

**Utah Notary Public Commission
Examination Study Materials**



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TABLE OF CONTENTS

Cover Letter to Candidates	1
Content Outline	2
Utah Code Title 46, Chapter 01; Notaries Public Reform Act	3
Utah Code Title 57, Chapter 02a; Recognition of Acknowledgments Act	11
Utah Code Title 57, Chapter 03; Section 101	15
Utah Code Title 57, Chapter 04a; Effects of Recording.....	17
Utah Code Title 78, Chapter 24; Sections 16, 17, 18, and 19.....	20
Utah Code Title 78, Chapter 26; Section 5.....	22
Notary Facts to Remember	24
Cautions for Notaries	27
Sample Notarial Certificates	29
Sample Acknowledgment Certificate	30
Sample Jurat Certificate.....	31
Sample Copy Certificate	32
Sample Certificate for Translated Documents	33
Sample of Survivorship Notarization	34
Sample School Transcript Certificate.....	35
Attorney-in-Fact Acknowledgment	36
Credible Witness Acknowledgment.....	37
Steps to Proper Notarization and Common Mistakes to Avoid	38
Candidate Information Bulletin	39



Dear Utah Notary Public Commission Candidate,

This packet contains the materials you will need to study for the Utah Notary Public Commission examination offered by PSI. A committee of Utah Notary Public experts was involved in the development and review of the examination. These experts developed the examination outline presented on the next page and identified the reference materials in this packet as appropriate and sufficient to prepare for the examination. The examination reference list contains the following:

- Utah Code, Title 46, Chapter 01, Notaries Public Reform Act;
- Utah Code, Title 57, Chapter 02a, Recognition of Acknowledgments Act;
- Utah Code, Title 57, Chapter 03, Section 101;
- Utah Code, Title 57, Chapter 04a, Effects of Recording;
- Utah Code, Title 78, Chapter 24, Sections 16, 17, 18, and 19;
- Utah Code, Title 78, Chapter 26, Section 5;
- Notary Facts to Remember, revised 4/25/05, provided by the Notary Public Officer, State Office Building, Room 1160, Salt Lake City, Utah 84114. Available on-line at <http://notary.utah.gov/facts2remember.htm>; and
- Cautions for Notaries, revised 05/02/05, provided by the Notary Public Officer, State Office Building, Room 1160, Salt Lake City, Utah 84114. Available on-line at <http://notary.utah.gov/cautionsfornotaries.pdf>.

The materials in this packet include the chapters of Utah code from the reference list above, two publications offered by the Utah Notary Public Office, and published samples of several notarial certificates. These publications and samples are designed to help both commissioned notaries and candidates. All of the included materials can also be found on-line through Utah's Notary Public website, <http://notary.utah.gov/>, or Utah's on-line directory of Code, <http://www.le.state.ut.us/%7Ecode/code.htm>.

PSI also recommends that you review the Candidate information bulletin available at the end of this packet to familiarize yourself with the computerized testing process and to review the examination tips.



UTAH NOTARY EXAMINATION CONTENT OUTLINE

- I. Qualifications for Becoming a Notary (4 items)
 - a. Age
 - b. Residency
 - c. Examination
 - d. Recommendations
 - e. Application and Fees
 - f. Language Requirement
 - g. Character Requirements

- II. Notarial Duties (13 items)
 - a. Acknowledgments, Jurats, Copy Certifications, Oaths/Affirmation
 - b. Obtaining Satisfactory Evidence of Identity
 - c. Official Seals
 - d. Official Signatures
 - e. Reasons for Disqualifying a Notary
 - f. Impartiality
 - g. Journal Keeping
 - h. Affidavits
 - i. Fees
 - j. Coercion

- III. Requirements for Maintaining a Notarial Commission (5 items)
 - a. Bond Requirement
 - b. Change of Name/Address

- IV. Changes in Commission Status (3 items)
 - a. Resignation
 - b. Reapplication

- V. Reasons for Revocation/Suspension and Liability (10 items)
 - a. Conviction for a Crime Involving Dishonesty or Moral Turpitude
 - b. Revocation, Suspension, or Restriction of a Notarial Commission
 - c. Official Misconduct while Acting in the Capacity of a Notary
 1. Product Endorsements
 2. Unauthorized Practicing of Law
 3. Lack of Ability to Read/Write



