



State of Utah

County Recorder Standards Board

September 28, 2023
County Recorder Standards Board

Background

During its 2023 General Session, the Utah State Legislature created the County Recorder Standards Board with the passage of [House Bill 351](#). Along with designating the membership and duties of the Board, HB 351 required the Board to provide an annual report to both the Political Subdivisions and Business and Labor Interim Committee that includes the following:

- a. information regarding the operations and activities of the board; and
- b. any recommendations for legislation related to the services provided by county recorders, including recommendations for modification of the fees established in Section 165 17-21-18.5.

Operations and Activities of the County Recorder Standards Board

Membership and staff. The Following Individuals were selected, per the statute, to make up the composition of the board:

Board Members:

1. Chairperson. Rashelle Hobbs, County Recorder, 1st/2nd Class: Utah Association of County Recorders
2. Vice Chairperson. Chad Montgomery, County Recorder, 3rd/4th/5th Class: Utah Association of County Recorders
3. Shelley Brennan, County Recorder, Utah Association of Counties
4. Robert Hartshorn, Vice President and Division Counsel at DR Horton, Utah Property Rights Coalition
5. Ryan Allred, Professional Land Surveyor, Utah Council of Land Surveyors
6. Paul Newton, Underwriter, Utah Land Title Association
7. Gage Zobell, Partner - Dorsey & Whitney, Utah Petroleum/Utah Mining/Professional Landman
8. Ben Stanley, Deputy Utah County Attorney - Assistant Civil Division Chief, Utah State Bar/Utah Association of County Recorders
9. Kreg Wagner, General Counsel - Utah Association Realtors, Utah State Bar/Utah Association of Realtors

Staff:

- Mark Steinagel, Director, Division of Professional Licensing
- Allison Pulsipher, Board Secretary, Division of Professional Licensing

Meetings. At the time of this report, the Board had met four times on the following dates:

- In person on June 15th
- Virtual on July 17th
- Virtual on August 21
- Virtual on September 18

Involvement of HB 351 Sponsor. In its first meeting, the Board invited Representative Jordan D Teuscher to attend. Representative Teuscher kindly attended, explaining his purpose for HB

351 and his hopes for the Board's work. He expressed his desire to assist and collaborate with the Board and answered questions from the Board members.

Rules in Development. Thanks to the work of county recorders and other stakeholders leading up to the creation of this Board, the Board was able to review proposed standards for adoption with much of the work of negotiation already underway.

The following standards (all attached) have been officially adopted by the Board and will be prepared for the rulemaking process later this fall:

- Name Discrepancies: Trusts
- Name Discrepancies: Individuals
- Name Discrepancies: Entities
- Recording of Documents with Blended Notary
- Title to Real Property Held in Trust

The following standards are under discussion, but have not yet been adopted by the Board at the time of this report:

- Recording of Plats for Lot Adjustments

Members of the Board are compiling additional ideas for standards from various stakeholders.

Recommendations for Legislation

The Board also recommends the following changes (attached) to statute to meet the intent of HB 351:

1. Statutes 46-1-6.5 and 57-2a-7: Create consistency between both statutes regarding the definition of acknowledgments.

Fees: The Board does not at this time recommend the assessment of any fees permitted by HB 351.

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1. Title

Name Discrepancies – Trusts: Recording of Documents with discrepancies between property Record Owner and the Grantor, Signature Line, and Notary Acknowledgement/Jurat.

2. Standard Procedure

2.1 All Trustees and the Name of Trust Match Exactly: When a document is presented for recording, the name(s) of the Trustee(s) and the name of the Trust should match exactly:

- Jane Smith, Trustee of the Jane Smith Trust, dated Jan 1, 2000 (Record Owner)
- Jane Smith, Trustee of the Jane Smith Trust, dated Jan 1, 2000 (Grantor)
- Jane Smith, Trustee of the Jane Smith Trust, dated Jan 1, 2000 (Signature Block)
- Jane Smith, Trustee of the Jane Smith Trust, dated Jan 1, 2000 (Notary Acknowledgment/Jurat)

Additional dates for amendments and/or restatements can be added to the Grantor, Signature Block, and Notary sections. For example:

- Jane Smith, Trustee of the Jane Smith Trust, dated Jan 1, 2000 (Record Owner)
- Jane Smith, Trustee of the Jane Smith Trust, dated Jan 1, 2000, amended and restated June 10, 2020 (Record Owner, Signature Block, Notary Acknowledgment/Jurat).

When the name(s) of the Trustee(s) and the name of the Trust cannot, or do not, match the Record Owner, the follow standards apply:

2.1.1 Grantor Line:

i. Name of the Trustee(s): If the name(s) of the Trustee(s) do not match the Trustee(s) of record, due to name change or error in a prior document, the correct/current name of the Trustee(s) signing must appear as the Grantor(s) of the document followed by clarifying language. For example, if Jane Smith is signing the document, but the Trustee of record is Jane Johnson, the following is acceptable in the Grantor section:

- “Jane Smith, f.k.a. Jane Johnson, Trustee...”
or
- “Jane Smith, formerly known as Jane Johnson, Trustee...”

If Jane Smith is signing the document, and the Trustee of record erroneous shows as Jan Smith, the following is acceptable in the Grantor section:

- “Jane Smith, who acquired title as Jan Smith, Trustee...”,
or
- “Jane Smith, who erroneously acquired title as Jan Smith, Trustee...”

ii. Name of the Trust: If the name of the Trust does not match the Trust of record, due to any change in the Trust Agreement or error in a prior document, the correct/current name of the Trust must appear as the Grantor(s) of the document followed by clarifying language. For example, if the name of the Trust is the Jane Smith Trust, dated Jan 1, 2000, but the Trust of record is Jane Smith

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Family Trust, dated Jan 1, 2000, the following is acceptable in the Grantor section: "Jane Smith Family Trust, that acquired title as the Jane Smith Trust, dated Jan 1, 2000"

iii. Missing Date of Trust: If the Trust of record is missing the date of trust, and if the conveying document of record was recorded prior to May 11, 2010, the date of the Trust, and the date of the amendments and/or restatements shall be added to Grantor, Signature Blocks, and Notary Acknowledgment sections of the document (UCA 75-7-814(3)).

If the Trust of record is missing the date of trust, and if the conveying document of record was recorded after May 11, 2010, the conveying document shall be rejected. The record owner should remain in the name of the Grantor.

2.1.2 Signature Block: The name(s) of the Trustee(s) signing the document shall be typed or printed just beneath the signature on each document (UCA 17-21-25) and must match the Trustee(s) name(s) in the Grantor section. In the event the Grantor section contains "formerly known as", "also known as", or corrective language, the typed or printed name(s) beneath the signature must match the correct/current name(s) of the Trustee(s) as show in the Grantor section.

For example, if the Grantor line reads "Jane Smith, f.k.a. Jane Johnson, Trustee...", the name typed or printed only needs to show "Jane Smith, Trustee". The "f.k.a.", or "formerly known as" language is not needed. If the Grantor line reads "Jane Smith, who acquired title as Jan Smith, Trustee...", the name typed or printed only needs to show "Jane Smith, Trustee". The "who acquired title as" language is not needed.

The party(ies) executing the document do not need to sign exactly how the printed/typed name(s) appear.

2.1.3 Notary Acknowledgement/Jurat: The name of party(ies) signing the document must be typed/printed in the Notary Acknowledgement/Jurat section. The typed/printed name(s) should be the same names as the Record Owner(s), the Grantor(s), and the printed name(s) in the Signature Block. However, the typed/printed name(s) in the Notary Acknowledgement/Jurat section do not need to be the same as the Record Owner(s), Grantor(s), and printed/typed name(s) in the Signature Block. Notary Publics will often type/print the name(s) of the person(s) signing before them exactly as their names appear on their government issued ID's. For example, the following formats are acceptable:

- Jane Smith, Trustee... (Record Owner)
- Jane Smith, Trustee... (Grantor)
- Jane Smith, Trustee... (Signature Block)
- Jane Smith (Notary Acknowledgment/Jurat)
- or
- Jane Smith, Trustee... (Record Owner)
- Jane Smith, Trustee... (Grantor)
- Jane Smith, Trustee... (Signature Block)
- Jane Smith, a.k.a Jane Doe Smith (Notary Acknowledgment/Jurat)

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3. Approvals

Group	Approval	Date
Utah Association of County Recorders	100%	04/30/2023
Utah Land Title Association Board	100%	05/08/2023

4. References

4.1 Specific Powers of Trustee(s): UCA 75-7-814(3) The trustee may exercise the powers set forth in this section and in the trust either in the name of the trust or in the name of the trustee as trustee, specifically including the right to take title, to encumber or convey assets, including real property, in the name of the trust. This Subsection (3) applies to a trustee's exercise of trust powers. After May 11, 2010, for recording purposes, the name of the trustee, the address of the trustee, and the name and date of the trust, shall be included on all recorded documents affecting real property to which the trust is a party in interest.

4.2 Names of Persons Signing to be Typed or Printed on Instruments

Presented for Recording: UCA 17-21-25(1)(a) Each instrument presented to the county recorder for recording shall have typed or printed on it the name of each person whose signature appears on the instrument whose name is required to be indexed. (b) The person's typed or printed name shall appear just beneath that person's signature. (2) The requirements of Subsection (1) do not affect the legality of the instrument to be recorded.

4.3 Utah Lieutenant Governor's Office Instructions to Utah Notaries: What to do if the signer's name on the document doesn't match the name on the ID?

- The signer can ask the agency issuing or receiving the document if it's OK to sign using an "also known as" or "AKA" signature.
- "(Name appearing on the ID), also known as (name appearing on the document)"
- "(Name appearing on the ID), AKA (name appearing on the document)"

4.4 Common Notarial Act – Acknowledgment:

- Ensures that a signer is who they say they are and are voluntarily signing the document.
- Common with documents concerning valuable assets (deeds, mortgages, trusts, etc.).
- Signer may sign document in front of notary, but this is not required.

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Acknowledgment

State of Utah)

§

County of _____)

On this _____ day of _____, in the year 20____, before me, _____ a notary
date month year notary public name

public, personally appeared _____, proved on the basis of satisfactory
name of document signer

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 signature)

(seal)

4.5 Common Notarial Act – Jurat:

- Used for a signer to swear that the contents of a document are true.
- Most often performed on affidavits or depositions to be used in court.
- Signer must sign the document in front of the notary and take an oath or affirmation.

