

COUNTY RECORDER AMENDMENTS

2006 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: David L. Thomas

House Sponsor: Brad L. Dee

LONG TITLE

General Description:

This bill modifies provisions relating to counties.

Highlighted Provisions:

This bill:

- ▶ provides that a county recorder does not violate the law by placing certain information on a document;
- ▶ modifies provisions related to county recorder fees;
- ▶ requires a person's typed or printed name on a recorded document to appear just beneath the person's signature; ~~§~~→ and

~~▶ [—modifies a notice requirement related to subdivision plats that include a public utility easement to prohibit municipal or county approval of a plat unless proof of notice to affected public utilities is provided; and] ←§~~

- ▶ modifies a provision related to termination of a joint tenancy, tenancy by the entirety, life estate, or determinable or conditional interest to require an affidavit to be recorded in the county recorder's office in order to terminate the interest.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:



28 AMENDS:

29 17-21-17, as last amended by Chapter 191, Laws of Utah 2002

30 17-21-18.5, as last amended by Chapter 211, Laws of Utah 2003

31 17-21-25, as last amended by Chapter 85, Laws of Utah 1999

32 ~~§→ [54-3-27, as enacted by Chapter 64, Laws of Utah 2004] ←§~~

33 57-1-5.1, as enacted by Chapter 320, Laws of Utah 2000

34

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

36 Section 1. Section 17-21-17 is amended to read:

37 **17-21-17. Prohibited acts.**

38 (1) Upon acceptance of an instrument entitled to be recorded, the recorder may not:

39 (a) record the instrument in any manner other than the manner required by this chapter;

40 or

41 (b) alter, change, obliterate, or insert any new matter in any instrument of record.

42 [~~(2) It is not a prohibited act under this section when a recorder denies access to:~~]

43 (2) A recorder does not violate this section by:

44 (a) denying access to:

45 ~~[(a)]~~ (i) an instrument of record that has been classified as private under Section

46 63-2-302; or

47 ~~[(b)]~~ (ii) a portion of an instrument of record that has been classified as private under

48 Section 63-2-302[-]; or

49 (b) placing an endorsement, reference, or other note on a document in the course of the

50 recorder's work.

51 Section 2. Section 17-21-18.5 is amended to read:

52 **17-21-18.5. Fees of county recorder.**

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

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

56 (b) for recording any instrument, ~~[paper, or notice,]~~ including those provided for under
57 Title 70A, Uniform Commercial Code, other than bonds of public officers, and not otherwise
58 provided for, \$10 for the first page[-; if the page is not larger than 8-1/2 inches x 14 inches in

59 size,] and \$2 for each additional page, and if [~~any~~ an instrument[, ~~paper, or notice~~] contains
60 more than one description, \$1 for each additional description;

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

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

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

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

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

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

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

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

81 (c) for recording any plat [~~of a subdivision into lots and blocks, \$1 for each lot, and,~~]
82 \$30 for each sheet and \$1 for each lot or unit designation;

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

85 [~~(e)~~ (d) for taking and certifying acknowledgments, including seal, \$5 for one name
86 and \$2 for each additional name;

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

89 [~~(g)~~ (f) for [~~filing of~~] recording a federal tax lien, \$10, and for the discharge of the

90 lien, \$10.

91 (4) The county may determine and collect a fee for all services not enumerated in this
92 section.

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

95 Section 3. Section **17-21-25** is amended to read:

96 **17-21-25. Names of persons signing to be typed or printed on instruments**
97 **presented for recording.**

98 (1) (a) ~~[All instruments]~~ Each instrument presented to the county recorder for recording
99 shall have typed or printed on ~~[them]~~ it the ~~[names]~~ name of ~~[all persons]~~ each person whose
100 ~~[signatures appear]~~ signature appears on the instrument whose ~~[names are]~~ name is required to
101 be indexed.

102 (b) The person's typed or printed name shall appear just beneath that person's signature.

103 (2) The requirements of Subsection (1) do not affect the legality of the instrument to be
104 recorded.

105 **§→ [Section 4. Section ~~54-3-27~~ is amended to read:**

106 ~~54-3-27. Public utility easement.~~

107 ~~(1) As used in this section, "public utility easement" means the area on a recorded plat~~
108 ~~map or other recorded document that is dedicated to the use and installation of public utility~~
109 ~~facilities.~~

110 ~~(2) (a) A public utility easement provides a public utility with:~~

111 ~~(i) the right to install, maintain, operate, repair, remove, replace, or relocate public~~
112 ~~utility facilities; and~~

113 ~~(ii) the rights of ingress and egress within the public utility easement for public utility~~
114 ~~employees, contractors, and agents.~~

115 ~~(b) Notwithstanding Subsection (3), a public utility shall restore or repair, at the~~
116 ~~expense of the public utility, any fence, grass, soil, shrubbery, bushes, flowers, other low level~~
117 ~~vegetation, sprinkler system, irrigation system, gravel, flat concrete, or asphalt damaged or~~
118 ~~displaced from the exercise of the easement rights described in Subsection (2)(a).~~

119 ~~(3) Except as provided in Subsection (2)(b), if a property owner places improvements~~
120 ~~to land that interfere with the easement rights described in Subsection (2)(a), the property] ←§~~

121 ~~§→ [owner shall bear the risk of loss or damage to those improvements resulting from the exercise~~
 122 ~~of the easement rights described in Subsection (2)(a).~~

123 ~~———— (4) (a) Except as provided in Subsection (4)(b), a public utility easement is~~
 124 ~~nonexclusive and may be used by more than one public utility.~~

125 ~~———— (b) Notwithstanding Subsection (4)(a), a public utility may not:~~

126 ~~———— (i) interfere with any facility of another public utility within the public utility easement;~~
 127 ~~or~~

128 ~~———— (ii) infringe on the legally required distances of separation between public utility~~
 129 ~~facilities required by federal, state, or local law.~~

130 ~~———— (5) A subdivision plat that includes a public utility easement may not be [recorded]~~
 131 ~~approved by a municipal or county legislative body or its designee unless the subdivider has~~
 132 ~~provided the municipality or county with proof that each public utility [as identified by the~~
 133 ~~municipality or county as holding an interest in the public utility easement] that will provide~~
 134 ~~service to the subdivision has, as a courtesy, been notified [at least 14 calendar days] by the~~
 135 ~~owner or the owner's agent prior to [recording] approval.] ←§~~

136 Section ~~§→~~ [5] ~~4~~ ←§ . Section 57-1-5.1 is amended to read:

137 **57-1-5.1. Termination of an interest in real estate -- Affidavit.**

138 (1) [~~A document evidencing the termination of~~] ~~Ĥ→~~ [~~To terminate joint~~] Joint ←Ĥ tenancy,
 138a tenancy by
 139 the entirety, life estate, or determinable or conditional interest in real estate [~~may not be~~
 140 ~~recorded unless it is~~] ~~Ĥ→~~ [~~;~~] may be terminated by ←Ĥ an affidavit that meets the requirements of
 140a Subsection (2) ~~Ĥ→~~ which ←Ĥ shall be
 141 recorded in the office of the recorder of the county in which the affected property is located.

142 (2) [~~The~~] Each affidavit required by Subsection (1) shall:

143 (a) cite the interest which is being terminated;

144 (b) contain a legal description of the real property that is affected;

145 (c) reference the entry number and the book and page of the instrument creating the
 146 interest to be terminated; and

147 (d) if the termination is the result of a death, have attached as an exhibit, a copy of the
 148 death certificate or other document witnessing the death.

Legislative Review Note

as of 6-14-05 10:36 AM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number SB0099

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14-Jan-06

8:04 PM

State Impact

No fiscal impact.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst