer in active service with the Armed Forces of the United States and any other person authorized by regulation of the Armed Forces to perform notarial acts if the notarial act is performed for any of that person’s dependents, a merchant seaman of the United States, a member of the Armed Forces of the United States, or any other person serving with or accompanying the Armed Forces of the United States; or
- (e) any other person authorized to perform notarial acts in the place where the act is performed.

Enacted by Chapter 155, 1988 General Session

Amended by Chapter 88, 1989 General Session

Amended by Chapter 302, 2025 General Session

57-2a-4. Proof of authority -- Prima facie evidence.

(1) Except as provided in Subsections (2) and (3), the signature, title or rank, branch of service, and serial number, if any, of any person described in Subsection 57-2a-3(2) are sufficient proof of his authority to perform a notarial act. Further proof of his authority is not required.

(2) Proof of the authority of a person to perform a notarial act under the laws or regulations of a foreign country is sufficient if:

- (a) a foreign service officer of the United States resident in the country in which the act is performed or a diplomatic or consular officer of the foreign country resident in the United States certifies that a person holding that office is authorized to perform the act;
- (b) the official seal of the person performing the notarial act is affixed to the document; or
- (c) the title and indication of authority to perform notarial acts of the person appears either in a digest of foreign law or in a list customarily used as a source of such information.

(3) The signature and title or rank of the person performing the notarial act are prima facie evidence that he is a person with the designated title and that his signature is genuine.

Enacted by Chapter 155, 1988 General Session

R623-100-2. Definitions.

A. “Credential Analysis” means a method to verify a principal’s identity, as described in 46-1-2(19) and R623-100-4, utilized by a remote notary public.

B. “Identity proofing” means a process or a service operating according to this rule through which a third person or party affirms the identity of a principal through a review of the principal’s personal information.

C. “Knowledge-Based Authentication” is an identity assessment that is based on a set of questions formulated from public or private data sources.

D. “Multi-Factor Authentication” means a method of access control in which a principal is granted access after successfully presenting personal identity evidence using at least two or more of the following mechanisms: knowledge-based authentication; credential analysis; or biometric data.

E. “Principal” means a person whose electronic signature is notarized in a remote notarization.

F. “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

G. “Remote Notarial Act” means the recorded process of completing a remote notarization between the principal and remote notary public described in Section 46-1-6.

H. “Remote Notarial Certificate” means the portion of a remotely notarized electronic document that is completed by a remote notary public and that bears the notary public’s electronic signature, electronic seal and certification language as provided by Section 46-1-6.5.

I. “Remote notarization solution” means a set of applications, programs, hardware, software or technology designed to enable the performance of a remote notarial act.

J. “Solution Provider” means a third-party vendor, approved by the lieutenant governor, providing a software solution enabling a Utah remote notary public to perform the duties of, or complete, a remote notarial act.

K. “Tamper-Evident” means a technology-based process that indicates whether a change has been made to an electronic document since the technology was applied.

R623-100-3. Purpose.

Pursuant to Section 46-1-3.7, this rule outlines technical and procedural guidance for remote notaries public and solution providers to complete remote notarizations.

R623-100-4. Remote Notary Public Certification.

A. A commissioned notary public may apply for certification to perform remote notarizations from the lieutenant governor.

B. In addition to meeting the application requirements in Section 46-1-3.5, the applicant shall submit to the lieutenant governor the following information:

1. The notary public’s commission number as assigned by the lieutenant governor;
2. The notary public’s commission expiration date;
2. The name of the solution provider authorizing the notary public’s use of the remote notarization product;
3. A copy of the notary public’s electronic seal and electronic signature provided by the solution provider; and
4. A statement certifying that the notary public will comply with the provisions of R623 Remote Notarization and Title 46 Chapter 1 Notaries Public Reform Act.

C. Upon an applicant’s meeting the requirements set forth in Section 46-1-3.5 and R623-100-

1, the lieutenant governor may update the notary public's record allowing the applicant to perform remote notarial acts.

D. A remote notary public shall use an approved solution vendor to perform remote notarial acts.

E. A notary public providing remote notarial services without a current remote notary certificate is subject to suspension or revocation of his or her notary commission and other penalties as prescribed by Title 46 Chapter 1 Notaries Public Reform Act.

F. Any suspension or revocation of a remote notary public's traditional notary public commission will result in suspension or revocation of the notary public's remote certification until such time that the lieutenant governor lifts such suspension or revocation.

R623-100-5. Credential Analysis and Authentication.

A. Credential analysis must be provided by a reputable third-party vendor or software tool that can demonstrate proven credential analysis processes and shall employ technology that provides the following:

1. The principal's identity must be bound to the principal following successful knowledge-based authentication, or biometric data; and

2. Remote notarization procedures shall provide for human visual comparison between the principal and the principal's identification presented to the remote notary.

B. Remote notarization solution providers shall use an automated software process to aid the notary in verifying each principal's identity.

1. The identification shall pass an authenticity test that:

- i. Uses appropriate technologies to confirm the integrity of visual, physical or cryptographic security features;

- ii. Uses appropriate technologies to confirm that the identification is not fraudulent or inappropriately modified;

- iii. Uses information held or published by the issuing source or authoritative source, as available, to confirm the validity of the identification details; and

- iv. Provides the result of the authenticity test to the notary.