Jurat

State of Utah)

§

County of _____)

Subscribed and sworn to before me on this _____ of _____, in the year 20____, by
date month year

name of document signer

Witness my hand and official seal.

(notary signature)

(seal)

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1. Title

Name Discrepancies – Individuals: Recording of Documents with discrepancies between property Record Owner and the Grantor, Signature Line, and Notary Acknowledgement/Jurat.

2. Standard Procedure

2.1 All Names Match Exactly: When a document is presented for recording, the following name(s) should match exactly:

- Jane Smith (Record Owner)
- Jane Smith (Grantor)
- Jane Smith (Signature Block)
- Jane Smith (Notary Acknowledgment/Jurat)

When each name cannot, or does not, match the Record Owner, the follow standards apply:

2.1.1 Grantor Line: If the name of the party executing the document does not match the Record Owner, due to name change or error in a prior document, the correct/current name of the party(ies) signing must appear as the Grantor(s) of the document followed by clarifying language. For example, if Jane Smith is signing the document, but the Record Owner is Jane Johnson, the following is acceptable in the Grantor section:

- “Jane Smith, f.k.a. Jane Johnson”
- or
- “Jane Smith, formerly known as Jane Johnson”

If Jane Smith is signing the document, and the Record Owner erroneously shows as Jan Smith, the following is acceptable in the Grantor section:

- “Jane Smith, who acquired title as Jan Smith”
- or
- “Jane Smith, who erroneously acquired title as Jan Smith”

2.1.2 Signature Block: The name(s) of the party(ies) signing the document shall be typed or printed just beneath the signature on each document (Utah Code 17-21-25) and must match the name(s) in the Grantor section. In the event the Grantor section contains “formerly known as”, “also known as”, or corrective language, the typed or printed name(s) beneath the signature must match the correct/current name(s) as shown in the Grantor section.

For example, if the Grantor line reads “Jane Smith, f.k.a. Jane Johnson, Grantor”, the name typed or printed only needs to show “Jane Smith”. The “f.k.a.”, or “formerly known as” language is not needed in the signature block. If the Grantor line reads “Jane Smith, who acquired title as Jan Smith, Grantor”, the name typed or printed only needs to show “Jane Smith”. The “who acquired title as” language is not needed.

The party(ies) executing the document do not need to sign exactly how the printed/typed name(s) appear.

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2.1.3 Notary Acknowledgement/Jurat: When the name of party(ies) signing the document must be typed/printed by in the Notary Acknowledgement/Jurat section. The typed/printed name(s) should be the same names as the Record Owner(s), the Grantor(s), and the printed name(s) in the Signature Block. However, the typed/printed name(s) in the Notary Acknowledgement/Jurat section do not need to match exactly as the Record Owner(s), Grantor(s), and printed/typed name(s) in the Signature Block. Notary Publics will often type/print the name(s) of the person(s) signing before them exactly as their names appear on their government issued ID's. For example, the following formats are acceptable:

- Jane Smith (Record Owner)
- Jane Smith (Grantor)
- Jane Smith (Signature Block)
- Jane Doe Smith (Notary Acknowledgment/Jurat)
- or
- Jane Smith (Record Owner)
- Jane Smith (Grantor)
- Jane Smith (Signature Block)
- Jane Doe Smith a.k.a. Jane Smith (Notary Acknowledgment/Jurat)

3. Approvals

Group	Approval	Date
Utah Association of County Recorders	100%	04/30/2023
Utah Land Title Association Board	100%	05/08/2023

4. References

4.1 Utah Lieutenant Governor's Office Instructions to Utah Notaries: What to do if the signer's name on the document doesn't match the name on the ID?

- The signer can ask the agency issuing or receiving the document if it's OK to sign using an "also known as" or "AKA" signature.
- "(Name appearing on the ID), also known as (name appearing on the document)"
- "(Name appearing on the ID), AKA (name appearing on the document)"

4.2 Common Notarial Act – Acknowledgment:

- Ensures that a signer is who they say they are and are voluntarily signing the document.
- Common with documents concerning valuable assets (deeds, mortgages, trusts, etc.).
- Signer may sign document in front of notary, but this is not required.

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Acknowledgment

State of Utah)

§
County of _____)

On this _____ day of _____, In the year 20____, before me, _____ a notary
date month year notary public name

public, personally appeared _____, proved on the basis of satisfactory
name of document signer

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 signature)

(seal)

4.2 Common Notarial Act – Jurat:

- Used for a signer to swear that the contents of a document are true.
- Most often performed on affidavits or depositions to be used in court.
- Signer must sign the document in front of the notary and take an oath or affirmation.

Jurat

State of Utah)

§
County of _____)

Subscribed and sworn to before me on this _____ of _____, in the year 20____, by
date month year

name of document signer

Witness my hand and official seal.

(notary signature)

(seal)

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1. Title

Name Discrepancies – Entities: Recording of Documents with discrepancies between property Record Owner and the Grantor, Signature Line, and Notary Acknowledgement/Jurat.

