

COUNTY AMENDMENTS

2003 GENERAL SESSION

STATE OF UTAH

Sponsor: David L. Gladwell

This act modifies provisions relating to Counties. The act modifies requirements relating to the recording of a map showing a division of agricultural land and authorizes the county legislative body to establish an alternate procedure for recording a document relating to a division of agricultural land. The act modifies county powers relating to the acquisition of real and personal property. The act modifies the powers of a county surveyor. The act modifies the procedure for determining whether an annexation petition meets specified requirements. The act repeals provisions relating to a requirement that older plats comply with minimum standards and the costs of compliance. The act prohibits the recording of a certified copy of a document in the office of the county recorder who issues the certified copy. The act authorizes county recorders and surveyors to establish procedures and guidelines for accepting documents electronically. The act modifies notarial seal requirements. The act modifies requirements relating to the recording of a resolution creating a municipal improvement district. The act prohibits the recording of a plat containing the same subdivision name as one in a plat already recorded. The act modifies provisions relating to fidelity bonds and authorizes the acquisition of theft or crime insurance for county officials. The act authorizes the county recorder to determine and collect fees not otherwise provided for and limits the county recorder's responsibility to collect fees unrelated to the recorder's office. The act also makes technical changes.

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

AMENDS:

10-2-405, as last amended by Chapter 29, Laws of Utah 2002

10-2-406, as last amended by Chapter 206, Laws of Utah 2001

10-2-407, as last amended by Chapter 206, Laws of Utah 2001

10-2-414, as last amended by Chapter 206, Laws of Utah 2001

10-9-804, as last amended by Chapter 241, Laws of Utah 2001

10-9-808, as last amended by Chapter 291, Laws of Utah 2002

17-21-1, as last amended by Chapter 241, Laws of Utah 2001

17-21-18.5, as renumbered and amended by Chapter 46 and last amended by Chapter 241,
Laws of Utah 2001

17-23-12, as enacted by Chapter 29, Laws of Utah 1987

17-23-18, as last amended by Chapter 241, Laws of Utah 2001

17-27-804, as last amended by Chapter 241, Laws of Utah 2001

17-27-806, as last amended by Chapter 291, Laws of Utah 2002

17-27-808, as last amended by Chapter 291, Laws of Utah 2002

17-50-302, as renumbered and amended by Chapter 133, Laws of Utah 2000

17A-3-307, as last amended by Chapter 181, Laws of Utah 1991

46-1-16, as repealed and reenacted by Chapter 287, Laws of Utah 1998

57-3-104, as renumbered and amended by Chapter 61, Laws of Utah 1998

REPEALS AND REENACTS:

17-16-11, as last amended by Chapter 251, Laws of Utah 1997

REPEALS:

59-2-317, as renumbered and amended by Chapter 4, Laws of Utah 1987

59-2-318, as renumbered and amended by Chapter 4, Laws of Utah 1987

59-2-319, as renumbered and amended by Chapter 4, Laws of Utah 1987

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

Section 1. Section **10-2-405** is amended to read:

10-2-405. Acceptance or rejection of an annexation petition -- Modified petition.

(1) (a) (i) (A) A municipal legislative body may:

(I) except as provided in Subsection (1)(b) and subject to Subsection (1)(a)(i)(B), deny a
petition filed under Section 10-2-403; or

(II) accept the petition for further consideration under this part.

(B) A petition shall be considered to have been accepted for further consideration under

this part if a municipal legislative body fails to act to deny or accept the petition under Subsection (1)(a)(i)(A):

(I) in the case of a city of the first or second class, within 14 days after the filing of the petition; or

(II) in the case of a city of the third class or a town, at the next regularly scheduled meeting of the municipal legislative body that is at least 14 days after the date the petition was filed.

(ii) If a municipal legislative body denies a petition under Subsection (1)(a)(i)(A), it shall, within five days of the denial, mail written notice of the denial to the contact sponsor, the clerk of the county in which the area proposed for annexation is located, and the chair of the planning commission of each township in which any part of the area proposed for annexation is located.

(b) A municipal legislative body may not deny a petition filed under Section 10-2-403 proposing to annex an area located in a county of the first class if:

(i) the petition contains the signatures of the owners of private real property that:

(A) is located within the area proposed for annexation;

(B) covers a majority of the private land area within the area proposed for annexation;

and

(C) is equal in value to at least 1/2 of the value of all private real property within the area proposed for annexation;

(ii) the population in the area proposed for annexation does not exceed 10% of the population of the proposed annexing municipality;

(iii) the property tax rate for municipal services in the area proposed to be annexed is higher than the property tax rate of the proposed annexing municipality; and

(iv) all annexations by the proposed annexing municipality during the year that the petition was filed have not increased the municipality's population by more than 20%.

(2) If the municipal legislative body accepts a petition under Subsection (1)(a)(i)(A) or is considered to have accepted the petition under Subsection (1)(a)(i)(B), the city recorder or town

clerk, as the case may be, shall, within 30 days of that acceptance:

(a) [~~with the assistance of the municipal attorney and of~~] obtain from the assessor, clerk, surveyor, and recorder of the county in which the area proposed for annexation is located[;] the records the city recorder or town clerk needs to determine whether the petition meets the requirements of Subsections 10-2-403(2), (3), and (4); [~~and~~]

(b) with the assistance of the municipal attorney, determine whether the petition meets the requirements of Subsections 10-2-403(2), (3), and (4); and

~~[(b)]~~ (c) (i) if the city recorder or town clerk determines that the petition meets those requirements, certify the petition and mail or deliver written notification of the certification to the municipal legislative body, the contact sponsor, the county legislative body, and the chair of the planning commission of each township in which any part of the area proposed for annexation is located; or

(ii) if the city recorder or town clerk determines that the petition fails to meet any of those requirements, reject the petition and mail or deliver written notification of the rejection and the reasons for the rejection to the municipal legislative body, the contact sponsor, the county legislative body, and the chair of the planning commission of each township in which any part of the area proposed for annexation is located.