2. The identification analysis procedure shall enable the notary to visually compare the following for consistency:

- i. The information and photo on the identification image presented; and

- ii. The principal as viewed by the notary in real time through the audio/video system.

3. If the remote notary public is unable to validate the identification of the principal, or to match the 's physical features with the credential, the remote notary public shall not complete the remote notarial act.

- i. No further attempt may be made by the notary or the Solution Provider to complete the notarial act using audio-video communication using that credential.

4. Identification requirements shall be a type required under 46-1-2(19)(b).

5. The identification image shall be captured and shall confirm that:

- a. The principal is in possession of the identification at the time of the notarial act;

- b. The identification images submitted for credential analysis have not been manipulated; and

- c. The identification images match the identification in the principal's possession.

- ii. The following general principles should be considered in the context of image resolution:

- a. Captured image resolution should be sufficient for the issuing source or authoritative source to perform Credential Analysis per the requirements above;

- b. Image resolution should be sufficient to enable visual inspection by the notary, including

legible text and clarity of photographs, barcodes, and other identification features; and

c. All images necessary to perform visual inspection and Credential Analysis shall be captured.

C. Knowledge-based authentication procedure must meet the following requirements:

1. Each principal must answer questions and achieve a passing score. The procedure must include:

a. Five multiple choice questions, drawn from public or private data sources.

b. A minimum of five possible answer choices per question.

c. Require that 80% of the questions are correctly answered within two minutes by the principal.

2. Each principal is to be provided a reasonable number of attempts per signing session.

i. If a principal fails their first quiz, they may attempt up to two additional quizzes within 48 hours from the first failure.

ii. During any quiz retake, a minimum of 40% (2) of the prior questions shall be replaced.

3. Biometric sensing technologies for remote notarization in the areas of authentication, credential analysis, and identity proofing verification may include facial, voice, and fingerprint recognition.

4. If a principal exits the notarial act during the notarial act, they shall restart the credential analysis and authentication workflow from the beginning.

R623-100-6. Audio and Video Quality Requirements.

A. A reliable remote notarization operating model should consist of continuous, synchronous audio and video feeds with good clarity such that all participants can always be clearly seen and understood.

B. The remote notary shall determine if the quality of both the audio and the video are adequate for communication and provide direction to terminate the session if adequate conditions are not met.

C. The audio/video recording shall include the person-to-person interaction required as part of the remote notarial act, shall be logically associated to the electronic notary journal, and shall be capable of being viewed and heard using broadly available audio/video players.

1. The transaction documents executed in the remote notarization act shall not be recorded as part of the video recording.

R623-100-7. Electronic Notary Journal Storage.

A. Actions completed as part of a remote notarization act shall be recorded in an electronic notary journal. Each entry in this electronic journal shall clearly indicate the notarial act performed, the date and time of its performance, the name of the principal performing the action and the IP address of the principal performing the action.

B. Each document completed as part of a Remote Notarization shall be electronically signed and rendered Tamper-Evident.

C. Solution Providers shall have comprehensive security programs in place to ensure privacy and data security.

D. Solution Providers shall be vigilant to ensure consumer data, privacy and information security laws and regulations are satisfied through their information security programs.

R623-100-8. Solution Provider Application Process.

A. A solution provider may apply for approval to provide a remote notary solution submitted

to the lieutenant governor electronically and shall include the following:

1. Legal name of the Solution Provider;
 2. How the business is organized;
 3. Mailing address of the Solution Provider;
 4. Physical address of the Solution Provider;
 5. Solution provider's contact name;
 6. Phone number of the contact person;
 7. Email of the contact person;
 8. The name of the remote notarization solution provided;
 9. The name of the provider or providers of the knowledge-based authentication, Credential Analysis and digital certificate services
 10. A description of the technology used to ensure compliance with R623-100;
 11. Plan for the disposition, including but not limited to the retention and storage of documents, journals, recordings, etc., in the event the Solution Provider no longer provides the remote notary solution, for whatever reason; and
 12. Declaration that the solution complies with Utah laws pertaining to remote notarization.
- B. Any information provided to the lieutenant governor pursuant to R623-100-7 is confidential and shall not be disclosed by the lieutenant governor except when required by law.
- C. A Solution Provider's solution shall be approved by the lieutenant governor prior to use in this state and shall:
1. Provide secure access to the solution by password or other secure means identifying the Utah remote notary public;
 2. Verify from the lieutenant governor's notary registry, each time a remote notary public logs into the solution to ensure that the remote notary public is in active status before performing a remote notarization;
- D. Approval of the Solution Provider by the lieutenant governor will be sent electronically to the provider's contact email.
- E. The lieutenant governor may approve, reject or request additional information on the application.

R623-100-9. Recording for Remote Notarized Documents.

A. The remote notarization solution provider's system, process, and procedures shall be capable of generating a printable version of all documents executed in the system, including but not limited to the documents executed in the notarial act, and associated tamper-evident certifications as required by the lieutenant governor.

B. Any document notarized remotely shall clearly state, in the remote notarial certificate, that the principal making the acknowledgment, oath or affirmation and signing the document appeared remotely using audio/video communication technology.