

1 **REAL ESTATE CONVEYANCE AND**
2 **SUBDIVISION AMENDMENTS**

3 1998 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Ralph Becker**

6 AN ACT RELATING TO REAL ESTATE, CITIES AND TOWNS, AND COUNTIES;
7 REQUIRING NOTICE ON CONVEYANCES THAT CREATE A SUBDIVISION;
8 IMPOSING CIVIL LIABILITY FOR A FAILURE TO INCLUDE NOTICE ON
9 CONVEYANCE; AND IMPOSING CIVIL LIABILITY FOR IMPROPERLY RECORDED
10 SUBDIVISION PLATS.

11 This act affects sections of Utah Code Annotated 1953 as follows:

12 AMENDS:

13 **10-9-811**, as last amended by Chapter 180, Laws of Utah 1995

14 **17-27-811**, as last amended by Chapter 142, Laws of Utah 1997

15 ENACTS:

16 **57-1-45**, Utah Code Annotated 1953

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

18 Section 1. Section **10-9-811** is amended to read:

19 **10-9-811. Prohibited acts.**

20 (1) (a) A county recorder may not record a plat of a subdivision without the approval of
21 the governing body.

22 (b) A plat of a subdivision recorded without the approval of the governing body required
23 by this part is void.

24 (2) (a) An owner or agent of the owner of any land located in a subdivision, as defined in
25 this chapter, who transfers or sells any land in that subdivision must disclose to the transferee or
26 purchaser the location, width, and restrictions of a right-of-way and easement of record within the
27 subdivision, or before a plan or plat of the subdivision has been approved and recorded.

1 (b) The description by metes and bounds in the instrument of transfer or other documents
2 used in the process of selling or transferring does not exempt the transaction from being a violation
3 or from the penalties or remedies provided in this chapter.

4 (3) Each person who causes a plat of a subdivision to be recorded by the county recorder
5 in violation of this part shall be liable to each subsequent owner of the property that is the subject
6 of the plat for resulting damages, including court costs and reasonable attorney's fees.

7 Section 2. Section **17-27-811** is amended to read:

8 **17-27-811. Plat void if filed without approvals -- Penalties.**

9 (1) (a) A county recorder may not file or record a plat of a subdivision without the
10 approvals required by this part.

11 (b) Any plat of a subdivision filed or recorded without the approvals required by this part
12 is void.

13 (2) (a) Any owner or agent of the owner of any land located in a subdivision as defined
14 in this part who transfers or sells any land in that subdivision before a plan or plat of the
15 subdivision has been approved and recorded as required in this part is guilty of a violation of this
16 part for each lot or parcel transferred or sold.

17 (b) The description by metes and bounds in the instrument of transfer or other documents
18 used in the process of selling or transferring does not exempt the transaction from a violation or
19 from the penalties or remedies provided in this part.

20 (3) Each person who causes a plat of a subdivision to be recorded by the county recorder
21 in violation of this part shall be liable to each subsequent owner of the property that is the subject
22 of the plat for resulting damages, including court costs and reasonable attorney's fees.

23 Section 3. Section **57-1-45** is enacted to read:

24 **57-1-45. Notice of lack of subdivision approval -- Liability.**

25 (1) For purposes of this section, "subdivision" has the same meaning as defined in:

26 (a) Subsection 10-9-103(1)(p) for land within a city or town; or

27 (b) Subsection 17-27-103(1)(p) for land within a county but outside a city or town.

28 (2) Each conveyance of land that creates a subdivision shall contain the notice described
29 in Subsection (3) unless the subdivision has been approved under:

30 (a) Section 10-9-804 for land within a city or town; or

31 (b) Section 17-27-804 for land within a county but outside a city or town.

- 1 (3) Each notice required under Subsection (2) shall:
2 (a) appear on the first page of the conveyance;
3 (b) state in conspicuous language in boldface type that:
4 (i) the conveyance may create a subdivision requiring approval of a subdivision plat before
5 a building permit may be issued for the property;
6 (ii) the required subdivision approval has not been obtained; and
7 (iii) the grantee under the conveyance may be required to institute and complete the
8 subdivision approval process before being allowed to build on the property.
9 (4) Each person who conveys land by a conveyance that fails to include the notice required
10 under Subsection (2), when Subsection (2) requires the notice, is liable to each subsequent owner
11 of the property that is the subject of the conveyance for all damages suffered by the subsequent
12 owner resulting from the lack of subdivision approval for the property conveyed, including court
13 costs and reasonable attorney's fees.

Legislative Review Note
as of 1-19-98 12:26 PM

A limited legal review of this bill raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel