

28 **40-1-4**, Utah Code Annotated 1953

29 **40-1-6**, as last amended by Chapter 79, Laws of Utah 1996

30 **40-1-8**, Utah Code Annotated 1953

31 **40-1-9**, Utah Code Annotated 1953

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

33 Section 1. Section **17-21-1** is amended to read:

34 **17-21-1. Recorder -- Document custody responsibility.**

35 The recorder has custody of, and [~~must~~] shall keep, all books, records, maps, and papers
36 required by law [~~to be kept or recorded in the office~~].

37 Section 2. Section **17-21-3** is amended to read:

38 **17-21-3. Original documents or copies of original documents to be kept by the county.**

39 [~~The recorder must, on the payment of~~] After accepting a document for recording, receiving
40 the fees for [~~the same, record in books provided for the purpose in a fair hand or by means of a~~
41 ~~typewriter, camera, microfilm, computer or other methods all papers, documents, records and other~~
42 ~~writings required or permitted by law to be recorded~~] recording it, and completing recording
43 procedures, the recorder shall § , ONLY IF REQUIRED BY STATUTE, § keep the original document or

a

43a copy of the original document as

44 a public record in a form sufficient to meet the requirements of this chapter.

45 Section 3. Section **17-21-4** is amended to read:

46 **17-21-4. Certified copies.**

47 (1) The county recorder [~~is authorized to~~] may make and furnish [~~to interested persons~~]
48 certified photographic copies of any of the records in [~~his office upon payment of~~] the office to an
49 interested person who pays the applicable fees and charges [~~provided therefor. Certified~~].

50 (2) The county recorder shall supply certified copies of [~~such~~] any of the records [~~may be~~
51 ~~supplied to officers of~~] to the county officer for [~~their~~] the officer's official use without the
52 payment of any fee.

53 Section 4. Section **17-21-5** is amended to read:

54 **17-21-5. Receipts for documents received for record.**

55 [~~On the filing of any~~] Upon recording an instrument [~~in writing for record in the recorder's~~
56 ~~office~~], the recorder shall [~~when~~], if requested, give [~~to the person leaving the same to be recorded~~
57 ~~a receipt therefor~~] a receipt to a person presenting an instrument for recording.

58 Section 5. Section **17-21-6** is amended to read:

59 **17-21-6. General duties -- Records and indexes.**60 (1) Every recorder ~~[must]~~ shall:61 (a) ~~keep~~ ~~[-(1) An]~~ an entry record, in which the recorder shall ~~[immediately]~~, upon
62 ~~[receipt]~~ acceptance of any instrument ~~[to be recorded]~~, enter the instrument in the order of its
63 reception ~~[or entry, as the case may be]~~, the names of the parties ~~[thereto]~~ to the instrument, its
64 date, the hour, the day of the month and the year of ~~[filing any such statement]~~ recording, and a
65 brief description ~~§ [of the premises] §~~ , ~~[endorsing]~~ and endorse upon each instrument a number
66 corresponding with the number of ~~[such]~~ the entry[-];67 ~~[(2) A]~~ (b) keep a grantors' index, in which the recorder shall ~~[be indexed all]~~ index deeds
68 and final judgments or decrees partitioning or affecting the title to or possession of real property,
69 which shall show the entry number of the instrument, the name of each grantor in alphabetical
70 order, the name of the grantee, the date of the instrument, the time of ~~[filing,]~~ recording, the kind
71 of instrument, ~~§ [consideration,]~~ § the book and page ~~[and entry number in which it is recorded]~~, and
72 a brief description ~~[of the premises.];~~73 ~~[(3) A]~~ (c) keep a grantees' index, in which the recorder shall ~~[be indexed all]~~ index deeds
74 and final judgments or decrees partitioning or affecting the title to or possession of real property,
75 which shall show the entry number of the instrument, the name of each grantee in alphabetical
76 order, the name of the grantor, the date of the instrument, the time of ~~[filing,]~~ recording, the kind
77 of instrument, ~~[consideration,]~~ the book and page ~~[and entry number in which it is recorded]~~, and
78 a brief description ~~[of the premises.];~~79 ~~[(4) A]~~ (d) keep a mortgagors' index, in which ~~[shall be entered]~~ the recorder shall enter
80 all mortgages, deeds of trust, liens, and ~~[all]~~ other instruments in the nature of an encumbrance
81 upon real estate, which shall show the entry number of the instrument, the name of each
82 mortgagor, debtor, or person charged with the encumbrance in alphabetical order, the name of the
83 mortgagee, lien holder, creditor, or claimant, the date of the instrument, the time of ~~[filing, nature~~
84 ~~of]~~ recording, the instrument, § [f] § consideration, § [t] § the book and page ~~[and entry number in~~
84a which it is
85 recorded], and a brief description ~~[of the property charged.];~~86 ~~[(5) A]~~ (e) keep a mortgagees' index, in which the recorder shall ~~[be entered]~~ enter all
87 mortgages, deeds of trust, liens, and ~~[all]~~ other instruments in the nature of an encumbrance upon
88 real estate, which shall show the entry number of the instrument, the name of each mortgagee, lien
89 holder, creditor, or claimant, in alphabetical order, the name of the mortgagor or person charged