(3) (a) (i) If the city recorder or town clerk rejects a petition under Subsection (2)(b)(ii), the petition may be modified to correct the deficiencies for which it was rejected and then refiled with the city recorder or town clerk, as the case may be.

(ii) A signature on an annexation petition filed under Section 10-2-403 may be used toward fulfilling the signature requirement of Subsection 10-2-403(2)(b) for the petition as modified under Subsection (3)(a)(i).

(b) If a petition is refiled under Subsection (3)(a) after having been rejected by the city recorder or town clerk under Subsection (2)(b)(ii), the refiled petition shall be treated as a newly filed petition under Subsection 10-2-403(1).

(4) Each county assessor, clerk, surveyor, and recorder shall [~~cooperate with and assist~~] provide copies of records that a city recorder or town clerk [~~in the determination~~] requests under

Subsection (2)(a).

Section 2. Section **10-2-406** is amended to read:

10-2-406. Notice of certification -- Publishing and providing notice of petition.

(1) After receipt of the notice of certification from the city recorder or town clerk under Subsection 10-2-405(2)[~~(b)~~] (c)(i), the municipal legislative body shall:

(a) (i) publish a notice at least once a week for three successive weeks, beginning no later than ten days after receipt of the notice of certification, in a newspaper of general circulation within:

(A) the area proposed for annexation; and

(B) the unincorporated area within 1/2 mile of the area proposed for annexation; or

(ii) if there is no newspaper of general circulation within those areas, post written notices in conspicuous places within those areas that are most likely to give notice to residents within those areas; and

(b) within 20 days of receipt of the notice of certification under Subsection 10-2-405(2)[~~(b)~~] (c)(i), mail written notice to each affected entity.

(2) (a) The notice under Subsections (1)(a) and (b) shall:

(i) state that a petition has been filed with the municipality proposing the annexation of an area to the municipality;

(ii) state the date of the municipal legislative body's receipt of the notice of certification under Subsection 10-2-405(2)[~~(b)~~] (c)(i);

(iii) describe the area proposed for annexation in the annexation petition;

(iv) state that the complete annexation petition is available for inspection and copying at the office of the city recorder or town clerk;

(v) state in conspicuous and plain terms that the municipality may grant the petition and annex the area described in the petition unless, within the time required under Subsection 10-2-407(2)(a)(i)(A), a written protest to the annexation petition is filed with the commission and a copy of the protest delivered to the city recorder or town clerk of the proposed annexing municipality; and

(vi) state the address of the commission or, if a commission has not yet been created in the county, the county clerk, where a protest to the annexation petition may be filed.

(b) The statement required by Subsection (2)(a)(v) shall state the deadline for filing a written protest in terms of the actual date rather than by reference to the statutory citation.

(c) In addition to the requirements under Subsection (2)(a), a notice under Subsection (1)(a) for a proposed annexation of an area within a county of the first class shall include a statement that a protest to the annexation petition may be filed with the commission by property owners if it contains the signatures of the owners of private real property that:

(i) is located in the unincorporated area within 1/2 mile of the area proposed for annexation;

(ii) covers at least 25% of the private land area located in the unincorporated area within 1/2 mile of the area proposed for annexation; and

(iii) is equal in value to at least 15% of all real property located in the unincorporated area within 1/2 mile of the area proposed for annexation.

Section 3. Section **10-2-407** is amended to read:

10-2-407. Protest to annexation petition -- Township planning commission recommendation -- Petition requirements -- Disposition of petition if no protest filed.

(1) (a) A protest to an annexation petition under Section 10-2-403 may be filed by:

(i) the legislative body or governing board of an affected entity; or

(ii) for a proposed annexation of an area within a county of the first class, the owners of private real property that:

(A) is located in the unincorporated area within 1/2 mile of the area proposed for annexation;

(B) covers at least 25% of the private land area located in the unincorporated area within 1/2 mile of the area proposed for annexation; and

(C) is equal in value to at least 15% of all real property located in the unincorporated area within 1/2 mile of the area proposed for annexation.

(b) (i) A planning commission of a township located in a county of the first class may

recommend to the legislative body of the county in which the township is located that the county legislative body file a protest against a proposed annexation under this part of an area located within the township.

(ii) (A) The township planning commission shall communicate each recommendation under Subsection (1)(b)(i) in writing to the county legislative body within 30 days of the city recorder or town clerk's certification of the annexation petition under Subsection 10-2-405(2)[~~(b)~~] (c)(i).

(B) At the time the recommendation is communicated to the county legislative body under Subsection (1)(b)(ii)(A), the township planning commission shall mail or deliver a copy of the recommendation to the legislative body of the proposed annexing municipality and to the contact sponsor.

(2) (a) Each protest under Subsection (1)(a) shall:

(i) be filed:

(A) no later than 30 days after the municipal legislative body's receipt of the notice of certification under Subsection 10-2-405(2)[~~(b)~~] (c)(i); and

(B) (I) in a county that has already created a commission under Section 10-2-409, with the commission; or

(II) in a county that has not yet created a commission under Section 10-2-409, with the clerk of the county in which the area proposed for annexation is located; and

(ii) state each reason for the protest of the annexation petition and, if the area proposed to be annexed is located in a specified county, justification for the protest under the standards established in this chapter;

(iii) if the area proposed to be annexed is located in a specified county, contain other information that the commission by rule requires or that the party filing the protest considers pertinent; and

(iv) the name and address of a contact person who is to receive notices sent by the commission with respect to the protest proceedings.