Utah Code Title 46, Chapter 01
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) "Commission" means:
 - (a) to empower to perform notarial acts; and
 - (b) the written authority to perform those acts.
- (3) "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.
- (4) "Electronic signature" has the same meaning as provided under Section **46-4-102**.
- (5) "Jurat" 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 made, in the notary's presence, a voluntary signature and taken an oath or affirmation vouching for the truthfulness of the signed document.
- (6) "Notarial act" and "notarization" mean any act that a notary is empowered to perform under this section.
- (7) "Notarial certificate" means the part of or attachment to a notarized document for completion by the notary and bearing the notary's signature and seal.
- (8) "Notary" means any person commissioned to perform notarial acts under this chapter.
- (9) "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.
- (10) "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.
- (11) "Personal knowledge of identity" 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.
- (12) (a) "Satisfactory evidence of identity" means identification of an individual based on:
 - (i) valid personal identification with the individual's photograph, signature, and physical description issued by the United States government, any state within the United States, or a foreign government;
 - (ii) a valid passport issued by any nation; or
 - (iii) the oath or affirmation of a credible person who is personally known to the notary and who personally knows the individual.
- (b) "Satisfactory evidence of identity" does not include:
 - (i) a driving privilege card under Subsection **53-3-207(9)**; or
 - (ii) another document that is not considered valid for identification.

Amended by Chapter 47, 2008 General Session

46-1-3. Qualifications -- Commissioning -- Jurisdiction and term.

- (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;



46-1-3. Qualifications -- Commissioning -- Jurisdiction and term (continued).

- (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 under Subsection (5);
 - (vi) a declaration by the applicant; and
 - (vii) an application fee determined under Section **63J-1-303**;
 - (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.
- (3) 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.
- (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) Each applicant for a notarial commission shall take a written examination approved 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.

Amended by Chapter 382, 2008 General Session

46-1-4. Bond.

- (1) A notarial commission may not become effective until a constitutional oath of office and a \$5,000 bond has been filed with and approved by the lieutenant governor. The bond shall be executed by a licensed surety for a term of four years commencing on the commission's effective date and terminating on its expiration date, with payment of bond funds to any person conditioned upon the notary's misconduct while acting in the scope of his commission.
- (2) The bond required under Subsection (1) may be executed by the Office of Risk Management for notaries public employed by a state office or agency.

Amended by Chapter 136, 2003 General Session

46-1-5. Recommissioning.

An applicant for recommissioning as a notary shall submit a new application and bond and comply

46-1-5. Recommissioning (continued).

with the provisions of this chapter.

Amended by Chapter 287, 1998 General Session

46-1-6. Powers and limitations.

The following notarial acts may be performed by a notary within the state:

- (1) acknowledgments;
- (2) copy certifications;
- (3) jurats; and
- (4) oaths or affirmations.

Amended by Chapter 21, 2006 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**; or
- (2) is named in the document that is to be notarized except:
 - (a) in the case of a self-proved will as provided in Section **75-2-504**; or
 - (b) in the case of a licensed attorney that is listed in the document only as representing a signer or another person named in the document;
- (3) will receive directly from a transaction connected with a financial transaction in which the notary is named individually as a principal; or
- (4) will receive directly from a real property transaction in which the notary is named individually as a grantor, grantee, mortgagor, mortgagee, trustor, trustee, beneficiary, vendor, vendee, lessor, or lessee.

Amended by Chapter 102, 2008 General Session

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**.

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 287, 1998 General Session

46-1-10. Testimonials prohibited.

A notary may not endorse or promote any product, service, contest, or other offering if the notary's title or seal is used in the endorsement or promotional statement.



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

46-1-11. Unauthorized practice of law.

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

(2) (a) 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. The notice 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) The notice shall be in English and in the language of the advertisement and in letters of a conspicuous size. If the advertisement is by radio or television, the statement may be modified, but must include substantially the same message.

(c) 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. 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.

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

46-1-12. Fees and notice.

(1) The maximum fees that may be charged by a notary for notarial acts are for:

- (a) acknowledgments, \$5 per signature;
- (b) certified copies, \$5 per page certified;
- (c) jurats, \$5 per signature; and
- (d) oaths or affirmations without a signature, \$5 per person.

(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) The fee of a notary shall not exceed \$5 per individual for each set of forms relating to a change of that individual's immigration status.

(b) The fee limitation in Subsection (4)(a) shall apply whether or not 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.

Amended by Chapter 287, 1998 General Session

46-1-13. Journal may be kept.

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.

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



46-1-14. Entries in journal.

