

MEMORANDUM

To: John Sebert
From: Pat Fry and Art Gaudio
Date: March 17, 2010
Re: Summary – ULONA Revisions

The Drafting Committee to revise the Uniform Law on Notarial Acts met on the weekend of November 20 & 21, 2009. Below is a summary of the major revisions, additions, and deletions made in the draft of the act at that meeting; references (other than as noted) are to current draft:

- Former § 2(4) – removed definition of “identification credential” and renumbered subsections. No longer needed due to revisions in § 6(b).
- § 3(b) – bracketed “[or civil partner]” and revised second sentence to provide more simply that “A notarial act performed in violation of this subsection is voidable.”
- § 5 – moved to a separate (stand alone) section. Clarify that the individual must personally appear before the officer. (Having identity claimed treated in § 6.)
- § 6 – revised title of section – “Identification of Individual.” (Having capacity treated in § 7.)
- § 6(b) – several revisions:
 - Use a bracketed time period of “[three years]” after the expiration of passport or driver’s license throughout the subsection.
 - A notarial officer may rely on a passport or driver’s license for identification of the individual (safe harbor provision).
 - A notarial officer may also accept another form of credential to identify the individual if the credential provides identification satisfactory to the officer.
- § 7 (a) – clarified language; content same.
- § 7(b) – revised and used second alternative in Nov. draft, as follows: “Except as otherwise provided by law, a notarial officer may refuse to perform a notarial act.” Use some of the content of the first alternative in the Comment.
- § 10 – added new subsection (b) Alternatives to Committee; one subsection provides that notarial acts “performed in another state by a notarial officer of this state regarding transactions that are subject to the laws of this state are effective in this state.” alternative subsection provides that notarial act performed in other state by notarial officer of this state is valid only if the other state also adopts ULONA or similar provision.

- § 12 – used first alternative from Nov. draft.
- § 14(b) – provided that notary is responsible for the security of the stamping device. Added “destroying it” to list of ways a stamping device may be disabled.
- § 14(c) – notary must “promptly” notify commissioning officer upon loss or theft of stamping device; remove notification of law enforcement authority.
- § 14(d) – clearer statement that a notarial officer who is not a notary public does not need an official stamp.
- § 15 – bracketed entire section; will add Legislative Note.
- § 15(a) – retain journal for 10 years after performance of notarial act; will explain reasons for period and how it is computed in Comment.
- Former § 15(b) – removed both alternatives; renumber subsections; subsection (a) effectively adopts first alternative in Nov. draft of subsection (b).
- § 15(c) – removed reference to “chronologically.”
- § 15(d) – removed reference to “law enforcement authority.”
- § 15(f) – revised language to provide that instead of retaining the journals, the notary or personal representative may transmit them to the commissioning officer or to an approved repository.
- Former § 13(g) – delete subsection.
- § 16 – revised in accordance with February conference call
- § 18(c) – the individual must execute the oath of office before issuance of the notarial commission.
- § 18(d) – several revisions:
 - Used both alternatives (i.e. “before” or “within 30 days after” issuance of commission); bracket both as alternatives to state legislature; will add Legislative Note.
 - Changed requirement to “assurance” which includes a bond. The method of assurance may be a “bond” or “other form of assurance that is the functional equivalent of a bond.” This would include letters of credit, errors and omissions insurance, and personal surety (i.e. credit); will explain in Comment.
 - Changed “conforming bond” to “valid bond.”
 - Added requirement that the bonding entity must give notice to the commissioning officer if the bonding entity makes payments under the bond.
- § 19 – the Section applies to individuals who do not hold current commissions as notaries public in this state.
- § 20(a) – revised to allow commissioning officer to refuse to “renew” notarial commission.

- § 20(a)(1) – subsection allows the commissioning officer to condition granting of commission on applicant obtaining education or testing if §§ 18 & 19 adopted.
- § 20(a)(5) – “fully and faithfully” not needed; “tribal” not needed.
- § 20(a)(9) – added new bracketed subsection directing the legislature to insert any other state-specific provisions or include references to them, if any; will add Legislative Note.
- § 21(c) – several changes:
 - Change references to “advertise” to “represent or advertise.”
 - The notification must be stated in each language used in the representation or notification.
 - The notification must be contained within each representation or notification or must be prominently displayed before the notarial act is performed.
- § 21(d) – revise language; “except as otherwise allowed by law, the notary public may not withhold access to or possession of any original record provided by an individual who has sought the performance of a notarial act by the notary public.”
- § 22 – revised in accordance with February conference call
- § 22(a)(6) – added power of the commissioning officer to accept surety bonds and approve other forms of assurance as provided in § 18(d).