(b) The party filing a protest under this section shall on the same date deliver or mail a

copy of the protest to the city recorder or town clerk of the proposed annexing municipality.

(c) Each clerk who receives a protest under Subsection (2)(a)(i)(B)(II) shall immediately notify the county legislative body of the protest and shall deliver the protest to the boundary commission within five days of its creation under Subsection 10-2-409(1)(b).

(d) Each protest of a proposed annexation of an area located in a county of the first class under Subsection (1)(a)(ii) shall, in addition to the requirements of Subsections (2)(a) and (b):

(i) indicate the typed or printed name and current residence address of each owner signing the protest; and

(ii) designate one of the signers of the protest as the contact person and state the mailing address of the contact person.

(3) (a) (i) If a protest is filed under this section:

(A) the municipal legislative body may, at its next regular meeting after expiration of the deadline under Subsection (2)(a)(i)(A) and, for a proposed annexation of an area located in a county of the first class, except as provided in Subsection (3)(a)(iii), deny the annexation petition; or

(B) if the municipal legislative body does not deny the annexation petition under Subsection (3)(a)(i)(A), the municipal legislative body may take no further action on the annexation petition until after receipt of the commission's notice of its decision on the protest under Section 10-2-416.

(ii) If a municipal legislative body denies an annexation petition under Subsection (3)(a)(i)(A), the municipal legislative body shall, within five days of the denial, send notice of the denial in writing to:

(A) the contact sponsor of the annexation petition;

(B) the commission;

(C) each entity that filed a protest; and

(D) if a protest was filed under Subsection (1)(a)(ii) for a proposed annexation of an area located in a county of the first class, the contact person.

(iii) A municipal legislative body may not deny an annexation petition proposing to

annex an area located in a county of the first class if:

(A) the petition contains the signatures of the owners of private real property that:

(I) is located within the area proposed for annexation;

(II) covers a majority of the private land area within the area proposed for annexation;

and

(III) is equal in value to at least 1/2 of the value of all private real property within the area proposed for annexation;

(B) the population in the area proposed for annexation does not exceed 10% of the population of the proposed annexing municipality;

(C) the property tax rate for municipal services in the area proposed to be annexed is higher than the property tax rate of the proposed annexing municipality; and

(D) all annexations by the proposed annexing municipality during the year that the petition was filed have not increased the municipality's population by more than 20%.

(b) (i) If no timely protest is filed under this section, the municipal legislative body may, subject to Subsection (3)(b)(ii), grant the petition and, by ordinance, annex the area that is the subject of the annexation petition.

(ii) Before granting an annexation petition under Subsection (3)(b)(i), the municipal legislative body shall:

(A) hold a public hearing; and

(B) at least seven days before the public hearing under Subsection (3)(b)(ii)(A):

(I) publish notice of the hearing in a newspaper of general circulation within the municipality and the area proposed for annexation; or

(II) if there is no newspaper of general circulation in those areas, post written notices of the hearing in conspicuous places within those areas that are most likely to give notice to residents within those areas.

Section 4. Section **10-2-414** is amended to read:

10-2-414. Modified annexation petition -- Supplemental feasibility study.

(1) (a) (i) If the results of the feasibility study with respect to a proposed annexation of an

area located in a county of the first class do not meet the requirements of Subsection 10-2-416(3), the sponsors of the annexation petition may, within 45 days of the feasibility consultant's submission of the results of the study, file with the city recorder or town clerk of the proposed annexing municipality a modified annexation petition altering the boundaries of the proposed annexation.

(ii) On the date of filing a modified annexation petition under Subsection (1)(a)(i), the sponsors of the annexation petition shall deliver or mail a copy of the modified annexation petition to the clerk of the county in which the area proposed for annexation is located.

(b) Each modified annexation petition under Subsection (1)(a) shall comply with the requirements of Subsections 10-2-403(2), (3), and (4).

(2) (a) Within 20 days of the city recorder or town clerk's receipt of the modified annexation petition, the city recorder or town clerk, as the case may be, shall follow the same procedure for the modified annexation petition as provided under Subsections 10-2-405(2) and (3)(a) for an original annexation petition.

(b) If the city recorder or town clerk certifies the modified annexation petition under Subsection 10-2-405(2)[~~(b)~~] (c)(i), the city recorder or town clerk, as the case may be, shall send written notice of the certification to:

- (i) the commission;
- (ii) each entity that filed a protest to the annexation petition; and
- (iii) if a protest was filed under Subsection 10-2-407(1)(a)(ii), the contact person.

(c) (i) If the modified annexation petition proposes the annexation of an area that includes part or all of a special district or school district that was not included in the area proposed for annexation in the original petition, the city recorder or town clerk, as the case may be, shall also send notice of the certification of the modified annexation petition to the board of the special district or school district.

(ii) If the area proposed for annexation in the modified annexation petition is within 1/2 mile of the boundaries of a municipality whose boundaries were not within 1/2 mile of the area proposed for annexation in the original annexation petition, the city recorder or town clerk, as the

case may be, shall also send notice of the certification of the modified annexation petition to the legislative body of that municipality.

(3) Within ten days of the commission's receipt of the notice under Subsection (2)(b), the commission shall engage the feasibility consultant that conducted the feasibility study to supplement the feasibility study to take into account the information in the modified annexation petition that was not included in the original annexation petition.

(4) The commission shall require the feasibility consultant to complete the supplemental feasibility study and to submit written results of the supplemental study to the commission no later than 30 days after the feasibility consultant is engaged to conduct the supplemental feasibility study.

Section 5. Section **10-9-804** is amended to read:

10-9-804. Plats required.