2. Standard Procedure

2.1 All Entity Names Match Exactly: When a document is presented for recording, the name of the Record Owner entity and the Grantor of the document should match exactly:

- Real Estate Investors Group, LLC (Record Owner)
- Real Estate Investors Group, LLC (Grantor)

The name of the entity, name(s) of the person(s) authorized to sign for the entity, and the person’s capacity, must appear in the Signature Block:

- Real Estate Investors Group, LLC

Jane Smith, Manager

or

-

Jane Smith, Manager of
Real Estate Investors Group, LLC

The name(s) of the person(s) authorized to sign for the entity appear in the Notary Acknowledgement.

When the entity name does not match the Record Owner, the follow standards apply:

2.1.1 Grantor Line:

i. Error in Entity Name: If the name of the entity on record does not match the entity name due to an error in a prior document, the correct/current name of the entity must appear as the Grantor of the document followed by clarifying language. For example, if the entity name is “Real Estate Investors Group, LLC, a Utah limited liability company”, but the record owner shows as “Real Estate Investor Group, LLC”, the following is acceptable in the Grantor section:

- “Real Estate Investors Group, LLC, a Utah limited liability company, that acquired title as Real Estate Investor Group, LLC”

Inconsistencies in punctuation in the name of the entity, such as commas, hyphens, and periods, do not invalidate the recording.

The inclusion or omission of the entity description, such as “a Utah limited liability company”, does not invalidate the recording.

ii. Entity Name Change/Merger/Acquisition/Conversion: If the name of the entity on record does not match the entity name due to a name change, merger, acquisition, or conversion, the current name of the entity and the entity name of record must appear together as the Grantor of the

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document followed by clarifying language. For example, if the current name of the entity is “Real Estate Investors Group, LLC, a Utah limited liability company, but entity of record is “Smith Investors, a Utah limited partnership”, the following is acceptable in the Grantor section:

- “Real Estate Investors Group, LLC, a Utah limited liability company, by merger of Smith Investors, a Utah limited partnership”
- “Real Estate Investors Group, LLC, a Utah limited liability company, by acquisition of Smith Investors, a Utah limited partnership”
- “Real Estate Investors Group, LLC, a Utah limited liability company, by conversion of Smith Investors, a Utah limited partnership”

2.1.2 Signature Block: The name of the entity, name(s) of the person(s) authorized to sign for the entity, and the person’s capacity, must appear in the Signature Block. The name(s) of the person(s) authorized to sign for the entity must be typed or printed just beneath the signature on each document (UCA 17-21-25). For example:

- Real Estate Investors Group, LLC

Jane Smith, Manager

or

-

Jane Smith, Manager of
Real Estate Investors Group, LLC

2.1.3 Notary Acknowledgement/Jurat: The name of person(s) signing the document must be typed/printed in the Notary Acknowledgement section. The acknowledgement language must include language indicating that the person(s) are signing on behalf of the entity. The typed/printed name(s) should be the same names as the printed name(s) in the Signature Block. However, the typed/printed name(s) in the Notary Acknowledgement section do not need to be the exact same as the printed/typed name(s) in the Signature Block. Notary Publics will often type/print the name(s) of the person(s) signing before them exactly as their names appear on their government issued ID’s. For example, the following formats are acceptable:

- Jane Smith, Manager (Signature Block)
- Jane Doe Smith (Notary Acknowledgment)
- Jane Doe Smith a.k.a. Jane Smith (Notary Acknowledgment)

3. Approvals

Group	Approval	Date
Utah Association of County Recorders	100%	04/30/2023
Utah Land Title Association Board	100%	05/08/2023

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4. References

4.1 Names of Persons Signing to be Typed or Printed on Instruments

Presented for Recording: UCA 17-21-25(1)(a) Each instrument presented to the county recorder for recording shall have typed or printed on it the name of each person whose signature appears on the instrument whose name is required to be indexed. (b) The person's typed or printed name shall appear just beneath that person's signature. (2) The requirements of Subsection (1) do not affect the legality of the instrument to be recorded.

4.2 Utah Lieutenant Governor's Office Instructions to Utah Notaries: What to do if the signer's name on the document doesn't match the name on the ID?

- The signer can ask the agency issuing or receiving the document if it's OK to sign using an "also known as" or "AKA" signature.
- "(Name appearing on the ID), also known as (name appearing on the document)"
- "(Name appearing on the ID), AKA (name appearing on the document)"

4.3 Common Notarial Act – Acknowledgment:

- Ensures that a signer is who they say they are and are voluntarily signing the document.
- Common with documents concerning valuable assets (deeds, mortgages, trusts, etc.).
- Signer may sign document in front of notary, but this is not required.

Acknowledgment

State of Utah)

County of 5)

On this _____ day of _____, in the year 20____, before me, _____ a notary
date month year notary public name

public, personally appeared _____, proved on the basis of satisfactory
name of document signer

evidence to be the person(s) whose name(s) (s/are) subscribed to this instrument, and acknowledged

(he/she/they) executed the same.

Witness my hand and official seal.

(notary signature)

(seal)

4.4 Common Notarial Act – Jurat:

- Used for a signer to swear that the contents of a document are true.

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- Most often performed on affidavits or depositions to be used in court.
- Signer must sign the document in front of the notary and take an oath or affirmation.

Jurat

State of Utah)

§

County of _____)

Subscribed and sworn to before me on this _____ of _____, in the year 20____, by
date month year

name of document signer

Witness my hand and official seal.

(notary signature)

(seal)

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1. Title

Recording of Documents with Blended Notary Methods.

2. Standard Procedure

2.1 Acceptance of Documents with Blended Notary Methods: When a document with a blended notary method is presented for recording the County Recorder’s Office will accept the document for recording and processing in accordance with Utah Code 57-3-101 when one of the following methods is followed.

2.1.1 Wet Ink Signature and Notary Obtained First:

- Obtain the wet ink signature and properly notarize it.
- Convert into an electronic form to be uploaded to an approved RON technology platform.
- Obtain the RON signature and RON Notary Acknowledgment.
- Maintain the original electronic image as required by the electronic recording statute (do not print or re-scan)
- Record the fully-signed electronic document as per e-recording statutes

2.1.2 RON Signature and Notary Obtained First:

- Obtain the wet ink signature counterpart(s) and properly notarize it (them).
- Use the identical unsigned document in the RON to send to the signor. All counterpart signature documents must match EXACTLY.
- If there are more than one RON counterpart signatures to be obtained, add the word “COUNTERPART” to the upper right corner of page one on the second and any subsequent counterparts (do not show the word “COUNTERPART” on the first RON counterpart; this will become page one of the to be assembled document)
- Obtain the RON signature and notary on the unsigned counterpart document(s)
- Maintain the electronic original(s) of all RON counterpart signatures
- Stamp or add the word “COUNTERPART” on the first page of the wet signed document
- Wet ink stamp the original wet ink signed document(s) with the “Conversion” stamp as per statute
- “Convert” the wet ink signature counterpart into an electronic form as authorized and required by statute for e-recording purposes
- Assemble the document for recording, while maintaining all electronic “originals” in their electronic format one PDF document containing
 - The first RON counterpart document in its full length
 - The second and subsequent RON counterpart in its full length (if applicable) appended to the first
 - The converted wet ink counterpart(s) in their full length are appended last to the document.
- Record the fully-signed electronic document as per e-recording statutes

3. Approvals

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Group	Approval	Date
Utah Association of County Recorders	96%	04/30/2023
Utah Land Title Association Board	100%	05/08/2023

4. References

Utah Code 46-4, 46-1, and 17-21A.

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1. Title

Title to Real Property Held in Trust.

2. Standard Procedure

2.1 Real Property Conveyed into a Trust: When real property is conveyed into a trust the document presented for recording must include the name of the trustee(s), the mailing address of the trustee(s), and the name and date of the trust, to be eligible for recording.

When a document is recorded, conveying real property into a trust, legal title is conveyed to the trustee(s) to be held in trust. The County Recorder’s Office will reflect record title in the named trustee(s) identified in the originating document as trustee(s) of the named trust. Because of limitations in computer software and limited space on ownership maps, for the convenience of the county and those involved in the trust, the County Recorder’s Office ownership plats may reflect the name of the trust only as a visual representation, in lieu of the name of the trustee or co-trustees, for the “owner” of the property that is held in trust. Likewise, the tax roll and index of the recorder’s office may also reflect the name of the trust in first place, with a zero percent interest in the property.

2.1.1 Power of Attorney for Trustee: Generally, a trustee may not appoint an attorney-in-fact. However, in rare circumstances where the trust agreement specifically allows for the practice, and the appointment is specifically executed for the person as trustee, the power of attorney may sign out as the power of attorney agent for the trustee. A reference to the specific provision of the terms of the trust concerning the allowance of a power of attorney for the trustee must be cited in the Power of Attorney instrument.

2.2 Real Property Conveyed Out of a Trust: All trustees of record are required to sign out in accordance with subsection 2.2.1, vacate the trusteeship in accordance with subsection 2.2.2 or 2.2.3, or designate their authority in accordance with subsection 2.2.4, to fully convey title to the property held in trust. If the originating document conveying title to be held in trust did not identify the name of the trustee(s), a note with a reference to the specific provision of the trust agreement naming the person as trustee(s) must be included in the affidavit of successor trustee which replaces the original unknown trustee or the transfer document conveying title from that trustee(s).

2.2.1 Trustee(s) Directly Signing Out: When a trustee proceeds to directly sign out title to real property held in trust, they must identify themselves as a trustee of the trust and sign the document in their capacity as trustee of the trust. For example, if John C. Doe is a trustee, of the John C. Doe Living Trust dated December 12, 2012, then, when proceeding to sign out directly, he would have to identify himself as “*John C. Doe, trustee of the John C. Doe Living Trust dated December 12, 2012.*” This identification as trustee of the trust must appear in the grantor or declarant section of the document and in the signature block section of the document (See attached Exhibit A). The notary public must, unless it is not required by the law(s) of their state, acknowledge that the person signing the document did say that the

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signatory is a trustee of the trust and that the signatory was authorized to sign by the terms of the trust.

2.2.2 Vacancy in Trusteeship Without Appointment of Successor: When a vacancy in trusteeship occurs, as defined in Utah Code 75-7-704, and the title held by that trustee is not directly signed out by that trustee, the title held by that trustee is divested from that trustee by the terms of the trust agreement. When this situation occurs, the County Recorder's Office will require an affidavit, containing a declaration of the vacancy and of the fulfillment of the terms of the trust agreement, to be recorded in order to remove that trustee from record title. An affidavit evidencing the vacancy of a trustee must include:

- The full name of the trust and full date of the trust.
- The legal description of the real property affected.
- The name of the original trustee who is to be removed from record title.
- A declaration of the reason for their vacancy in trusteeship.
- A declaration that the terms of the trust agreement with regard to the vacancy have been satisfied. A reference to the specific provision of the trust agreement that governs the vacancy may be cited, but is not required.
- In the case when a vacancy in a trusteeship occurs because the trustee has passed away, a copy of the death certificate, or other document issued by a government agency as described in Utah Code 75-1-107, will be required to be recorded with the affidavit.

