

Chapter 3 Recording of Documents

Part 1 General Provisions

57-3-101 Certificate of acknowledgment, proof of execution, jurat, or other certificate required -- Notarial acts affecting real property -- Right to record documents unaffected by subdivision ordinances.

- (1) A certificate of the acknowledgment of any document, or of the proof of the execution of any document, or a jurat as defined in Section 46-1-2, or other notarial certificate containing the words "subscribed and sworn" or their substantial equivalent, that is signed and certified by the officer taking the acknowledgment, proof, or jurat, as provided in this title, entitles the document and the certificate to be recorded in the office of the recorder of the county where the real property is located.
- (2) Notarial acts affecting real property in this state shall also be performed in conformance with Title 46, Chapter 1, Notaries Public Reform Act.
- (3) Nothing in the provisions of Title 10, Chapter 9a, Part 6, Subdivisions, and Title 17, Chapter 27a, Part 6, Subdivisions, shall prohibit the recording of a document which is otherwise entitled to be recorded under the provisions of this chapter.

Amended by Chapter 254, 2005 General Session

57-3-102 Record imparts notice -- Change in interest rate -- Validity of document -- Notice of unnamed interests -- Conveyance by grantee.

- (1) Each document executed, acknowledged, and certified, in the manner prescribed by this title, each original document or certified copy of a document complying with Section 57-4a-3, whether or not acknowledged, each copy of a notice of location complying with Section 40-1-4, and each financing statement complying with Section 70A-9a-502, whether or not acknowledged shall, from the time of recording with the appropriate county recorder, impart notice to all persons of their contents.
- (2) If a recorded document was given as security, a change in the interest rate in accordance with the terms of an agreement pertaining to the underlying secured obligation does not affect the notice or alter the priority of the document provided under Subsection (1).
- (3) This section does not affect the validity of a document with respect to the parties to the document and all other persons who have notice of the document.
- (4) The fact that a recorded document recites only a nominal consideration, names the grantee as trustee, or otherwise purports to be in trust without naming beneficiaries or stating the terms of the trust does not charge any third person with notice of any interest of the grantor or of the interest of any other person not named in the document.
- (5) The grantee in a recorded document may convey the interest granted to him free and clear of all claims not disclosed in the document in which he appears as grantee or in any other document recorded in accordance with this title that sets forth the names of the beneficiaries, specifies the interest claimed, and describes the real property subject to the interest.

Amended by Chapter 252, 2000 General Session

57-3-103 Effect of failure to record.

Each document not recorded as provided in this title is void as against any subsequent purchaser of the same real property, or any portion of it, if:

- (1) the subsequent purchaser purchased the property in good faith and for a valuable consideration; and
- (2) the subsequent purchaser's document is first duly recorded.

Renumbered and Amended by Chapter 61, 1998 General Session

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

- (1)
 - (a) A document of record in a county recorder's office that is certified by the county recorder may be recorded in the office of the county recorder of 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.

Amended by Chapter 211, 2003 General Session

57-3-105 Legal description of real property and names and addresses required in documents.

- (1) Except as otherwise provided by statute, if a document for recording does not conform to this section, a person may not present the document to the office of the recorder of the county for recording.
- (2) A document executed after July 1, 2022, is entitled to be recorded in the office of the recorder of the county in which the property described in the document is located only if the document contains a legal description of the real property in accordance with Subsection (4).
- (3)
 - (a) A document conveying title to real property presented for recording after July 1, 2022, is entitled to be recorded in the office of the recorder of the county in which the property described in the document is located only if the document:
 - (i) names the grantees and recites a mailing address to be used for assessment and taxation; and
 - (ii) includes a legal description of the real property in accordance with Subsection (4).
 - (b) The address of the management committee may be used as the mailing address of a grantee as required in Subsection (3)(a) if the interest conveyed is a timeshare interest as defined by Section 57-19-2.
- (4) A legal description required under this Section and Subsection 17-21-20(2)(d) shall include a description of the real property by:
 - (a) metes and bounds;
 - (b) a government survey that:
 - (i) references the Public Land Survey System; and
 - (ii) specifies the township, range, base and meridian, and section, with aliquot part or government lot, if applicable, of the real property;
 - (c) if the real property consists of a mining claim:
 - (i) the claim name; and
 - (ii) if available, a state or federal agency serial number; or

- (d)
 - (i) a lot, block, tract, parcel, or unit within a previously recorded plat or map;
 - (ii) station and offset with reference to centerline;
 - (iii) a centerline described using:
 - (A) a bearing and distance; or
 - (B) at least three elements of curve data;
 - (iv) a point referenced to a corner of the Public Land Survey System or other controlling corner;
or
 - (v) a type of legal description not described in Subsections (4)(d)(i) through (iv) that meets the requirements described in Section 57-10-4 for a legal and satisfactory description of a land boundary.
- (5) Notwithstanding Subsections (2), (3), and (4), a master form, as defined in Section 57-3-201, that does not meet the requirements of Subsections (2) and (3) is entitled to be recorded in the office of the recorder of the county in which the property described in the master form is located if the master form complies with Part 2, Master Mortgage and Trust Deeds.