(1) Unless exempt under Section 10-9-806 or not included in the definition of subdivision under Subsection 10-9-103(1), whenever any lands are laid out and platted, the owner of those lands shall provide an accurate plat that describes or specifies:

- (a) the boundaries, course, and dimensions of the parcels of ground;
- (b) whether the parcels of ground are intended to be used as streets or for other public uses, and whether any areas are reserved for public purposes;
- (c) the lot or unit reference, the block or building reference, the street or site address, the street name or coordinate address, the acreage or square footage for all parcels, units, or lots, and the length and width of the blocks and lots intended for sale; and
- (d) existing right-of-way and easement grants of record for underground facilities, as defined in Section 54-8a-2, and for other utility facilities.

(2) (a) The owner of the land shall acknowledge the plat before an officer authorized by law to take the acknowledgement of conveyances of real estate.

(b) The surveyor making the plat shall certify it.

(c) The owner or operator of the underground and utility facilities shall approve the plat of its property interest if it specifies:

(i) the boundary, course, dimensions, and intended use of the right-of-way and easement grants of record;

(ii) the location of existing underground and utility facilities; and

(iii) any conditions or restrictions governing the location of the facilities within the right-of-way, and easement grants of records, and utility facilities within the subdivision.

(d) The legislative body shall approve the plat as provided in this part. Before the legislative body may approve a plat, the owner of the land shall provide the legislative body with a tax clearance indicating that all taxes, interest, and penalties owing on the land have been paid.

(3) (a) After the plat has been acknowledged, certified, and approved, the owner of the land shall, subject to Subsection (3)(b), record it in the county recorder's office in the county in which the lands platted and laid out are situated.

(b) An owner of land may not submit for recording a plat that gives the subdivision described in the plat the same name as a subdivision in a plat already recorded in the county recorder's office.

Section 6. Section **10-9-808** is amended to read:

10-9-808. Vacating or changing a subdivision plat.

(1) (a) Subject to Subsection (2), the legislative body of a municipality or any other officer that the legislative body designates by ordinance may, with or without a petition, consider any proposed vacation, alteration, or amendment of a subdivision plat, any portion of a subdivision plat, or any street, lot, or alley contained in a subdivision plat at a public hearing.

(b) If a petition is filed, the responsible body or officer shall hold the public hearing within 45 days after receipt of the planning commission's recommendation under Subsection (2) if:

(i) the plat change includes the vacation of a public street or alley;

(ii) any owner within the plat notifies the municipality of their objection in writing within ten days of mailed notification; or

(iii) a public hearing is required because all of the owners in the subdivision have not signed the revised plat.

(2) (a) Before the legislative body or officer designated by the legislative body may consider a proposed vacation, alteration, or amendment under Subsection (1)(a) or (6), the legislative body or officer shall refer the proposal to the planning commission for its recommendation.

(b) The planning commission shall give its recommendation within 30 days after the proposed vacation, alteration, or amendment is referred to it.

(3) Any fee owner, as shown on the last county assessment rolls, of land within the subdivision that has been laid out and platted as provided in this part may, in writing, petition the legislative body to have the plat, any portion of it, or any street or lot contained in it, vacated, altered, or amended as provided in this section.

(4) Each petition to vacate, alter, or amend an entire plat, a portion of a plat, or a street or lot contained in a plat shall include:

- (a) the name and address of all owners of record of the land contained in the entire plat;
- (b) the name and address of all owners of record of land adjacent to any street that is proposed to be vacated, altered, or amended; and
- (c) the signature of each of these owners who consents to the petition.

(5) (a) A petition that lacks the consent of all owners referred to in Subsection (4) may not be scheduled for consideration at a public hearing before the legislative body until the notice required by this part is given.

(b) The petitioner shall pay the cost of the notice.

(6) Subject to Subsection (2), if the responsible body or officer proposes to vacate, alter, or amend a subdivision plat, or any street or lot contained in a subdivision plat, they shall consider the issue at a public hearing after giving the notice required by this part.

(7) (a) The owners of record of adjacent parcels that are described by either a metes and bounds description or a recorded plat may exchange title to portions of those parcels if the exchange of title is approved by the planning commission, or such other person or board as the municipal legislative body may designate, in accordance with Subsection (7)(b).

(b) The planning commission, or such other person or board as the municipal legislative

body may designate, shall approve an exchange of title under Subsection (7)(a) if:

- (i) no new dwelling lot or housing unit will result from the exchange of title; and
- (ii) the exchange of title will not result in a violation of applicable zoning requirements.
- (c) If an exchange of title is approved under Subsection (7)(b), a notice of approval shall

be recorded by the planning commission, or such other person or board as the municipal legislative body may designate, in the office of the county recorder which:

- (i) is executed by each owner included in the exchange and by the planning commission, or such other person or board as the municipal legislative body may designate;
- (ii) contains an acknowledgment for each party executing the notice in accordance with the provisions of Title 57, Chapter 2a, Recognition of Acknowledgments Act; and
- (iii) recites the descriptions of both the original parcels and the parcels created by the exchange of title.

(d) A notice of approval recorded under this Subsection (7) does not act as a conveyance of title to real property and is not required for the recording of a document purporting to convey title to real property.

(8) (a) The name of a recorded subdivision may be changed by recording an amended plat making that change, as provided in this section and subject to Subsection (8)(c).

(b) The surveyor making the amended plat shall certify it.

(c) An owner of land may not submit for recording an amended plat that gives the subdivision described in the amended plat the same name as a subdivision in a plat already recorded in the county recorder's office.

~~[(b)]~~ (d) Except as provided in Subsection (8)(a), the recording of a declaration or other document that purports to change the name of a recorded plat is void.

(9) Municipalities operating under the council-mayor form of government shall comply with Section 10-3-1219.5.

Section 7. Section **17-16-11** is repealed and reenacted to read:

17-16-11. Fidelity bonds and theft or crime insurance.