If one or more co-trustees remain in office, a vacancy in a trusteeship may not be required to be filled (75-7-703(2)). A vacancy in a trusteeship must be filled, under subsection 2.2.3 or by a court appointment, if the trust has no remaining trustees 75-7-704(2).

2.2.3 Appointment of Successor Trustee After Vacancy in Trusteeship: Pursuant to the terms of a trust agreement, a successor trustee may replace an original trustee. By the terms of the trust agreement, when a successor trustee is appointed, legal title is vested in that successor trustee equivalent to a trustee or co-trustee identified in the originating document. When this situation occurs, the County Recorder's Office will require an affidavit, containing a declaration of the vacancy, the appointment of successor trustee, and the fulfillment of the terms of the trust agreement, to be recorded in order to remove the previous trustee from, and add that successor trustee to record title. An affidavit evidencing the appointment of a successor trustee must include:

- The full name of the trust and full date of the trust.
- The legal description of the real property affected.
- The name of the original trustee who is being replaced on record title.
- A declaration of the reason for their vacancy in trusteeship.
- A declaration that the terms of the trust agreement with regard to the vacancy and the appointment of the successor trustee have been satisfied. A reference to the specific provision of the trust agreement that governs the vacancy and successor trustee may be cited, but is not required.
- In the case when a vacancy in a trusteeship occurs because the trustee has passed away, a copy of the death certificate, or other document issued by a government

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agency as described in Utah Code 75-1-107, will be required to be recorded with the affidavit.

- An acknowledgement that the successor trustee has assumed their rights and responsibilities under the terms of the trust.
- Filing a single affidavit may fulfill both requirements for 2.2.2 and 2.2.3

2.2.4 Designation of Signatory: Generally, co-trustees on record title act together to conduct business regarding title to real property on behalf of the trust. However, in rare circumstances where the trust agreement specifically allows for the practice, a designation for a signatory to act independently may be made by the trust agreement or the trustee(s).

i. Designated by Trust Agreement: If the trust agreement allows the trustee(s) to sign independently from one another, then a single trustee may sign in behalf of the trust after an affidavit declaring the designation from the terms of the trust is recorded.

ii. Designation by Trustee(s): If the trust agreement allows, the trustee(s) may designate their authority to sign as an authorized signer on behalf of the trust, including with regard to title to real property held in trust. This designation must be executed by all of the co-trustees on record title.

When either of these situations occur, the County Recorder’s Office will require an affidavit, containing a declaration of the designation according to the terms of the trust agreement, to be recorded in order to allow the signatory to act with regard to record title. An affidavit evidencing the designation must include:

- The full name of the trust and full date of the trust.
- The legal description of the real property affected.
- The name of the record title trustee(s) who are designating their signatory authority.
- A declaration of the designation of their authority to a signatory.
- A declaration that the terms of the trust agreement with regard to the designation have been satisfied. A reference to the specific provision of the trust agreement that governs the designation may be cited, but is not required.

The designation of their signatory authority to a signatory does not remove any trustee(s) from record title or disqualify the record title trustee(s) from continuing to act together to conduct business regarding title to real property on behalf of the trust.

3. Approvals

Group	Approval	Date
Utah Association of County Recorders	96%	04/30/2023
Utah Land Title Association Board	100%	04/10/2023

4. Supporting Information

4.1 Legal Title of Trust Property: A trust is a fiduciary relationship with respect to property in which property interest is held by one person(s) – the trustee(s), at the request of another – the settlor(s), for the benefit of a third party – the beneficiary(s). Based on those rules, upon creation of a trust, the grantor conveys title to trust property to the trustee and beneficiaries. The trustee holds legal title to the property and the

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beneficiaries hold equitable title. The Utah Supreme Court has stated that “The nature of a trust is such that the legal title of the property is held by the trustee.” (*Estate of Flake*, 2003 UT 17, ¶ 11, 71 P.3d 589) Black’s Law Dictionary defines a trustee as: “Someone who stands in a fiduciary or confidential relation to another; one who, *having legal title to property*, holds it in trust for the benefit of another and owes a fiduciary duty to that beneficiary.” In addition to powers granted or limited by terms of the trust Utah Code assigns specific powers to the trustee consistent with the definition that a trustee holds title to real property. In section 75-7-814(1)(h) specific powers of a trustee are identified consistent with one who holds title to real property. “a trustee may: with respect to interest in real property...subdivide or develop land, dedicate land to public use or grant public or private easements, and make or vacate plats and adjust boundaries.” Since the trustee holds legal title to the property, the property is always held in the trustee's name as trustee. This point is often confusing because many people believe that property should be held in the name of the trust which is simply a name denoting the legal relationship between a trustee, and a beneficiary. When it is said that property is transferred to a trust, it is meant that property is transferred to the trustee to be held *in trust* according to the intent of the settlor and the agreement between the trustee and the beneficiary.