(1) For every notarial act, the notary may record the following information in the journal at the time of notarization:

- (a) the date and time of day of the notarial act;
- (b) the type of notarial act;
- (c) a description of the document or proceeding;
- (d) the signature and printed name and address of each person for whom a notarial act is performed;
- (e) the evidence of identity of each person 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, its issuing agency, its serial or identification number, and its date of issuance or expiration; or
 - (iii) the signature and printed name and address of a credible witness swearing or affirming to the person's identity; and
- (f) the fee, if any, charged for the notarial act.

(2) A notary may record in the journal the circumstances in refusing to perform or complete a notarial act.

Amended by Chapter 21, 2006 General Session

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

If a notary maintains a journal, the notary shall:

- (1) safeguard the journal and all other notarial records as valuable public documents and may not destroy the documents; and
- (2) keep the journal in the exclusive custody of the notary, not to be used by any other notary or surrendered to an employer upon termination of employment.

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

46-1-16. Official signature -- Official seal -- Seal impression.

(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) A notary shall keep an official notarial seal that is the exclusive property of the notary and that may not be used by any other person.

(b) Upon the resignation, revocation, or expiration of a notarial commission, the seal shall be destroyed.

(c) Each notarial seal obtained by a notary on or after July 1, 2003 shall use purple ink.

(3) (a) A new seal shall be obtained for any new commission or recommission.

(b) A new seal shall be obtained if the notary changes the notary's name of record at any time during the notary's commission.

(c) The seal impression shall be affixed near the notary's official signature on a notarial certificate and shall include a sharp, legible, and photographically reproducible ink impression of the notarial 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) for a notary seal issued on or after July 1, 2008, 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 seal.



46-1-16. Official signature -- Official seal -- Seal impression (continued)

(4) An embossed seal impression that is not photographically reproducible may be used in addition to, but not in place of, the photographically reproducible seal required in this section.

(5) The notarial seal shall be affixed 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 acknowledgment 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 acknowledgment in permanent ink; and

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

(i) the notary's full 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.

(7) A notary acknowledgment on an electronic message or document is considered complete without the imprint of the notary's seal if the following information appears electronically within the message:

(a) the notary's full 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)".

Amended by Chapter 47, 2008 General Session

46-1-17. Obtaining a seal.

(1) A vendor may not provide a notarial seal, either inking or embossing, to a person claiming to be a notary, unless the person presents a photocopy of the person's notarial commission, attached to a notarized declaration substantially as follows:

Application for Notary Seal

I, _____ (name of person 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 paper a photocopy of my commission.

(2) A vendor who provides a notarial seal in violation of this section is guilty of a class B misdemeanor.

Repealed and Re-enacted by Chapter 287, 1998 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 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. Regardless of the number of claimants, a surety's total liability may not exceed the penalty of the bond.

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



46-1-18. Liability (continued).

- (a) a notary to perform an act in violation of Section **46-1-9**; or
- (b) the employer of a notary to solicit the notary to perform a notarial act in violation of this chapter.

Repealed and Re-enacted by Chapter 287, 1998 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**.

Amended by Chapter 136, 2003 General Session

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

(1) Within 30 days of a change in 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.

(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 a bond policy rider, the original "Certificate of Authority of Notary Public";
- (d) pay a \$5 fee; and
- (e) destroy the old official seal.

(3) Within 30 days of a change in the notary's address, the notary shall provide the notary's new address to the lieutenant governor.

Amended by Chapter 47, 2008 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 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.

Amended by Chapter 136, 2003 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.

(1) 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.

(2) All funding for the administration of this chapter shall be nonlapsing.

Enacted by Chapter 136, 2003 General Session



**Utah Code Title 57, Chapter 02a
Recognition of Acknowledgments Act**



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 he acknowledged he executed the document;

(c) that, in the case of:

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

(ii) a corporation, the officer or agent acknowledged he held the position or title set forth in the document or certificate, he 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 he signed the document on behalf of the partnership by proper authority, and he 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, he 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, he 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;

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

(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 his 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.

Amended by Chapter 88, 1989 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 Subsections **57-2a-3** (1) through (5) 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

57-2a-5. Certificate.

A person taking an acknowledgment shall cause a certificate in a form acceptable under Section **57-2a-6** or **57-2a-7** to be endorsed on or attached to the document or other written instrument.

Enacted by Chapter 155, 1988 General Session

57-2a-6. Form of certificate.

The form of a certificate of acknowledgment used by a person whose authority is recognized under Section **57-2a-3** shall be accepted if:

(1) the certificate is in a form prescribed by the laws or rules of this state;

(2) the certificate is in a form prescribed by the laws or regulations applicable in the place where the acknowledgment is taken; or

(3) the certificate contains the words "acknowledged before me," or their substantial equivalent.

Enacted by Chapter 155, 1988 General Session

Utah Code Title 57, Chapter 03
Section 101



57-3-101. Certificate of acknowledgment, proof of execution, jurat, or other certificate required -- Notarial acts affecting real property -- Right to record documents unaffected by subdivision ordinances.

(1) A certificate of the acknowledgment of any document, or of the proof of the execution of any document, or a jurat as defined in Section **46-1-2**, or other notarial certificate containing the words "subscribed and sworn" or their substantial equivalent, that is signed and certified by the officer taking the acknowledgment, proof, or jurat, as provided in this title, entitles the document and the certificate to be recorded in the office of the recorder of the county where the real property is located.

(2) Notarial acts affecting real property in this state shall also be performed in conformance with Title 46, Chapter 1, Notaries Public Reform Act.

(3) Nothing in the provisions of Title 10, Chapter 9a, Part 6, Subdivisions, and Title 17, Chapter 27a, Part 6, Subdivisions, shall prohibit the recording of a document which is otherwise entitled to be recorded under the provisions of this chapter.

Amended by Chapter 254, 2005 General Session

Utah Code Title 57, Chapter 04a
Effects of Recording

57-4a-1. Document recordable despite defects.

Each document executed and acknowledged on or before July 1, 1988, may be recorded in the office of the county recorder regardless of any defect or irregularity in its execution, attestation, or acknowledgment.

Enacted by Chapter 155, 1988 General Session

57-4a-2. Recorded document imparts notice of contents despite defects.

A recorded document imparts notice of its contents regardless of any defect, irregularity, or omission in its execution, attestation, or acknowledgment. A certified copy of a recorded document is admissible as evidence to the same extent the original document would be admissible as evidence.

Enacted by Chapter 155, 1988 General Session

57-4a-3. Document recordable without acknowledgment.

A document or a certified copy of a document may be recorded without acknowledgment if:

- (1) it was executed under law existing at the time of execution;
- (2) it evidences or affects title to real property; and
- (3) it was issued under the authority of:
 - (a) the United States, another state, a court of record, a foreign government, or an Indian tribe; or
 - (b) this state or any of its political subdivisions but, any document executed under the authority of this state or any of its political subdivisions after July 1, 1988, may not be recorded unless it includes a certificate of acknowledgement or jurat.

Amended by Chapter 88, 1989 General Session

57-4a-4. Presumptions.

(1) A recorded document creates the following presumptions regarding title to the real property affected:

- (a) the document is genuine and was executed voluntarily by the person purporting to execute it;
- (b) the person executing the document and the person on whose behalf it is executed are the persons they purport to be;
- (c) the person executing the document was neither incompetent nor a minor at any relevant time;
- (d) delivery occurred notwithstanding any lapse of time between dates on the document and the date of recording;
- (e) any necessary consideration was given;
- (f) the grantee, transferee, or beneficiary of an interest created or described by the document acted in good faith at all relevant times;
- (g) a person executing a document as an agent, attorney in fact, officer of an organization, or in a fiduciary or official capacity:
 - (i) held the position he purported to hold and acted within the scope of his authority;
 - (ii) in the case of an officer of an organization, was authorized under all applicable laws to act on behalf of the organization; and
 - (iii) in the case of an agent, his agency was not revoked, and he acted for a principal who was neither incompetent nor a minor at any relevant time;
- (h) a person executing the document as an individual:
- (i) was unmarried on the effective date of the document; or



57-4a-4. Presumptions (continued).

(ii) if it otherwise appears from the document that the person was married on the effective date of the document, the grantee was a bona fide purchaser and the grantor received adequate and full consideration in money or money's worth so that the joinder of the nonexecuting spouse was not required under Sections **75-2-201** through **75-2-207**;

(i) if the document purports to be executed pursuant to or to be a final determination in a judicial or administrative proceeding, or to be executed pursuant to a power of eminent domain, the court, official body, or condemnor acted within its jurisdiction and all steps required for the execution of the document were taken; and

(j) recitals and other statements of fact in a document, including without limitation recitals concerning mergers or name changes of organizations, are true.

(2) The presumptions stated in Subsection (1) arise even though the document purports only to release a claim or to convey any right, title, or interest of the person executing it or the person on whose behalf it is executed.

Amended by Chapter 88, 1989 General Session



Utah Code Title 78, Chapter 24
Sections 16, 17, 18, and 19



78-24-16. Oaths -- Who may administer.

Every court, every judge, clerk and deputy clerk of any court, every justice, every notary public, and every officer or person authorized to take testimony in any action or proceeding, or to decide upon evidence, has power to administer oaths or affirmations.

No Change Since 1953

78-24-17. Form.

An oath or affirmation in an action or proceeding may be administered, the person who swears or affirms expressing his assent when addressed, in the following form:

You do solemnly swear (or affirm) that the evidence you shall give in this issue (or matter) pending between ____ and ____ shall be the truth, the whole truth and nothing but the truth, so help you God (or, under the pains and penalties of perjury).

No Change Since 1953

78-24-18. Affirmation or declaration instead of oath allowed.

Any person may at his option, instead of taking an oath, make his solemn affirmation or declaration, by assenting, when addressed in the following form:

"You do solemnly affirm (or declare) that... ." etc., as in Section **78-24-17**.

Amended by Chapter 20, 1995 General Session

78-24-19. Variance in form of swearing to suit witness' belief.

Whenever the court before which a person is offered as a witness is satisfied that he has a peculiar mode of swearing, connected with or in addition to the usual form, which in his opinion is more solemn or obligatory, the court may in its discretion adopt that mode.

If a person who is sworn believes in any other than the Christian religion, he may be sworn according to the peculiar ceremonies of his religion, if there are any.

No Change Since 1953

Utah Code Title 78, Chapter 26
Section 5



78-26-5. Taking of affidavits in this state.

An affidavit to be used before any court, judge, or officer of this state may be taken before any judge, the clerk of any court, any justice court judge, or any notary public in this state.

Amended by Chapter 59, 1990 General Session



Notary Facts to Remember

FACTS TO REMEMBER

1. A Utah notary public must be 18 years of age, a resident of Utah for 30 days preceding appointment and maintain residency in Utah thereafter, be able to read, write, speak and understand English.
2. The appointment of a notary public is made by the Office of the Lieutenant Governor.
3. An application for notarial appointment may be denied based on an applicant's conviction for a criminal offense involving moral turpitude; on any revocation, suspension, or restriction of notarial commission issued to an applicant in this or any other state; or an applicant's official misconduct while acting in the capacity of a notary public.
4. The term of office for a notary public is four years, unless suspended or revoked by the Office of the Lieutenant Governor or terminated by voluntary resignation.
5. A bond must be secured in the sum of \$5,000 from a surety approved by the state. (A notary bond is not insurance for the notary, but protection for the public. The bond offers no protection to the notary.) No company may operate a surety business in the state unless authorized by its charter and qualified with the Insurance Department of the state of Utah .
6. A Utah notary public is commissioned and authorized to perform notarial acts in all twenty-nine counties of the state, but not outside the geographic boundaries of Utah.
7. A notary public must keep an official notarial seal (for the purpose of authenticating official acts) that, when affixed in ink, makes a sharp, legible and photographically reproducible impression that includes the notary public's name exactly as indicated on the commission, the words "Notary Public," "State of Utah", and "my commission expires (commission expiration date)" the notary's commission number, official Great Seal of the State of Utah, and a rectangular border not to exceed 1 x 2 ½" surrounding the required words.

Important Note: A smudged notary seal may be corrected by reaffixing the seal nearby in a sharp, legible fashion.

8. A notary public must affix his or her official signature and seal on every document notarized. (The seal should be placed in the closest open area below the notary's signature without covering text or signature.) A notary public shall not use any name or initial in signing certificates other than that by which the notary was commissioned.
9. A notary public may execute, within the state of Utah , acknowledgments, jurats , oaths or affirmations. A notary may execute copy certifications only if the document is neither a public record nor publicly recorded and is presented to the notary by the person named in the document. Public records or publicly recorded documents can only be certified by the custodian of the original document.



10. A notary public should not notarize any document in which the notary has a beneficial, financial or disqualifying interest. If you have a disqualifying interest, someone else must provide the notarial service.
11. A notary public may charge a maximum fee of \$5.00 per signature for acknowledgments and jurats , \$5.00 per person for an oath or affirmation (without signature), and \$5.00 per page for a certified copy. A notary may charge a travel fee, not to exceed the approved federal mileage rate, when traveling to perform a notarial act if the signer has been informed and agrees to the fee.
12. A notary public must not perform an illegal notarization even though the notary's employer requests it (employer would be charged with a Class B Misdemeanor). The notary will be liable for such an act even though it was ordered by the employer.
13. A notarial act must be evidenced by a notarial certificate signed and dated by the notary public. The certificate must include identification of the jurisdiction / venue (where the notarization took place) and the official seal of office.
14. When notarizing a document where there is no remaining space available on the document for the official notary seal impression, the notary must staple a notarial certificate to the document for proper notarization.
15. A notarial certificate must include specific notarial language. The notarization is incomplete without a notarial certificate being completed by the notary. The notary seal and signature alone does not constitute a notarization.