90 with the encumbrance, the date of the instrument, [~~time of filing, nature~~] the time of recording, the
 91 kind of instrument, the consideration, the book and page [~~and entry number in which it is~~
 92 ~~recorded~~], and a brief description [~~of the property charged.~~];

93 [~~(6) An~~] (f) keep § [~~an abstract record~~] **A TRACT INDEX** § , which shall show by [~~tracts or~~
 93a ~~parcels every~~
 94 ~~conveyance or encumbrance, or other~~] description every instrument recorded, the date and
 95 [~~character of~~] the kind of instrument, the time of § [~~filings~~] **RECORDING** § [~~the same~~], and the book
 95a and page and entry
 96 number [~~where the same is recorded, which record shall be so kept as to show a true chain of title~~
 97 ~~to each tract or parcel and the encumbrances thereon as shown by the records of the office.~~];

98 [~~(7) An index to~~] (g) keep an index of recorded maps, plats, and subdivisions[-];

99 [~~(8) An~~] (h) keep an index of powers of attorney, labeled "powers of attorney," [~~each page~~
 100 ~~divided into seven columns, namely~~] showing the: "date of [~~filings~~] recording," "the book," "page,"
 101 and "the entry number[-]";

102 (i) keep a miscellaneous index, in which the recorder shall enter all instruments of a
 103 miscellaneous character not otherwise provided for in this section, showing: "the date of
 104 recording," "the book," "page," "the entry number," "the kind of instrument," "from," "to,"
 105 [~~"revoked."~~] and "parties";

106 [~~(9) A miscellaneous index, in which shall be entered all instruments of a miscellaneous~~
 107 ~~character not otherwise provided for in this section, each page divided into eight columns, namely:~~
 108 ~~"date of filing," "book," "page," and "entry number," "instrument," "from," "to," "remarks."~~]

109 [(10)] (j) [~~An~~] keep an index of [~~transcripts of~~] judgments, labeled "[~~transcripts of~~
 110 ~~judgments,~~" each page divided into [~~seven~~] columns headed, respectively, "judgment debtors,"
 111 "judgment creditors," "amount of judgment," [~~"where recovered," "when recovered," "when~~
 112 ~~transcript filed," "when judgment~~] "when recorded," and "when satisfied[-]"; and

113 [(11) A] (k) keep a general [~~filings~~] recording index in which the recorder shall [~~be~~
 114 ~~indexed~~] index all executions and writs of attachment, and any other instruments not required by
 115 law to be spread upon the records, and in separate columns [~~he must~~] the recorder shall enter the
 116 names of the plaintiffs in the execution[-] and the names of the defendants in the execution[-]~~the~~
 117 ~~purchaser at the sale and the date of the sale, and the filing number of the documents. The indexes~~
 118 ~~provided for in Subdivisions (8) to (11) shall be alphabetically arranged, and in each case].~~

119 (2) The recorder shall alphabetically arrange the indexes required by this section and keep
 120 a reverse index [~~shall be kept~~].

121 (3) The ~~§~~ § [abstract record] TRACT INDEX § required by Subsection (1)(f) shall be kept so
 121a that it shows a true
 122 chain of title to each tract or parcel, together with their encumbrances, according to the records of
 123 the office.

124 ~~[(12)]~~ (4) Nothing in this section ~~[shall preclude the use of]~~ prevents the recorder from
 125 using a single name index [by the recorder if such] if that index includes [and references] all of the
 126 [above] indexes required by this section.

127 Section 6. Section **17-21-9** is amended to read:

128 **17-21-9. Indexing of deeds and other instruments.**

129 Deeds and other instruments affecting real estate made by a United States marshal, a
 130 sheriff, master in chancery, special commissioner, executor, administrator, guardian, trustee, or
 131 other person acting in behalf of another, shall be indexed in the name of the person whose land is
 132 sold or affected as grantor~~[-, and a note shall be made in the index indicating in what capacity the~~
 133 ~~deed was made].~~

134 Section 7. Section **17-21-10** is amended to read:

135 **17-21-10. Judgments affecting real estate.**

136 The recorder ~~[must, when filed with him for that purpose, record in the record of deeds]~~
 137 shall record a judgment affecting real estate or certified copies of final judgments or decrees
 138 partitioning or affecting the title or possession of real property any part of which is [situate] located
 139 in the county [of which he is recorder].

140 Section 8. Section **17-21-11** is amended to read:

141 **17-21-11. Notice imparted by recording.**

142 ~~[Every such]~~ (1) Each certified copy from the time of ~~[filing the same with the recorder~~
 143 for record imparts] recording gives notice to all persons of the contents ~~[thereof, and subsequent]~~
 144 of the recorded document.

145 (2) Subsequent purchasers, mortgagees, and lien holders purchase and ~~[take]~~ encumber
 146 with the same notice and effect as if [such copy were a duly recorded deed, grant or transfer] the
 147 certified copy was the original document.

148 Section 9. Section **17-21-12** is amended to read:

149 **17-21-12. Recording procedures -- Endorsements of entry number required on**
 150 **documents.**

151 When any instrument~~[-, paper or notice]~~ authorized by law to be ~~[filed or]~~ recorded is

152 ~~[deposited in]~~ accepted by the recorder's office for ~~[record]~~ recording, the recorder ~~[must]~~ shall:

153 (1) endorse upon ~~[the same]~~ it its proper entry number, the time when it was received,
154 noting the year, month, day, hour, and minute of its reception, and the amount of fees for
155 recording~~[-]~~; and ~~[must]~~

156 (2) record the ~~[same without delay]~~ instrument during office hours in the order it was
157 accepted, together with the acknowledgments, proofs, and certificates written upon or ~~[annexed~~
158 ~~to the same]~~ attached to it, with the plats, surveys, schedules and other papers ~~[thereto annexed,~~
159 ~~in the order received, and must note on the instrument for record the exact time of its reception]~~
160 annexed to it.

161 Section 10. Section **17-21-13** is amended to read:

162 **17-21-13. Endorsement of book and page -- Return of instrument.**

163 (1) § (a) § The recorder ~~[must]~~ may also endorse upon each instrument, paper or notice the book
164 and page § ~~[and]~~ § ~~[entry number in which it is recorded, and must thereafter return it]~~ reference.

164a **§ (b) IF THE ENTRY NUMBER IS ENDORSED ON EACH PAGE OF THE INSTRUMENT, THE**
RECORDER

164b **MAY OMIT THE BOOK AND PAGE REFERENCE.** §

165 (2) The recorder shall return the instrument to the appropriate party.

166 Section 11. Section **17-21-14** is amended to read:

167 **17-21-14. Military records -- Evidence.**

168 ~~[The]~~ (1) Upon presentation, the county recorder ~~[upon presentation shall record in a book~~
169 ~~kept for that purpose;]~~ shall:

170 (a) record, free of charge, ~~[honorable]~~ discharges from the military, naval, or marine
171 service of the United States, and any and all orders, citations, and decorations of honor relating to
172 ~~[any]~~ a person while ~~[he]~~ the person was in the military, naval, or marine service of the United
173 States~~[-]~~; and ~~[shall]~~

174 (b) furnish, free of charge, certified copies of any of ~~[the same]~~ those records to the person
175 to whom ~~[any of them]~~ they relate and to the father, mother, brothers, sisters, or any lineal
176 descendant of ~~[such]~~ that person. ~~[Such]~~

177 (2) Those certified copies may be read in evidence with the same effect as the original in
178 any action or proceeding before any court, commission, or other tribunal in this state.

179 Section 12. Section **17-21-17** is amended to read:

180 **17-21-17. Prohibited acts.**

181 ~~[No recorder to whom any]~~ Upon acceptance of an instrument~~[-, paper, or notice]~~ entitled
182 to be recorded ~~[is delivered for record]~~, the recorder may not:

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183 (1) neglect [~~or refuse~~] to record the instrument[~~, paper, or notice~~] within a reasonable time
 184 after [~~receiving~~] accepting it;

185 (2) [~~willfully or negligently~~] record any instrument[~~, paper, or notice falsely or~~] in any
 186 manner other than the manner required by this chapter; or

187 [~~(3) neglect or refuse to keep the indices required by this chapter in the recorder's office;~~]

188 [~~(4) neglect or refuse to make the proper entries in the indices required by this chapter; or~~]

189 [~~(5)~~] (3) alter, change, obliterate, or insert any new matter in any instrument[~~, paper, or~~
 190 ~~notice deposited in the recorder's office~~] of record.