4.2 Designation of Trustee: A trust cannot be created without designating one or more persons as trustees of the trust (Utah Code 75-7-401). Per Utah Code 75-1-201(35) a ‘person’ as trustee means an individual or organization. Utah Code 75-1-201(32) further defines ‘organization’ as including a corporation, limited liability company, business trust, estate, trust, partnership, joint venture, association, government or governmental subdivision or agency, or any other legal or commercial entity. Thus, any of these entities may be named a person as trustee. Utah Code 75-7-816 defines that “when title to real property is granted to a person as trustee, the terms of the trust (the name of the trustee, the address of the trustee, and the name and date of the trust) may be given either in the deed of transfer; or in an instrument signed by the grantor and recorded in the same office as the grant to the trustee.” Since May of 2010 Utah Code has required that “the name of the trustee(s), the address of the trustee(s), and the name and date of the trust, shall be included on all record documents affecting real property to which the trust is a party in interest” (75-7-814(3)).

4.3 Terms of the Trust: The terms of a trust govern the administration of the trust. With very few exceptions, the terms of the trust govern over the default rules that are provided in code (75-7-105). The terms of the trust give the trustee their power to act as trustee and defines their administrative responsibilities. With the authority of terms of the trust a person named as trustee is a trustee and not just an individual. Utah Code requires that a trustee “shall administer the trust expeditiously and in good faith, in accordance with its terms and purposes and the interests of the beneficiaries...” (75-7-801) (75-7-105(2)(b)). “A trustee who acts in reasonable reliance on the terms of the trust

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as expressed in the trust instrument is not liable to a beneficiary for a breach of trust to the extent that the breach resulted from the reliance.” (75-7-1006) Similarly a county recorder who acts in reasonable reliance on a recorded document which declares that the specific provision of the trust agreement have been satisfied, likely would not be liable for reflecting the associated change in record title, over those who have executed the document and declared that the terms of the trust have been satisfied (75-7-1013(6)). The terms of a trust are private, and the trustee owes a duty of confidentiality to the beneficiaries with respect to the terms of the trust. When terms of a trust are required for recording a document, a reference to the specific provision of the trust agreement is sufficient proof of the terms of the trust. An actual citation of the terms of the trust, or the trust agreement itself, may not be required to be placed on a document recorded into the public record.

4.4 Definition of Trust: Consistent with Utah Code 75-1-201(55) "Trust" in this standard “includes... any express trust, private or charitable, with additions thereto, wherever and however created. The term also includes a trust created or determined by judgment or decree under which the trust is to be administered in the manner of an express trust. The term excludes other constructive trusts, and it excludes resulting trusts, conservatorships, personal representatives, trust accounts as defined in Title 75, Chapter 6, Nonprobate Transfers, custodial arrangements pursuant to any Uniform Transfers To Minors Act, business trusts providing for certificates to be issued to beneficiaries, common trust funds, voting trusts, preneed funeral plans under Title 58, Chapter 9, Funeral Services Licensing Act, security arrangements, liquidation trusts, and trusts for the primary purpose of paying debts, dividends, interest, salaries, wages, profits, pensions, or employee benefits of any kind, and any arrangement under which a person is nominee or escrowee for another.”

5. Related and Example Documents

The attached Exhibit A is an example document which shows a proper signing out by a trustee for title held in trust.

6. References

Utah Code 75-7.

Utah Supreme Court Case *Estate of Flake*, 2003 UT 17, ¶ 11, 71 P.3d 589.

Black’ Law Dictionary, Eleventh Edition, pages 1817; 1825.

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Exhibit A

Err: 1999999 Bk 5000 Pg 1
Date: 1-Dec-2019 03:05 PM Fee \$0.00
SOMEONE - County, UT
RECORDER, Rec. - Filed By AC
For SOMEONE

MAIL TAX NOTICE TO:
John C. Doe
999 North 9999 West
Somewhere, Utah 99999

WARRANTY DEED

JOHN C. DOE, as trustee of the JOHN C. DOE LIVING TRUST, dated the 12TH day of December, 2012,
GRANTOR, of Some County, State of Utah,

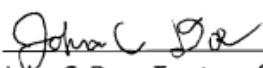
HEREBY GRANTS, CONVEYS, AND FOREVER WARRANTS TO

FRANK FOE,
GRANTEE, of Some County, State of Utah,

FOR THE SUM OF TEN DOLLARS AND OTHER GOOD AND VALUABLE CONSIDERATION, THE FOLLOWING DESCRIBED
TRACT OF LAND IN SOME COUNTY, STATE OF UTAH:

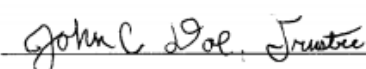
All of Lot 1, Somewhere Subdivision, according to the official plat of said subdivision recorded November 11,
2011 as Entry Number 9999999, Book 9999, and Page 9999, on file and of record in the office of the Recorder of Some
County, Utah.
Parcel 99-999-0001

WITNESS, THE HAND OF SAID GRANTOR, THIS 15TH DAY OF MARCH, 2023.



John C. Doe, Trustee of
The John C. Doe Living Trust,
Dated the 12th Day of December, 2012.

OR

The John C. Doe Living Trust,
dated December 12, 2012.


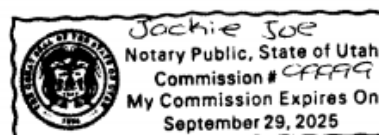
By: John C. Doe, Trustee

STATE OF UTAH)
County of SOME) ss.

On the 15th day of March, in the year 2023, before me, Jackie Joe a notary public, personally
appeared JOHN C. DOE, proved on the basis of satisfactory evidence to be the person whose name is
subscribed to this instrument, and acknowledged he executed the same.
Witness my hand and official seal.



Notary Signature



Chapter 1 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) "Before me" means that an individual appears in the presence of the notary.
- (3) "Commission" means:
 - (a) to empower to perform notarial acts; or
 - (b) the written document that gives authority to perform notarial acts, including the Certificate of Authority of Notary Public that the lieutenant governor issues to a notary.
- (4) "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.
- (5) "Electronic recording" means the audio and video recording, described in Subsection 46-1-3.6(3), of a remote notarization.
- (6) "Electronic seal" means an electronic version of the seal described in Section 46-1-16, that conforms with rules made under Subsection 46-1-3.7(1)(d), that a remote notary may attach to a notarial certificate to complete a remote notarization.
- (7) "Electronic signature" means the same as that term is defined in Section 46-4-102.
- (8) "In the presence of the notary" means that an individual:
 - (a) is physically present with the notary in close enough proximity to see and hear the notary; or
 - (b) communicates with a remote notary by means of an electronic device or process that:
 - (i) allows the individual and remote notary to communicate with one another simultaneously by sight and sound; and
 - (ii) complies with rules made under Section 46-1-3.7.
- (9) "Jurat" means a notarial act in which a notary certifies:
 - (a) the identity of a signer who:
 - (i) is personally known to the notary; or
 - (ii) provides the notary satisfactory evidence of the signer's identity;
 - (b) that the signer affirms or swears an oath attesting to the truthfulness of a document; and
 - (c) that the signer voluntarily signs the document in the presence of the notary.
- (10) "Notarial act" or "notarization" means an act that a notary is authorized to perform under Section 46-1-6.
- (11) "Notarial certificate" means the affidavit described in Section 46-1-6.5 that is:
 - (a) a part of or attached to a notarized document; and
 - (b) completed by the notary and bears the notary's signature and official seal.
- (12)
 - (a) "Notary" means an individual commissioned to perform notarial acts under this chapter.
 - (b) "Notary" includes a remote notary.

46-1-6.5 Form of notarial certificate for document notarizations.

- (1) A correctly completed affidavit in substantially the form described in this section, that is included in or attached to a document, is sufficient for the completion of a notarization under this Title 46, Chapter 1, Notaries Public Reform Act.
- (2)
 - (a) A notary shall ensure that a signer takes the following oath or makes the following affirmation before the notary witnesses the signature for a jurat:
"Do you swear or affirm under penalty of perjury that the statements in your document are true?"

(b) An affidavit for a jurat that is in substantially the following form is sufficient under Subsection (1):

"State of Utah

§

County of _____

Subscribed and sworn to before me (notary public name), on this (date) day of (month), in the year (year), by (name of document signer).

(Notary's Official Seal) _____

Notary Signature".

(3) An affidavit for an acknowledgment that is in substantially the following form is sufficient under Subsection (1):

"State of Utah

§

County of _____

On this (date) day of (month), in the year (year), before me (name of notary public), 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 in this document, and acknowledged (he/she/they) executed the same. (Notary's Official Seal)

Notary Signature".

(4) An affidavit for a copy certification that is in substantially the following form is sufficient under Subsection (1):

"State of Utah

§

County of _____

On this (date) day of (month), in the year (year), I certify that the preceding or attached document is a true, exact, and unaltered photocopy of (description of document), and that, to the best of my knowledge, the photocopied document is neither a public record nor a publicly recorded document.

(Notary's Official Seal) _____

Notary Signature".

(5) An affidavit for a signature witnessing that is in substantially the following form is sufficient under Subsection (1):

"State of Utah

§

County of _____

On this (date) day of (month), in the year (year), before me, (name of notary public), personally appeared (name of document signer), proved to me through satisfactory evidence of identification, which was (form of identification), to be the person whose name is signed on the preceding or attached document in my presence.(Notary's Official Seal)

Notary Signature".

(6) A remote notary shall ensure that the notarial certificate described in this section that is used for a remote notarization includes a statement that the remote notary performed the notarization remotely.

Amended by Chapter 192, 2019 General Session

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;
 - (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 Subsection 57-2a-3(2) 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.

Amended by Chapter 306, 2007 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

57-2a-7 Form of acknowledgment.

- (1) The form of acknowledgment set forth in this section, if properly completed, is sufficient under any law of this state. It is known as "Statutory Short Form of Acknowledgment." This section does not preclude the use of other forms.

State of _____)
) ss.
 County of _____)

The foregoing instrument was acknowledged before me this (date) by (person acknowledging, title or representative capacity, if any).

(Seal) _____ (Signature of Person Taking Acknowledgment)
 My commission expires: _____ (Title)
 Residing at:

(2) The phrases "My commission expires" and "Residing at" may be omitted if this information is included in the notarial seal.

Amended by Chapter 306, 2007 General Session