Revised 05/10/06

Cautions for Notaries



CAUTIONS FOR NOTARIES

1. A notary public **shall not** perform a notarization if the document signer does not appear in person before the notary public at the time of notarization. *Under no circumstances shall a notary public base identification merely upon familiarity with a signer's signature when the signer is not in the physical presence of the notary public.* Violations will cause revocation of a notary commission.
2. A notary public **shall not** notarize a document to which he or she is a signer or to which he or she is named in the document.
3. A notary public **shall not** notarize documents or transactions to which the notary has a disqualifying interest; ie; beneficial, financial or other interest in the transaction. If you have a disqualifying interest, someone else must provide the notarial service.
4. A notary public may notarize documents when acting in a professional capacity such as a professional advisor, counselor, agent or attorney.
5. A notary public **shall not** execute a notarial certificate containing statements the notary knows to be false or has the intent to deceive or defraud.
6. A notary public **must** remain an impartial witness to any transaction.
7. A notary public **must** serve anyone who makes a lawful and reasonable request for notarization.
8. A notarization does not prove the truthfulness of the contents of a document, nor does it validate a document and render it legal.
9. A notarization provides verification of a document signer's willingness to sign and that the signer is, indeed, the person identified by the signature.
10. If a notary has any doubt about a signer's identity or willingness to sign, DO NOT notarize.
11. When completing a ***notarial certificate*** on a document and a mistake is made or detected, simply line through the error, correct the mistake and then initial the change.

Revised August 9, 2006



Sample Notarial Certificates



SAMPLE Acknowledgment Certificate

State of Utah)

§

County of _____)

On this _____ day of _____, in the year 2_____, before me _____,
DAY MONTH YEAR NOTARY PUBLIC NAME

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 this instrument, and acknowledged (he/she/they) executed the same. Witness my hand and official seal.

NOTARY PUBLIC

S
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SAMPLE Jurat Certificate

State of Utah)

§

County of _____)

Subscribed and sworn to before me on this _____ day of _____, in the year 2 _____
DAY MONTH YEAR

by _____.
NAME OF DOCUMENT SIGNER

NOTARY PUBLIC

S
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SAMPLE Copy Certificate

State of Utah)

§

County of _____)

On this _____ day of _____, in the year 2_____, I certify that the preceding or
DAY MONTH YEAR

attached document, is a true, exact, complete and unaltered photocopy made by me of

DESCRIPTION OF DOCUMENT

presented to me by the document's custodian, _____

NAME OF CUSTODIAN

and that, to the best of my knowledge, the photocopied document is neither a public record nor a publicly recorded document, certified copies of which are available from an official source other than a notary.

NOTARY PUBLIC

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SAMPLE of Survivorship Notarization

My name is _____ ,

I live at _____ ,

STREET ADDRESS, CITY, STATE, ZIP

my proof of identification is _____ and

DRIVERS LICENSE #, STATE ID#, INS IDENTIFICATION, PASSPORT, ETC.

I hereby certify that this statement of survivorship was signed by me in the presence of a notary public on

this _____ day of _____ , 20 _____ , as proof of my existence.
DAY MONTH YEAR

SIGNATURE OF SURVIVOR

State of Utah)

§

County of _____)

Subscribed and sworn to before me on this _____ day of _____ , 20 _____ by _____ .
DAY MONTH YEAR SIGNER OF DOCUMENT

NOTARY PUBLIC



SAMPLE School Transcript Certificate

On this _____ day of _____, _____, I, _____,
(day) (month) (year) (Registrar's Name)

acting in the capacity of _____, do hereby certify that this
(Official Title of Registrar, i.e., Principal, etc.)

document is a true, unaltered transcript of _____
(Name of Student)

from _____.
(Name of School)

(Signature of Registrar)

State of Utah)

§

County of _____)

Subscribed and sworn before me, _____ this
(Printed Name of Notary Public)

_____ day of _____, _____, by _____.
(day) (month) (year) (Printed Name of Registrar)

(Notary Public Signature)

SEAL



CREDIBLE WITNESS ACKNOWLEDGMENT

State of Utah)

§

County of _____)

On this ____ day of _____, 2____, personally appeared before me _____, and satisfactorily proved to me to be the signer of the above instrument by the oath of _____, a competent, credible and impartial witness for that purpose, by me duly sworn, and he/she/they, the said _____

acknowledged that he/she/they executed the same.

Notary Public

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NOTE:

The credible witness MUST:

- *be personally known by the notary*
- *be honest, competent and impartial*
- *know the signer of the document to be who he says he is*
- *be present with the document signer at the signing*
- *identify the signer*
- *take an oath*



Candidate Information Bulletin



PSI licensure:certification
3210 E Tropicana
Las Vegas, NV 89121
www.psiexams.com



STATE OF UTAH NOTARY APPLICANT EXAMINATION

CANDIDATE INFORMATION BULLETIN

Examinations by PSI licensure:certification	2	Social Security Confidentiality	3
Obtaining the Study Guide	2	Taking the Examination.....	3
Examination Registration	2	Examination Content Outline	5
Fees	2	Application for Licensure.....	5
Telephone Registration	2	Examination Registration Form.....	6
Fax Registration.....	2		
Standard Mail Registration.....	2		
Reregistering for an Examination	3		

Please refer to our website to check for the most updated information at www.psiexams.com.

EXAMINATIONS BY PSI

To become a commissioned notary public in Utah, or to renew your commission, you must successfully complete a competency examination. This examination assesses a candidate's knowledge of the Utah notary public statute and the ability to apply the law in practical situations. This candidate information bulletin has been prepared to provide you with general information about the testing procedure and additional information regarding the commissioning process.

The Utah Notary Public and Authentications Office has contracted with PSI to conduct its examination program. PSI works closely with the State to be certain that examinations meet local as well as national requirements in basic principles and examination development standards.

All questions and requests for information about the study guide and examination should be directed to PSI.

PSI licensure:certification
3210 E Tropicana * Las Vegas, NV * 89121
Examination Registration Number (800) 620-5802
Technical Support Number (702) 939 6780
Fax Number (702) 932-2666
www.psiexams.com

OBTAINING THE STUDY GUIDE

PSI will be offering a study guide to prepare you for the examination.

How to obtain the study guide:

- Log onto PSI's website at www.psiexams.com. Select *State -> Utah* and *Licensing Agency: Notary Public* and click *Find test information*, select *Utah Notary*, scroll to the bottom of the page, and click on the *Study Guide* link under Information Links. This will launch the Study Guide into a PDF document, and you may print it.

Please note that using the Internet is the only way to obtain the study guide. If you do not have access to the Internet, try your local library or a Kinko's. **PSI does not have hard copies of the study guide to send to candidates.**

EXAMINATION REGISTRATION

ELIGIBILITY AND FEES

The following fee table lists the applicable fee for the examination. The fee is for each registration, whether you are taking the examination for the first time or repeating.

Upon receipt of the examination email, you have one year to take the examination. After one year, the examination will no longer be valid.

EXAMINATION FEE

Examination Fee	\$30
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NOTE: REGISTRATION FEES ARE NOT REFUNDABLE OR TRANSFERABLE

TELEPHONE REGISTRATION

PSI registrars are available by phone, (800) 620-5802, from 8:00 a.m. to 4:00 p.m. Pacific Time to handle your registration request. For telephone registration, you will need a valid VISA or MasterCard.

- Complete the Examination Registration Form, including your credit card number and expiration date, so that you will be prepared with all of the information needed to register by telephone.

You will receive an email with the link and pin number to access the examination, within 2 hours, from the telephone request.

FAX REGISTRATION

For Fax registration, you will need a valid VISA or MasterCard.

Complete the Examination Registration Form, including your credit card number and expiration date.

- Fax the completed form to PSI (702) 932-2666. Fax registrations are accepted 24 hours a day.
- If your information is incomplete or incorrect, it will be returned for correction.

You will receive an email with the link and pin number to access the examination, within 4 business days from the receipt of the fax.

STANDARD MAIL REGISTRATION

For mail registration, please follow the steps below.

- Complete the Examination Registration Form. Mail the Registration Form and appropriate examination fee to PSI. Payment of fees can be made by VISA, MasterCard, Money Order, or Cashier's Check only (make payable to PSI). **CASH, COMPANY CHECKS, PERSONAL CHECKS ARE NOT ACCEPTED.**

PSI licensure:certification
3210 E Tropicana
Las Vegas, NV 89121
(800) 620-5802 • Fax (702) 932-2666
www.psiexams.com

BE SURE TO READ ALL DIRECTIONS CAREFULLY BEFORE COMPLETING THE EXAMINATION REGISTRATION FORMS. IMPROPERLY COMPLETED FORMS WILL BE RETURNED TO YOU UNPROCESSED.



1. If your application or fees are not correct, we will return them to you immediately with instructions on correct application procedures.

You will receive an email with the link and pin number to access the examination, within 2 weeks from the receipt of the mailed Registration Form.

REREGISTERING FOR AN EXAMINATION

If you need to reregister for another examination due to a failing score, you must complete and submit a new Examination Registration Form, with the appropriate fee, to PSI.

SOCIAL SECURITY NUMBER CONFIDENTIALITY

PSI will use your social security number only as an identification number in maintaining your records and reporting your examination scores to the state. A Federal law requires state agencies to collect and record the social security numbers of all licensees of the professions licensed by the state.

TECHNICAL ISSUES

You will be receiving an email with the link and key (pin number) to access the examination.

After you have completed your examination, a score report will be mailed to you the following business day. You should receive your results within 7 days.

You can write to PSI to request a duplicate of your score report for up to 1 year after your examination. The fee for a duplicate score report is \$10. *Money Order, certified check, company check, or cashier's check ONLY.*

If you encounter problems taking the Utah Notary Examination, you may contact the PSI help desk at 1-702-939-6780, Monday through Friday, 7am to 4pm Pacific Time and 7am to 2pm, on Saturdays. Alternatively, you may email PSI at techsupport@psionline.com. Please include your telephone number in the email. PSI will respond to your technical support email within 6 hours of receipt (during PSI help desk hours stated above).

EXAMINATION CONTENT OUTLINE

UTAH NOTARY PUBLIC EXAMINATION

Candidates are encouraged to prepare before ordering the test. You will have 50 minutes to take this examination. The examination will terminate promptly after 50 minutes. A candidate must correctly answer 31 or more questions to pass the examination.

# of Questions	Minimum Passing Score	Time Allowed
35	31 Correct Answers	50 Minutes

CONTENT OUTLINE

UTAH NOTARY EXAMINATION CONTENT OUTLINE

- I. Qualifications for Becoming a Notary (4 items)
 - a. Age
 - b. Residency
 - c. Examination
 - d. Recommendations
 - e. Application and fees
 - f. Language requirement
 - g. Character requirements
- II. Notarial Duties (13 items)
 - a. Acknowledgments, Jurats, Copy Certifications, Oaths/Affirmation
 - b. Obtaining Satisfactory Evidence of Identity
 - c. Official Seals
 - d. Official Signatures
 - e. Reasons for Disqualifying a Notary
 - f. Impartiality
 - g. Journal Keeping
 - h. Affidavits
 - i. Fees
 - j. Coercion
- III. Requirements for Maintaining a Notarial Commission (5 items)
 - a. Bond Requirement
 - b. Change of Name/Address
- IV. Changes in Commission Status (3 items)
 - a. Resignation
 - b. Reapplication
- V. Reasons for Revocation/Suspension & Liability (10 items)
 - a. Conviction for a crime involving dishonesty or moral turpitude
 - b. Revocation, suspension, or restriction of a notarial commission
 - c. Official misconduct while acting in the capacity of a notary
 1. Product Endorsements
 2. Unauthorized Practicing of Law
 3. Lack of Ability to Read/Write



REFERENCE LIST

The following is a list of possible study materials for the Utah Notary examination.

- Utah Code, Title 46, Chapter 01, Notaries Public Reform Act
- Utah Code, Title 57, Chapter 02a, Recognition of Acknowledgments Act
- Utah Code, Title 57, Chapter 03, Section 101
- Utah Code, Title 57, Chapter 04a, Effects of Recording
- Utah Code, Title 78, Chapter 24, Sections 16, 17, 18, and 19
- Utah Code, Title 78, Chapter 26, Section 5
- Notary Facts to Remember, revised 5/10/06, provided by the Notary Public Officer, Capitol Hill Complex, East Building E325, Salt Lake City, Utah 84114. Available on-line at <http://notary.utah.gov/facts2remember.htm>
- Cautions for Notaries, revised 05/02/06, provided by the Notary Public Officer, Capitol Hill Complex, East Building E325, Salt Lake City, Utah 84114. Available on-line at <http://notary.utah.gov/cautionsfornotaries.pdf>

APPLICATION FOR LICENSURE

If you successfully pass the examination, you will receive the score report within 7 days. Please submit this score report along with your application for notary to the Notary Public Commission. Include your bond, any fees, and mail to:

**Office of the Lieutenant Governor
Notary Public & Authentications**
Utah State Capitol
P O Box 142325
Suite 220
Salt Lake City, UT 84114
(801) 538-1041