191 Section 13. Section **17-21-18** is amended to read:

192 **17-21-18. Fees must be paid in advance.**

193 The recorder [~~shall~~] may not record any instrument, [~~or file any paper or notice, or~~] furnish
 194 any copies, or [~~render~~] provide any service connected with [~~his~~] the office, until the fees [~~for the~~
 195 ~~same as~~] prescribed by law [~~are~~] have been paid [~~or tendered~~].

196 Section 14. Section **17-21-19** is amended to read:

197 **17-21-19. Records open to inspection -- Copies.**

198 (1) All [~~books~~] instruments of record[~~, maps, charts, surveys, and other papers on file in~~
 199 ~~the recorder's office must be~~] and all indexes required by this chapter are open to public inspection
 200 free of charge during office hours.

201 (2) Any person copying or taking notes from [~~information on file~~] the public record in the
 202 recorder's office may do so only by pencil, typewriter, photocopy, microfilm, or electronic printout.

203 Section 15. Section **17-21-20** is amended to read:

204 **17-21-20. Filing means recordation.**

205 [~~All papers, notices and instruments of writing~~] Each paper, notice, and instrument required
 206 by law to be filed in the office of the county recorder shall be recorded unless otherwise provided.

207 Section 16. Section **17-21-21** is amended to read:

208 **17-21-21. Ownership plats.**

209 [~~In all counties the~~] (1) The county recorder shall prepare and keep [~~present~~] ownership
 210 [~~maps and~~] plats drawn to a convenient scale, which [~~shall at all times~~] show the record owners
 211 of each tract of land in the county, together with [~~a description~~] the dimensions of the tract.

212 (2) The county recorder may not be required to:

213 (a) trace any title back of apparent ownership as of February 6, 1899, at 12 o'clock noon[~~-~~

214 ~~The county recorder may not be required to~~;

215 (b) show ownership of [condominium units,] timeshare units[;] or timeshare estates on
216 ownership plats; or

217 (c) show lot or unit ownership on subdivisions or condominium plats § **OR OTHER**

217a **OWNERSHIP PLATS** § if that information

218 is available through computer systems or other indexes.

219 (3) Nothing in this chapter precludes the use of geographic information systems or
220 computer systems by the recorder if the systems include all of the information required by this
221 section.

222 Section 17. Section **17-21-22** is amended to read:

223 **17-21-22. Annual revision -- Reporting changes in ownership to county assessors --**

224 **Costs, how borne.**

225 (1) The county recorder shall[;]

226 (a) each year, prepare copies of ownership [maps and] plats and descriptions, showing
227 record owners at noon on January 1[; and shall;]

228 (b) on or before January 15 of each year, transmit the copies to the county assessor[; but];

229 (c) report all changes in recorded ownership of real property made during the first seven
230 months of each calendar year [shall be reported by the county recorder] to the county assessor not
231 later than August 15 of that year [and];

232 (d) for the remainder of the calendar year, report the changes in the ownership of real
233 property [which] that are [filed] recorded in the county recorder's office [shall be reported] each
234 month [by the county recorder to the county assessor] on or before the 15th day of the month
235 following the month in which the changes were recorded [in the office of the county recorder.
236 These];

237 (e) transmit the changes of ownership [shall be transmitted by the recorder's office to the
238 assessor's office] on appropriate forms [furnished by the recorder's office showing] that show the
239 current owner's name and a full legal description of the property conveyed[; in those cases]; and

240 (f) where only a part of the grantor's property is [currently] conveyed [the recorder shall],
241 transmit an additional form showing a full legal description of the portion retained. [The cost of
242 making copies of maps and plats and descriptions for use of the assessor as provided in this section
243 shall be paid one-half by the state and one-half by the county, but in any county having a taxable
244 value for the current tax year of less than \$50,000,000, plats for the year may not exceed 1% of the

245 ~~state, state school, and state high school taxes levied in the county for the year; and in any county~~
246 ~~having a taxable value of \$50,000,000 or more for the current tax year the state's portion of the cost~~
247 ~~of making and revising maps and plats may not exceed 1/2 of 1% of the total state, state school,~~
248 ~~and state high school taxes levied in the county for the year.]~~

249 (2) Nothing in this chapter precludes the use of geographic information systems or
250 computer systems by the recorder if the systems include all of the information required by this
251 section.

252 (3) Not later than the first Monday in October of each year, the assessor may return the plat
253 books and descriptions to the recorder for extension, alterations, and carrying to date for the
254 ensuing year.

