

**Representative Ralph Becker** proposes to substitute the following bill:

**REAL ESTATE CONVEYANCE AND  
SUBDIVISION AMENDMENTS**

1998 GENERAL SESSION

STATE OF UTAH

**Sponsor: Ralph Becker**

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

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

AMENDS:

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

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

ENACTS:

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

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

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

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

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

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

(2) (a) An owner or agent of the owner of any land located in a subdivision, as defined in this chapter, who transfers or sells any land in that subdivision must disclose to the transferee or

1 purchaser the location, width, and restrictions of a right-of-way and easement of record within the  
2 subdivision, or before a plan or plat of the subdivision has been approved and recorded.

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

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

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

10 **17-27-811. Plat void if filed without approvals -- Penalties.**

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

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

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

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

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

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

26 **57-1-45. Notice of lack of subdivision approval -- Liability.**

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

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

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

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

- 1           (a) Section 10-9-804 for land within a city or town; or  
2           (b) Section 17-27-804 for land within a county but outside a city or town.  
3           (3) Each notice required under Subsection (2) shall:  
4           (a) appear on the first page of the conveyance;  
5           (b) state in conspicuous language in boldface type that:  
6           (i) the conveyance may create a subdivision requiring approval of a subdivision plat before  
7 a building permit may be issued for the property;  
8           (ii) the required subdivision approval has not been obtained; and  
9           (iii) the grantee under the conveyance may be required to obtain approval from the county,  
10 city, or town in which the property is located before being allowed to build on the property.  
11           (4) (a) Subject to Subsection (4)(b), each person who conveys land by a conveyance that  
12 fails to include the notice required under Subsection (2), when Subsection (2) requires the notice,  
13 is liable to each subsequent owner of the property that is the subject of the conveyance for all  
14 damages suffered by the subsequent owner resulting from the lack of subdivision approval for the  
15 property conveyed, including court costs and reasonable attorney's fees.  
16           (b) In an action under Subsection (4)(a), the trier of fact may base the determination of the  
17 amount of damages on the degree to which the person conveying the land knew or reasonably  
18 should have known that subdivision approval would be required as a result of the conveyance.