

MARKETABLE RECORDS TITLE ACT

1999 GENERAL SESSION

STATE OF UTAH

Sponsor: Thomas V. Hatch

AN ACT RELATING TO THE MARKETABLE RECORDS TITLE ACT; EXEMPTING STATE SOVEREIGN LANDS FROM THE OPERATION OF THE ACT.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

57-9-2, as last amended by Chapter 299, Laws of Utah 1995

57-9-6, as last amended by Chapter 299, Laws of Utah 1995

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **57-9-2** is amended to read:

57-9-2. Rights and interests to which marketable record title is subject.

The marketable record title is subject to:

(1) all interests and defects which are inherent in the muniments of which such chain of record title is formed, except that a general reference in the muniments or any of them, to easements, use restrictions, or other interests created prior to the root of title is not sufficient to preserve them, unless specific identification is made therein of a recorded title transaction which creates the easement, use restriction, or other interest;

(2) all interests preserved by the filing of proper notice or by possession by the same owner continuously for a period of 40 years or more, in accordance with Section 57-9-4;

(3) the rights of any person arising from prescriptive use or a period of adverse possession or user, which was in whole or in part subsequent to the effective date of the root of title;

(4) any interest arising out of a title transaction which has been recorded subsequent to the effective date of the root of title from which the unbroken chain of title of record is started, except that the recording does not revive or give validity to any interest which has been extinguished prior to the time of the recording by the operation of Section 57-9-3; and

(5) the exceptions stated in Section 57-9-6 as to rights of reversioners in leases, as to apparent easements and interests in the nature of easements, as to the right, title, or interests of the

state in school or institutional trust lands or sovereign lands, and as to interests of the United States.

Section 2. Section **57-9-6** is amended to read:

57-9-6. Applicability of provisions.

This act may not be applied to bar:

(1) any lessor or his successor as a reversioner of his right to possession on the expiration of any lease; or

(2) extinguish any easement or interest in the nature of an easement created or held for any pipeline, highway, railroad or public utility purpose, or any easement or interest in the nature of an easement, the existence of which is clearly observable by physical evidence of its use; or

(3) extinguish any water rights, whether evidenced by decrees, by certificates of appropriation, by diligence claims to the use of surface or underground water or by water users' claims filed in general determination proceedings; or

(4) extinguish any right, title, estate, or interest in and to minerals, and any development, mining, production or other rights or easements related to the minerals or exercisable in connection with the minerals; or

(5) any right, title, or interest of the state in school or institutional trust lands or sovereign lands; or

(6) any right, title, or interest of the United States, by reason of failure to file the notice herein required.