255 Section 18. Section **17-21-25** is amended to read:

256 **17-21-25. Names of persons signing to be typed or printed on instruments presented**
257 **for recording.**

258 (1) All instruments presented to the county recorder for [filing] recording shall have typed
259 or printed on them the names of all persons whose signatures appear on the instrument whose
260 names are required to be indexed. [Nothing contained herein shall]

261 (2) The requirements of Subsection (1) do not affect the legality of the instrument to be
262 recorded.

263 Section 19. Section **40-1-4** is amended to read:

264 **40-1-4. Copy of location notice to be recorded.**

265 Within ~~[thirty]~~ 30 days after the date of posting the location notice upon the claim, the
266 locator ~~[or locators, or his or their], or the locator's assigns, [must file for]~~ shall record a substantial
267 copy of the notice of location in the office of the county recorder of the county in which ~~[such]~~ the
268 claim is situated ~~[a substantial copy of such notice of location. Such notice of location shall not~~
269 ~~be abstracted unless a subsequent conveyance affecting the same property is filed for record;~~
270 ~~whereupon it shall be abstracted].~~

271 Section 20. Section **40-1-6** is amended to read:

272 **40-1-6. Affidavit of performance of annual labor or payment of maintenance fee.**

273 (1) As used in this section, "assessment work" means the performance of labor or making
274 of improvements on or for the benefit of a mining claim.

275 (2) Within 30 days after the end of the annual period specified in 30 U.S.C. Sec. 28 the

276 owner of an unpatented lode or placer mining claim, or a mill or tunnel site claim or someone on
277 his behalf, shall ~~file~~ record an affidavit in the office of the county recorder of the county in which
278 the claim is located setting forth:

279 (a) the name and address of the owner of the claim;

280 (b) the name of the claim and the serial number, if any, assigned to the claim by the United
281 States Bureau of Land Management;

282 (c) if assessment work was required to be performed under 30 U.S.C. Sec. 28 or other
283 federal law to maintain the claim, a statement that the annual assessment work required to
284 maintain the claim was performed; and

285 (d) if the assessment work was not required to be performed under 30 U.S.C. Sec. 28 or
286 other federal law, a statement that it is the intention of the owner to hold the claim, and if a claim
287 maintenance fee was paid as required by the Omnibus Budget Reconciliation Act of 1993, Pub.
288 L. 103-66 or other federal law, a statement that the fee was paid in a timely manner.

289 (3) The affidavit, or a certified copy, shall be prima facie evidence of the facts stated in
290 the affidavit.

291 (4) The amendments made in this section do not affect any act or right accruing or which
292 has accrued or been established or any suit or proceeding commenced before May 1, 1995.

293 Section 21. Section **40-1-8** is amended to read:

294 **40-1-8. Vacancy and removal -- County recorder to receive records.**

295 ~~[Whenever]~~ (1) If there is a vacancy in the office of recorder of any mining district, or ~~[the~~
296 ~~person holding such office shall remove from the district leaving therein no qualified successor~~
297 ~~in office, or whenever from any cause]~~ if there is no person in ~~[such]~~ the mining district authorized
298 to retain the custody and give certified copies of the records, ~~[it shall be the duty of]~~ the person
299 having custody of the records ~~[to]~~ shall deposit ~~[the same]~~ them in the office of the county recorder
300 of the county in which ~~[such]~~ the mining district, or the greater part ~~[thereof]~~ of the mining district,
301 is situated~~[, and the]~~.

302 (2) That county recorder shall take possession of ~~[such]~~ the records~~;~~ and ~~[is hereby~~
303 ~~authorized to]~~ may make and certify copies ~~[therefrom]~~ from the records, including any other
304 copies of records and papers in ~~[his]~~ the recorder's office pertaining to mining claims~~;~~ ~~and such]~~.

305 (3) Those certified copies shall be receivable in evidence in all courts and before all
306 officers and tribunals.

307 (4) The production of a certified copy [~~so made~~] shall be, without further proof, evidence
308 that [~~such~~] the records were properly in the custody of the county recorder.

309 Section 22. Section **40-1-9** is amended to read:

310 **40-1-9. County recorder may certify district records.**

311 ~~[Where]~~ (1) When the books, records, and documents pertaining to the office of mining
312 district recorder have been deposited in the office of [~~any~~] a county recorder [~~he is authorized to~~],
313 the recorder may make and certify copies [~~therefrom, and such~~] from those records.

314 (2) Those certified copies shall be receivable in all tribunals and before all officers of this
315 state in the same manner and to the same effect as if [~~such~~] the records had been originally filed
316 or made in the office of the county recorder.

Legislative Review Note
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A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel