

**Effective 5/13/2014**

**38-9-303 Enforcement proceeding required.**

- (1) For a nonconsensual common law document recorded on or after May 13, 2014, within 10 business days after the day on which a document sponsor submits a nonconsensual common law document to the county recorder for recording, the document sponsor shall file a complaint in district court in the county of the county recorder where the nonconsensual common law document was recorded for a proceeding to obtain an order that the nonconsensual common law document is valid and enforceable.
- (2) A complaint to initiate a judicial proceeding described in Subsection (1) shall:
  - (a) state with specificity the grounds that make the nonconsensual common law document valid and enforceable;
  - (b) be supported by the document sponsor's sworn affidavit; and
  - (c) name each affected person as an opposing party.
- (3) If the court finds that a complaint filed under Subsection (1) does not meet the requirements described in Subsection (2), the court may dismiss the complaint without a hearing.
- (4) If a complaint filed under Subsection (1) meets the requirements described in Subsection (2), the court:
  - (a) shall hold a hearing;
  - (b) following the hearing, shall issue an order that:
    - (i) states whether the nonconsensual common law document is valid and enforceable; and
    - (ii) includes a legal description of the real property that is the subject of the complaint; and
  - (c) may award costs and reasonable attorney fees to the prevailing party.
- (5) Within three business days after the day on which the court issues a final order in a proceeding under this section, the prevailing party shall submit a copy of the court's final order to the county recorder for recording.
- (6) A nonconsensual common law document is presumed invalid and unenforceable.
- (7) A person's lack of belief in the jurisdiction or authority of the state or of the government of the United States is not a defense to liability under this section.
- (8) A court's order in a proceeding under this section does not restrict any other legal remedies available to any party, including any right to injunctive relief under Rules of Civil Procedure, Rule 65A, Injunctions.

Enacted by Chapter 114, 2014 General Session