(1) As used in this section, "county officials" means:

(a) the members of the county legislative body;
(b) the county executive;
(c) the county clerk;
(d) the county auditor;
(e) the county sheriff;
(f) the county attorney;
(g) in a county that is within a prosecution district, the district attorney;
(h) the county recorder;
(i) the county assessor;
(j) the county surveyor;
(k) each justice court judge and constable within the county;
(l) the county treasurer; and
(m) each deputy or assistant of those listed in Subsections (1)(a) through (l) for whom the county legislative body determines a general fidelity bond or theft or crime insurance should be acquired.

(2) (a) The legislative body of each county shall prescribe the amount of each general fidelity bond or of theft or crime insurance to be acquired for county officials, except the county treasurer, before the county officials, except the county treasurer, may discharge the duties of their respective offices.

(b) The State Money Management Council created in Section 51-7-16 shall prescribe the amount of a general fidelity bond or theft or crime insurance to be acquired for the county treasurer before the county treasurer may discharge the duties of that office.

(c) A county legislative body may acquire a fidelity bond or theft or crime insurance on all county officials as a group rather than individually.

(3) (a) The county legislative body shall approve the premium for each fidelity bond before the bond may be filed and recorded.

(b) The cost of each fidelity bond and theft or crime insurance policy shall be paid from county funds.

(4) Each fidelity bond shall be recorded in the office of the county recorder and a copy of it filed and maintained in the office of the county clerk.

(5) (a) The district attorney of each multicounty prosecution district shall:

(i) execute a fidelity bond or acquire theft or crime insurance in the amount specified in the interlocal agreement that created the prosecution district; and

(ii) record each fidelity bond with the county recorder and file a copy of it with the county clerk as specified in the interlocal agreement.

(b) The cost of each fidelity bond or theft or crime insurance policy under Subsection (5)(a) shall be paid as specified in the interlocal agreement that created the prosecution district.

Section 8. Section **17-21-1** is amended to read:

17-21-1. Recorder -- Document custody responsibility -- Electronic submission procedures and guidelines.

The county recorder:

(1) is custodian of all recorded documents and records required by law to be recorded;

[and]

(2) shall establish policies and procedures that the recorder considers necessary to protect recorded documents and records in the recorder's custody, including determining the appropriate method for the public to obtain copies of the public record under Section 17-21-19 and supervision of those who make copies of the public record[-]; and

(3) may establish procedures and guidelines to govern the electronic submission of plats, records, and other documents to the county recorder's office consistent with Title 46, Chapter 4, Uniform Electronic Transactions Act.

Section 9. Section **17-21-18.5** is amended to read:

17-21-18.5. Fees of county recorder.

(1) The county recorder shall receive the following fees:

(a) for receiving, entering, and filing any instrument, paper, or notice, not otherwise provided for, other than bonds of public officers, \$10;

(b) for recording any instrument, paper, or notice, including those provided for under

Title 70A, Uniform Commercial Code, other than bonds of public officers, and not otherwise provided for, \$10 for the first page, if the page is not larger than 8 1/2 inches x 14 inches in size, and \$2 for each additional page, and if any instrument, paper, or notice contains more than one description, \$1 for each additional description;

(c) for recording any instrument in which a right-of-way is described, which is connected with or is appurtenant to any tract of land described in the instrument, \$1, but if the instrument contains a description of more than one right-of-way, \$1 for each additional right-of-way, and if any instrument contains more than two names for either first or second party, or plaintiffs or defendants, for each additional name, \$1;

(d) for recording, indexing, and abstracting mining location notices, and recording, indexing, and abstracting affidavits of labor affecting mining claims, \$10 for the first page if that page is not larger than 8 1/2 inches by 14 inches in size, and \$2 for each additional page; and

(e) for a location notice, affidavit, or proof of labor which contains names of more than two signers, \$1 for each additional name, and for an affidavit or proof of labor which contains more than one mining claim, \$1 for each additional mining claim.

(2) (a) Each county recorder shall record the mining rules of the several mining districts in each county without fee.

(b) Certified copies of these records shall be received in all tribunals and before all officers of this state as prima facie evidence of the rules.

(3) The county recorder shall receive the following fees:

(a) for copies of any record or document, a reasonable fee as determined by the county legislative body;

(b) for each certificate under seal, \$5;

(c) for recording any plat of a subdivision into lots and blocks, \$1 for each lot, and \$30 for each sheet;

(d) for recording any other plat or map, \$30 for each sheet and \$1 for each lot or unit designation;

(e) for taking and certifying acknowledgments, including seal, \$5 for one name and \$2

for each additional name;

(f) for recording any license issued by the Division of Occupational and Professional Licensing, \$10; and

(g) for filing of federal tax lien, \$10, and for the discharge of the lien, \$10[~~;~~and].

~~(h)~~ (4) The county may determine and collect a fee for all services not enumerated in this section[~~;~~a reasonable compensation].

(5) A county recorder may not be required to collect a fee for services that are unrelated to the county recorder's office.

Section 10. Section **17-23-12** is amended to read:

17-23-12. Additional powers.

The county surveyor may:

(1) administer oaths or affirmations necessary to legally establish roads and other surveys; [~~and~~]

(2) take evidence from any person who may have information to prove any point material to a survey or whenever necessary in the discharge of his official duties[~~;~~]; and

(3) establish procedures and guidelines to govern the electronic submission of plats, records, and other documents to the county surveyor's office consistent with Title 46, Chapter 4, Uniform Electronic Transactions Act.

Section 11. Section **17-23-18** is amended to read:

17-23-18. Amendment of survey maps or narratives by affidavit of corrections.

(1) Any survey map or narrative filed [~~and recorded~~] under the provisions of this chapter may be amended by an affidavit of corrections:

(a) to show any courses or distances omitted from the map or narrative;

(b) to correct an error in the description of the real property shown on the map or narrative; or

(c) to correct any other errors or omissions where the error or omission is ascertainable from the data shown on the map or narrative as recorded.

(2) (a) The affidavit of correction shall be prepared by the licensed professional land

surveyor who filed the map or narrative.

(b) In the event of the death, disability, or retirement from practice of the surveyor who filed the map or narrative, the county surveyor [~~or designated office~~] may prepare the affidavit of correction.

(c) The affidavit shall set forth in detail the corrections made.

(d) The seal and signature of the licensed professional land surveyor filing the affidavit of correction shall be affixed to the affidavit.

(3) The county surveyor [~~or designated office~~] having jurisdiction of the map or narrative shall certify that the affidavit of correction has been examined and that the changes shown on the map or narrative are changes permitted under this section.

(4) Nothing in this section permits changes in courses or distances for the purpose of redesigning parcel configurations.

Section 12. Section **17-27-804** is amended to read:

17-27-804. Plats required.

(1) Unless exempt under Section 17-27-806 or not included in the definition of a subdivision under Subsection 17-27-103(1), whenever any lands are divided, the owner of those lands shall have an accurate plat made of them that sets forth and describes:

(a) all the parcels of ground divided, by their boundaries, course, and extent, and whether they are intended for streets or other public uses, together with any areas that are reserved for public purposes; and

(b) the lot or unit reference, the block or building reference, the street or site address, the street name or coordinate address, the acreage or square footage for all parcels, units, or lots, and the length and width of the blocks and lots intended for sale.

(2) (a) The owner of the land shall acknowledge the plat before an officer authorized by law to take the acknowledgement of conveyances of real estate.

(b) The surveyor making the plat shall certify it.

(c) The county executive shall approve the plat as provided in this part. Before the county executive may approve a plat, the owner of the land shall provide the county executive

with a tax clearance indicating that all taxes, interest, and penalties owing on the land have been paid.

(3) (a) After the plat has been acknowledged, certified, and approved, the owner of the land shall, subject to Subsection (3)(b), record it in the county recorder's office in the county in which the lands platted and laid out are situated.

(b) An owner of land may not submit for recording a plat that gives the subdivision described in the plat the same name as a subdivision in a plat already recorded in the county recorder's office.

Section 13. Section **17-27-806** is amended to read:

17-27-806. Exemptions from plat requirement.

(1) (a) Notwithstanding Sections 17-27-804 and 17-27-805, a person may submit to the county recorder's office for recording a document that subdivides property by metes and bounds into less than ten lots, without the necessity of recording a plat, if:

(i) the planning commission, if required by county ordinance, has given the county executive its recommendation, whether favorable or not; and

(ii) the document contains a certificate or written approval from:

(A) the executive of the county in whose unincorporated area the property is located; or

(B) other officers that the county legislative body designates in an ordinance.

(b) By indicating its approval on a document under Subsection (1)(a), the county executive or other officer designated by the county legislative body certifies that:

(i) the planning commission:

(A) has given its recommendation to the county executive; or

(B) is not required by county ordinance to give its recommendation;

(ii) the subdivision is not traversed by the mapped lines of a proposed street as shown in the general plan and does not require the dedication of any land for street or other public purposes; and

(iii) if the subdivision is located in a zoned area, each lot in the subdivision meets the frontage, width, and area requirements of the zoning ordinance or has been granted a variance

from those requirements by the board of adjustment.

(2) (a) Subject to Subsection (2)(b), a lot or parcel resulting from a division of agricultural land is exempt from the plat requirements of Section 17-27-804 if the lot or parcel:

(i) qualifies as land in agricultural use under Title 59, Chapter 2, Part 5, Farmland Assessment Act;

(ii) meets the minimum size requirement of applicable zoning ordinances for agricultural uses; and

(iii) is not used and will not be used for any nonagricultural purpose.

(b) (i) The county legislative body may adopt an ordinance requiring the boundaries of each lot or parcel exempted under Subsection (2)(a) [shall] to be graphically illustrated on a record of survey map that, after receiving the same approvals as are required for a plat under Section 17-27-805, shall be recorded with the county recorder.

(ii) As an alternative to enacting an ordinance under Subsection (2)(b)(i), a county legislative body may establish a procedure under which a notice, covenant, or other specified legal instrument containing a legal description of the subject property and identifying the agricultural purpose for the land division is recorded with the county recorder.

(c) If a lot or parcel exempted under Subsection (2)(a) is used for a nonagricultural purpose, the county in whose unincorporated area the lot or parcel is located may require the lot or parcel to comply with the requirements of Section 17-27-804.

(3) (a) Documents recorded in the county recorder's office that divide property by a metes and bounds description do not create a subdivision allowed by this part unless the certificate of written approval required by Subsection (1)(a)(ii) is attached to the document.

(b) The absence of the certificate or written approval required by Subsection (1)(a)(ii) does not affect the validity of a recorded document.

(c) A document recorded under Subsection (1)(a) which does not meet the requirements of Subsection (1)(a)(ii) may be corrected to comply with Subsection (1)(a)(ii) by the recording of an affidavit to which the required certificate or written approval is attached in accordance with Section 57-3-106.

Section 14. Section **17-27-808** is amended to read:

17-27-808. Vacating or changing a subdivision plat.

(1) (a) Subject to Subsection (2), the county executive or any other officer that the county legislative body designates by ordinance may, with or without a petition, consider any proposed vacation, alteration, or amendment of a subdivision plat, any portion of a subdivision plat, or any street, lot, or alley contained in a subdivision plat at a public hearing.

(b) If a petition is filed, the responsible officer shall hold the public hearing within 45 days after receipt of the planning commission's recommendation under Subsection (2) if:

- (i) the plat change includes the vacation of a public street or alley;
- (ii) any owner within the plat notifies the municipality of their objection in writing within ten days of mailed notification; or
- (iii) a public hearing is required because all of the owners in the subdivision have not signed the revised plat.

(2) (a) Before the county legislative body or officer designated by the county legislative body may consider a proposed vacation, alteration, or amendment under Subsection (1)(a) or (6), the county legislative body or officer shall refer the proposal to the planning commission for its recommendation.

(b) The planning commission shall give its recommendation within 30 days after the proposed vacation, alteration, or amendment is referred to it.

(3) Any fee owner, as shown on the last county assessment rolls, of land within the subdivision that has been laid out and platted as provided in this part may, in writing, petition the county executive to have the plat, any portion of it, or any street or lot contained in it, vacated, altered, or amended as provided in this section.

(4) Each petition to vacate, alter, or amend an entire plat, a portion of a plat, or a street or lot contained in a plat shall include:

- (a) the name and address of all owners of record of the land contained in the entire plat;
- (b) the name and address of all owners of record of land adjacent to any street that is proposed to be vacated, altered, or amended; and

(c) the signature of each of these owners who consents to the petition.

(5) (a) A petition that lacks the consent of all owners referred to in Subsection (4) may not be scheduled for consideration at a public hearing before the responsible officer until the notice required by this part is given.

(b) The petitioner shall pay the cost of the notice.

(6) Subject to Subsection (2), if the responsible body or officer proposes to vacate, alter, or amend a subdivision plat, or any street or lot contained in a subdivision plat, they shall consider the issue at a public hearing after giving the notice required by this part.

(7) (a) The owners of record of adjacent parcels that are described by either a metes and bounds description or a recorded plat may exchange title to portions of those parcels if the exchange of title is approved by the planning commission, or such other person or board as the county legislative body may designate, in accordance with Subsection (7)(b).

(b) The planning commission, or such other person or board as the county legislative body may designate, shall approve an exchange of title under Subsection (7)(a) if:

(i) no new dwelling lot or housing unit will result from the exchange of title; and

(ii) the exchange of title will not result in a violation of applicable zoning requirements.

(c) If an exchange of title is approved under Subsection (7)(b), a notice of approval shall be recorded by the planning commission, or such other person or board as the county legislative body may designate, in the office of the county recorder which:

(i) is executed by each owner included in the exchange and by the planning commission, or such other person or board as the county legislative body may designate;

(ii) contains an acknowledgment for each party executing the notice in accordance with the provisions of Title 57, Chapter 2a, Recognition of Acknowledgments Act; and

(iii) recites the descriptions of both the original parcels and the parcels created by the exchange of title.

(d) A notice of approval recorded under this Subsection (7) does not act as a conveyance of title to real property and is not required for the recording of a document purporting to convey title to real property.

(8) (a) The name of a recorded subdivision may be changed by recording an amended plat making that change, as provided in this section and subject to Subsection (8)(c).

(b) The surveyor making the amended plat shall certify it.

(c) An owner of land may not submit for recording an amended plat that gives the subdivision described in the amended plat the same name as a subdivision in a plat already recorded in the county recorder's office.

~~(b)~~ (d) Except as provided in Subsection (8)(a), the recording of a declaration or other document that purports to change the name of a recorded plat is void.

Section 15. Section **17-50-302** is amended to read:

17-50-302. General county powers.

(1) A county may:

(a) as prescribed by statute, levy, assess, and collect taxes, borrow money, and levy and collect special assessments for benefits conferred; and

(b) provide services, exercise powers, and perform functions that are reasonably related to the safety, health, morals, and welfare of their inhabitants, except as limited or prohibited by statute.

(2) (a) A county may:

~~(a)~~ (i) sue and be sued;

~~(b)~~ (ii) acquire [land, including at a] real property by tax sale, purchase, lease, contract, gift, or condemnation, and hold [it] the real property as necessary and proper for county purposes;

~~(c)~~ (iii) [make such contracts and] as may be necessary to the exercise of its powers, acquire personal property by purchase, lease, contract, or gift, and hold such personal property [as may be necessary to the exercise of its powers]; and

~~(d)~~ (iv) manage and dispose of its property as the interests of its inhabitants may require.

(b) Nothing in Subsection (2)(a)(ii) may be construed to authorize a county to acquire by condemnation the rights to water used in agricultural production unless the land to which those water rights are appurtenant is acquired by condemnation.

Section 16. Section 17A-3-307 is amended to read:

17A-3-307. Protests by property owners -- Hearing -- Alteration of proposal by resolution -- Conditions for adding property to district -- Deletion of protesters' property from district -- Recording requirements -- Waiver of objections.

(1) (a) Any person who is the owner of property to be assessed in the special improvement district described in the notice of intention may, within the time designated in the notice, file, in writing, a protest to the creation of the special improvement district or make any other objections relating to it.

(b) The protest shall describe or otherwise identify the property owned by the person making the protest.

(2) (a) On the date and at the time and place specified in the notice of intention, the governing body shall, in open and public session, consider all protests filed and hear all objections relating to the proposed special improvement district.

(b) The governing body may adjourn the hearing from time to time to a fixed future time and place.

(c) After the hearing has been concluded and after all persons desiring to be heard have been heard, the governing body shall consider the arguments and the protests made.

(d) The governing body may:

(i) make deletions and changes in the proposed improvements; and

(ii) make deletions and changes in the area to be included in the special improvement district as desirable or necessary to assure adequate benefits to the property in the district.

(e) The governing body may not provide for the making of any improvements that are not stated in the notice of intention nor for adding to the district any property not included within the boundaries of the district unless a new notice of intention is given and a new hearing held.

(3) (a) (i) After this consideration and determination, the governing body shall adopt a resolution either abandoning the district or creating the district either as described in the notice of intention or with deletions and changes made as authorized in this section.

(ii) The governing body shall abandon the district and not create it if the necessary

number of protests as provided in Subsection (3)(b) have been filed on or before the time specified in the notice of intention for the filing of protests after eliminating from the filed protests:

(A) protests relating to property or relating to a type of improvement that has been deleted from the district; and

(B) protests that have been withdrawn in writing before the conclusion of the hearing.

(b) For purposes of this section, the necessary number of protests means the aggregate of the following:

(i) protests representing [~~one-half~~] 1/2 of the front footage of property to be assessed in cases where an assessment is proposed to be made according to frontage;

(ii) protests representing [~~one-half~~] 1/2 of the area of the property to be assessed where an assessment is to be made according to area;

(iii) protests representing [~~one-half~~] 1/2 of the taxable value of the property to be assessed where an assessment is proposed to be made according to taxable value;

(iv) protests representing [~~one-half~~] 1/2 of the lots to be assessed where an assessment is proposed to be made according to lot; or

(v) protests representing [~~one-half~~] 1/2 of connections to be assessed where an assessment is proposed to be made according to number of connections.

(c) If less than the necessary number of protests are filed by the owners of the property to be assessed, the governing body may create the special improvement district and begin making improvements.

(4) Before the completion of construction of the proposed improvements, the governing body may add additional properties to be improved and assessed to a created district, but only after:

(a) the governing body finds that the inclusion of the additional property within the district will not adversely affect the owners of properties already included within the district;

(b) the governing body obtains a written consent from each owner of the property to be added and improved that includes the legal description and tax identification number of the

property, a waiver of any right to protest against the creation of the district, consent to being included within the district, and consent to the making of the proposed improvements with respect to the property to be added; and

(c) the governing body approves for recording an addendum to the resolution that created the district.

(5) (a) If the proposed special improvement district is structured to include only properties whose owners have voluntarily consented to an assessment, all properties of owners that have not consented to an assessment by the date specified in the notice of intention shall be deleted from the district.

(b) The governing body shall then determine whether or not to create the special improvement district considering:

(i) the amount of the proposed assessment to be levied against the remaining properties within the district; and

(ii) the benefits to be received by those properties from the improvements proposed to be constructed within the district.

(6) (a) (i) (A) If the governing body creates the special improvement district, it shall, within five days from the date of creating the district, ~~[file a copy of the final approved notice of intention, a]~~ record the original or a certified copy of the final approved resolution creating the district~~[, and a list of properties proposed to be assessed described by tax identification number and legal description]~~ in the [county] recorder's office ~~[in]~~ of the county in which the district is located.

(B) Each original or certified copy of the resolution recorded under Subsection (6)(a)(i)(A) shall contain the legal description and tax identification number of each property to be assessed.

(ii) The governing body may include the filing fee as part of the overhead costs authorized by Section 17A-3-313.

(b) If, after the district has been created, the governing body adds additional properties to be assessed to the district under this section, it shall, within five days from the date of adding

these properties, [~~file~~] record in the county recorder's office [~~a~~] the original or a certified copy of the addendum required by Subsection (4) that includes the legal description and tax identification number of the added property.

(c) If the governing body deletes any property to be assessed within the district after the district has been created, it shall issue and record a release and discharge of the recorded encumbrance created as a result of the [~~filing~~] recording required by this section in a form that includes the legal description and tax identification number of the property and otherwise complies with the recording statutes.

(7) (a) Any person who fails to file a protest within the time specified, or having filed, withdraws his protest, is considered to have waived any objection to the creation of the district, the making of the improvements, and the inclusion of his property in the district.

(b) A waiver does not preclude a person's right to object to the amount of the assessment at the hearing provided for in Section 17A-3-317.

Section 17. Section **46-1-16** is amended to read:

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

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

(3) A new seal shall be obtained for any new commission or recommission. A new seal shall be obtained if the notary changes the notary's name or address of record at any time during the notary's four-year commission. 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:

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

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

expiration date)";

- (c) the address of the notary's business or residence;
- (d) a facsimile of the great seal of the state of Utah; and
- (e) a rectangular border no larger than one inch by two and one-half inches surrounding

the required words and seal.

(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 transparent 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;
 - (ii) the words "A notary public commissioned in Utah"; and
 - (iii) the expiration date of the notary's commission.

(7) A notary acknowledgement on an electronic message or document is considered complete without the imprint of the notary's seal if:

- (a) the electronic message or document has been digitally signed pursuant to Section 46-3-401 in the presence of a notary;
- (b) the notary has confirmed that the digital signature on the electronic message or document is verifiable by the public key listed in the certificate issued to the signer in accordance with Section 46-3-403;
- (c) the notary electronically signs the acknowledgement with a digital signature pursuant to Section 46-3-401; and
- (d) the following information appears electronically within the message digitally signed by the notary:
 - (i) the notary's full name and commission number exactly as indicated on their

commission; and

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

(iii) the address of the notary's business or residence exactly as indicated on their commission.

Section 18. Section **57-3-104** is amended to read:

57-3-104. Certified copies entitled to record in another county -- Effect.

~~[Whenever a]~~ (1) (a) A document [is] of record in [the] a county recorder's office [of the county recorder of any county, a copy of the record of the document] that is certified by the county recorder may be recorded in the office of the county recorder of [any other] another county.

(b) The recording of a certified copy in the office of the county recorder of another county has the same force and effect as if the original document had been recorded in the other county.

(2) A certified copy of a document may not be submitted for recording under Subsection (1) in the office of the same county recorder that issued the certified copy.

Section 19. **Repealer.**

This act repeals:

Section **59-2-317, Compliance with minimum standards.**

Section **59-2-318, Appropriations distributed to counties to cover costs of revised plats.**

Section **59-2-319, Statement of work submitted by county recorders.**