

Chapter 2 Acknowledgments

57-2-10 Proof of execution -- How made.

The proof of the execution of any conveyance whereby real estate is conveyed or may be affected shall be:

- (1) by the testimony of a subscribing witness, if there is one; or,
- (2) when all the subscribing witnesses are dead, or cannot be had, by evidence of the handwriting of the party, and of a subscribing witness, if there is one, given by a credible witness to each signature.

No Change Since 1953

57-2-11 Witness must be known or identified.

No proof by a subscribing witness shall be taken unless such witness shall be personally known to the officer taking the proof to be the person whose name is subscribed to the conveyance as a witness thereto, or shall be proved to be such by the oath or affirmation of a credible witness personally known to such officer.

No Change Since 1953

57-2-12 Certificate of proof by subscribing witness.

No certificate of such proof shall be made unless such subscribing witness shall prove that the person whose name is subscribed thereto as a party is the person described in, and who executed, the same; that such person executed the conveyance, and that such person subscribed his name thereto as a witness thereof at the request of the maker of such instrument.

No Change Since 1953

57-2-13 Form for certificate of proof.

The certificate of proof shall be substantially in the following form, to wit:

State of Utah, County of _____

On this _____ (month\day\year), before me personally appeared _____, personally known to me (or satisfactorily proved to me by the oath of _____, a competent and credible witness for that purpose, by me duly sworn) to be the same person whose name is subscribed to the above instrument as a witness thereto, who, being by me duly sworn, deposed and said that he resides in _____, county of _____, and state of Utah; that he was present and saw _____, personally known to him to be the signer of the above instrument as a party thereto, sign and deliver the same, and heard him acknowledge that he executed the same, and that he, the deponent, thereupon signed his name as a subscribing witness thereto at the request of said _____.

Amended by Chapter 75, 2000 General Session

57-2-14 Proof of handwriting.

No proof by evidence of the handwriting of a party, or of the subscribing witness or witnesses, shall be taken unless the officer taking the same shall be satisfied that all the subscribing

witnesses to such conveyance are dead, out of the jurisdiction, or cannot be had to prove the execution thereof.

No Change Since 1953

57-2-15 Evidence required for certificate of proof.

No certificate of any such proof shall be made unless a competent and credible witness shall state on oath or affirmation that he personally knew the person whose name is subscribed thereto as a party, well knows his signature, stating his means of knowledge, and believes the name of the party subscribed thereto as a party was subscribed by such person; nor unless a competent and credible witness shall in like manner state that he personally knew the person whose name is subscribed to such conveyance as a witness, well knows his signature, stating his means of knowledge, and believes the name subscribed thereto as a witness was thereto subscribed by such person.

No Change Since 1953

57-2-16 Subpoena to subscribing witness.

Upon the application of any grantee in any conveyance required by law to be recorded, or of any person claiming under such grantee, verified under the oath of the applicant, that any witness to such conveyance residing in the county where such application is made refuses to appear and testify touching the execution thereof, and that such conveyance cannot be proved without his evidence, any officer authorized to take the acknowledgment or proof of such conveyance may issue a subpoena requiring such witness to appear before such officer and testify touching the execution thereof.

No Change Since 1953

57-2-17 Disobedience of subpoenaed witness -- Contempt -- Proof aliunde.

Every person who, being served with a subpoena, shall without reasonable cause refuse or neglect to appear, or, appearing, shall refuse to answer upon oath touching the matters aforesaid, shall be liable to the party injured for such damages as may be sustained by him on account of such neglect or refusal, and may also be dealt with for contempt as provided by law; but no person shall be required to attend who resides out of the county in which the proof is to be taken, nor unless his reasonable expenses shall have first been tendered to him; provided, that if it shall appear to the satisfaction of the officer so authorized to take such acknowledgment that such subscribing witness purposely conceals himself, or keeps out of the way, so that he cannot be served with a subpoena or taken on attachment after the use of due diligence to that end, or in case of his continued failure or refusal to testify for the space of one hour after his appearance shall have been compelled by process, then said conveyance or other instrument may be proved and admitted to record in the same manner as if such subscribing witness thereto were dead.

No Change Since 1953