Amended by Chapter 420, 2022 General Session

57-3-106 Original documents required -- Captions -- Legibility.

- (1) A person may not present and a county recorder may refuse to accept a document for recording if the document does not comply with this section.
- (2)
 - (a) Unless otherwise provided, a document presented for recording in the office of the county recorder shall:
 - (i)
 - (A) be an original; or
 - (B) be an electronic document that satisfies the requirements under Title 17, Chapter 21a, Uniform Real Property Electronic Recording Act;
 - (ii) contain a brief caption on the first page of the document stating the nature of the document;
and
 - (iii) contain a legal description of the property as required under Section 57-3-105.
 - (b) If a document is a master form, as defined in Section 57-3-201, the caption required by Subsection (2)(a)(ii) shall state that the document is a master form.
- (3) A court judgment or an abstract of a court judgment presented for recording in the office of the county recorder in compliance with Section 78B-5-202 shall:
 - (a) be an original, a certified copy, or an electronic document that satisfies the requirements under Title 17, Chapter 21a, Uniform Real Property Electronic Recording Act; and
 - (b) include the information identifying the judgment debtor as referred to in Subsection 78B-5-201(4)(b) either:
 - (i) in the judgment or abstract of judgment; or
 - (ii) as a separate information statement of the judgment creditor as referred to in Subsection 78B-5-201(5).
- (4) A judgment, abstract of judgment, or separate information statement of the judgment creditor does not require an acknowledgment, a legal description, or notarization to be recorded.
- (5) A foreign judgment or an abstract of a foreign judgment recorded in the office of a county recorder shall include the affidavit as required in Section 78B-5-303.
- (6) Any document recorded in the office of the county recorder to release, assign, renew, or extend a judgment lien shall include:

- (a) the name of any judgment creditor, debtor, assignor, or assignee;
 - (b) the date on which the instrument creating the lien was recorded in the office of the county recorder;
 - (c) the entry number and book and page of the recorded instrument creating the judgment lien; and
 - (d) the date on which the document is recorded.
- (7) A document presented for recording shall be sufficiently legible for the recorder to make certified copies of the document.
- (8)
- (a)
 - (i) A document that is of record in the office of the appropriate county recorder in compliance with this chapter may not be recorded again in that same county recorder's office unless the original document has been reexecuted by all parties who executed the document.
 - (ii) Unless exempt by statute, an original document that is reexecuted shall contain the appropriate acknowledgment, proof of execution, jurat, or other notarial certification for all parties who are reexecuting the document as required by Title 46, Chapter 1, Notaries Public Reform Act, and Title 57, Chapter 2, Acknowledgments.
 - (iii) A document submitted for rerecording shall contain a brief statement explaining the reason for rerecording.
 - (b) A person may not present and a county recorder may refuse to accept a document for rerecording if that document does not conform to this section.
 - (c) This Subsection (8) applies only to documents executed after July 1, 1998.
- (9) Minor typographical or clerical errors in a document of record may be corrected by the recording of an affidavit or other appropriate instrument.
- (10)
- (a) Except as required by federal law, or by agreement between a borrower under the trust deed and a grantee under the trustee's deed, and subject to Subsection (10)(b), neither the recordation of an affidavit under Subsection (9) nor the reexecution and rerecording of a document under Subsection (8):
 - (i) divests a grantee of any real property interest;
 - (ii) alters an interest in real property; or
 - (iii) returns to the grantor an interest in real property conveyed by statute.
 - (b) A person who reexecutes and rerecords a document under Subsection (8), or records an affidavit under Subsection (9), shall include with the document or affidavit a notice containing the name and address to which real property valuation and tax notices shall be mailed.

Amended by Chapter 89, 2014 General Session
Amended by Chapter 151, 2014 General Session

57-3-107 Unenforceable covenants -- Definition -- Inclusion in recorded document.

- (1) As used in this chapter, "unenforceable covenant" means a restriction on alienation of real property, whether recited in a document to be recorded under this chapter, or recited in a document of record under this chapter, which is based on race, gender, national origin, marital status, or a similar classification determined to be unenforceable under state or federal law.
- (2) A document which recites an unenforceable covenant may be recorded as provided in this chapter.

- (3) Any unenforceable covenant recited in a document to be recorded under this chapter or recited in a document of record is considered void, but does not invalidate the remainder of the document.

Amended by Chapter 163, 1999 General Session

57-3-108 Financing statements not subject to title.

This title does not apply to a financing statement filed or recorded in a filing office described in Subsection 70A-9a-501(1)(a) that:

- (1) covers as-extracted collateral or timber to be cut; or
- (2)
 - (a) is filed as a fixture filing; and
 - (b) covers goods that are or are to become fixtures.

Enacted by Chapter 252, 2000 General Session

57-3-109 Water rights addenda.

- (1) As used in this section:
 - (a) "Applicable deed" means a deed executed on or after July 1, 2011:
 - (i) conveying fee simple title to land; or
 - (ii) conveying title to water rights without conveying title to land.
 - (b) "Water rights addendum" means a written document that:
 - (i) is an addendum to an applicable deed;
 - (ii) is in a form approved by the Legislature in a joint resolution; and
 - (iii)
 - (A) identifies and describes the water rights transferred under an applicable deed; or
 - (B) states that no water rights are transferred under an applicable deed.
- (2) Beginning July 1, 2011, a person submitting an applicable deed to a county recorder's office for recording may also submit a water rights addendum as an addendum to the applicable deed.
- (3)
 - (a) A grantor shall complete and sign a water rights addendum submitted under Subsection (2).
 - (b)
 - (i) A grantee shall sign a water rights addendum to acknowledge receipt of a copy of the water rights addendum.
 - (ii) A grantee's signature on a water rights addendum may be by facsimile or electronic means.
- (4) The state engineer shall use and make available to the public the water rights addendum form approved by the Legislature.
- (5) Upon recording an applicable deed with a water rights addendum, a county recorder shall transmit a paper or electronic copy of the deed and water rights addendum to the state engineer.

Enacted by Chapter 70, 2010 General Session

Part 2
Master Mortgage and Trust Deeds

57-3-201 Definitions.

As used in this part, "master form" means a mortgage or trust deed used as a master or similar standardized form that is drafted and recorded in accordance with this part to be incorporated in whole or in part into multiple mortgages or trust deeds.

Enacted by Chapter 61, 1998 General Session

57-3-202 Recording master mortgage and trust deed -- Requirements for master form -- Indexing by county recorder.

- (1)
 - (a) A person may record a master form in the office of the county recorder.
 - (b) A person who files a master form shall state in the caption required under Section 57-3-106 that the instrument is a master form.
- (2) A master form is not required to:
 - (a) contain identification or description of any specific real property; or
 - (b) name a specific:
 - (i) mortgagor;
 - (ii) trustor; or
 - (iii) trustee.
- (3) A master form shall:
 - (a) name a specific mortgagee or beneficiary;
 - (b) contain an acknowledgment, proof, or certification; and
 - (c) identify the person causing the recording of the master form.
- (4) A county recorder shall:
 - (a) index a master form in the same manner as the county recorder indexes mortgages and trust deeds in accordance with Section 17-21-6; and
 - (b) indicate on all indices and records of the county referencing the master form that the instrument is a master form.
- (5)
 - (a) If a county recorder receives a document for recording that contains both a master form and a mortgage or trust deed, the county recorder:
 - (i) is not required to:
 - (A) separate the master form from the mortgage or trust deed; or
 - (B) record the master form and the mortgage or trust deed as separate instruments; but
 - (ii) may separate the master form from the mortgage or trust deed and record only the master form if the unrecorded portion is clearly designated or marked as a section not recorded.
 - (b) A master form recorded under Subsection (5)(a), is considered as a master form under this part for purposes of the incorporation by reference of a previously recorded master form.

Enacted by Chapter 61, 1998 General Session

57-3-203 Authorization to incorporate master form by reference -- Referencing a master form -- Prohibiting the reference of legal descriptions.

- (1)
 - (a) After a master form is recorded in accordance with Section 57-3-202, any provision of that master form may be incorporated in a mortgage or trust deed without setting the provision in full by making reference to the master form in the manner provided in this section.

- (b) The incorporation of a provision of a master form is effective for purposes of this chapter only if it complies with the provision of this section.
- (2) To incorporate a provision of a master form:
 - (a) the master form shall be of record in any county in which the mortgage or trust deed incorporating the master form provision is recorded;
 - (b) the mortgage or trust deed incorporating the master form provision shall contain a statement for each county in which the mortgage or trust deed is to be recorded that:
 - (i) gives the specific date on which the referenced master form was recorded in that county;
 - (ii) identifies the referenced master form by reference to the indexing information for the referenced master form from the county records of that county, providing:
 - (A) the entry number; and
 - (B) the book and first page number of the records or book where the recorded master form appears; and
 - (iii) if less than all of the provisions of the referenced master form are incorporated, identifies by paragraph, section, or other method which provision is incorporated into the mortgage or trust deed.
- (3) In the absence of a statement identifying which provision is to be incorporated as described in Subsection (2)(b)(iii), the entire referenced master form is considered incorporated.
- (4) A party may not incorporate by reference the legal description of the real property affected by the mortgage or trust deed being recorded.

Enacted by Chapter 61, 1998 General Session

57-3-204 Constructive notice -- Effect as between direct parties to mortgage or trust deed.

- (1) The recording of a mortgage or trust deed that incorporates a provision of a master form in accordance with Section 57-3-203, operates as constructive notice of the mortgage or trust deed, including all incorporated provisions of the referenced master form.
- (2) Nothing in this part modifies the law regarding the effectiveness of a mortgage, trust deed, or contract as between:
 - (a) the mortgagor and mortgagee of the mortgage; or
 - (b) the trustor, beneficiary, and trustee under a trust deed.

Enacted by Chapter 61, 1998 General Session