

**COUNTY RECORDER AMENDMENTS**

1999 GENERAL SESSION

STATE OF UTAH

**Sponsor: Robert M. Muhlestein**

AN ACT RELATING TO COUNTY RECORDERS; RECODIFYING COUNTY RECORDER DUTIES TO REFLECT CURRENT CUSTOMS AND PROCEDURES; AND MAKING TECHNICAL AND CONFORMING CHANGES.

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

AMENDS:

- 17-21-1, as last amended by Chapters 32 and 227, Laws of Utah 1993
- 17-21-3, as last amended by Chapter 20, Laws of Utah 1980
- 17-21-4, Utah Code Annotated 1953
- 17-21-5, Utah Code Annotated 1953
- 17-21-6, as last amended by Chapter 69, Laws of Utah 1983
- 17-21-9, Utah Code Annotated 1953
- 17-21-10, Utah Code Annotated 1953
- 17-21-11, Utah Code Annotated 1953
- 17-21-12, as last amended by Chapter 33, Laws of Utah 1967
- 17-21-13, as last amended by Chapter 2, Laws of Utah 1982
- 17-21-14, Utah Code Annotated 1953
- 17-21-17, as repealed and reenacted by Chapter 50, Laws of Utah 1987
- 17-21-18, Utah Code Annotated 1953
- 17-21-19, as last amended by Chapter 50, Laws of Utah 1987
- 17-21-20, Utah Code Annotated 1953
- 17-21-21, as last amended by Chapter 92, Laws of Utah 1986
- 17-21-22, as last amended by Chapter 3, Laws of Utah 1988
- 17-21-25, as enacted by Chapter 25, Laws of Utah 1973
- 40-1-4, Utah Code Annotated 1953
- 40-1-6, as last amended by Chapter 79, Laws of Utah 1996

40-1-8, Utah Code Annotated 1953

40-1-9, Utah Code Annotated 1953

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

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

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

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

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

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

~~[The recorder must, on the payment of]~~ After accepting a document for recording, receiving the fees for ~~[the same, record in books provided for the purpose in a fair hand or by means of a typewriter, camera, microfilm, computer or other methods all papers, documents, records and other writings required or permitted by law to be recorded]~~ recording it, and completing recording procedures, the recorder shall, only if required by statute, keep the original document or a copy of the original document as a public record in a form sufficient to meet the requirements of this chapter.

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

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

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

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

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

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

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

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

**17-21-6. General duties -- Records and indexes.**

(1) Every recorder ~~[must]~~ shall:

~~(a)~~ (a) keep ~~[-(1)-An]~~ an entry record, in which the recorder shall ~~[immediately]~~, upon ~~[receipt]~~ acceptance of any instrument ~~[to be recorded]~~, enter the instrument in the order of its reception ~~[or entry, as the case may be]~~, the names of the parties ~~[thereto]~~ to the instrument, its date, the hour, the day of the month and the year of ~~[filing any such statement]~~ recording, and a brief description ~~[of the premises]~~, ~~[endorsing]~~ and endorse upon each instrument a number corresponding with the number of ~~[such]~~ the entry~~[-:]~~:

~~[(2)-A]~~ (b) keep a grantors' index, in which the recorder shall ~~[be indexed-att]~~ index deeds and final judgments or decrees partitioning or affecting the title to or possession of real property, which shall show the entry number of the instrument, the name of each grantor in alphabetical order, the name of the grantee, the date of the instrument, the time of ~~[filing,]~~ recording, the kind of instrument, ~~[consideration,]~~ the book and page ~~[and entry number in which it is recorded]~~, and a brief description ~~[of the premises.]:~~

~~[(3)-A]~~ (c) keep a grantees' index, in which the recorder shall ~~[be indexed-att]~~ index deeds and final judgments or decrees partitioning or affecting the title to or possession of real property, which shall show the entry number of the instrument, the name of each grantee in alphabetical order, the name of the grantor, the date of the instrument, the time of ~~[filing,]~~ recording, the kind of instrument, ~~[consideration,]~~ the book and page ~~[and entry number in which it is recorded]~~, and a brief description ~~[of the premises.]:~~

~~[(4)-A]~~ (d) keep a mortgagors' index, in which ~~[shall be entered]~~ the recorder shall enter all mortgages, deeds of trust, liens, and ~~[att]~~ other instruments in the nature of an encumbrance upon real estate, which shall show the entry number of the instrument, the name of each mortgagor, debtor, or person charged with the encumbrance in alphabetical order, the name of the mortgagee, lien holder, creditor, or claimant, the date of the instrument, the time of ~~[filing, nature of]~~ recording, the instrument, consideration, the book and page ~~[and entry number in which it is recorded]~~, and a brief description ~~[of the property charged.]:~~

~~[(5) A]~~ (e) keep a mortgagees' index, in which the recorder shall [be entered] enter all mortgages, deeds of trust, liens, and [all] other instruments in the nature of an encumbrance upon real estate, which shall show the entry number of the instrument, the name of each mortgagee, lien holder, creditor, or claimant, in alphabetical order, the name of the mortgagor or person charged with the encumbrance, the date of the instrument, [time of filing, nature] the time of recording, the kind of instrument, the consideration, the book and page [and entry number in which it is recorded], and a brief description [of the property charged.];

~~[(6) An abstract record]~~ (f) keep a tract index, which shall show by [tracts or parcels every conveyance or encumbrance, or other] description every instrument recorded, the date and [character of] the kind of instrument, the time of [filing the same] recording, and the book and page and entry number [where the same is recorded, which record shall be so kept as to show a true chain of title to each tract or parcel and the encumbrances thereon as shown by the records of the office.];

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

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

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

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

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

~~[(11) A]~~ (k) keep a general [filing] recording index in which the recorder shall [be indexed]

index all executions and writs of attachment, and any other instruments not required by law to be spread upon the records, and in separate columns ~~[he must]~~ the recorder shall enter the names of the plaintiffs in the execution~~[-]~~ and the names of the defendants in the execution~~[-]~~ ~~the purchaser at the sale and the date of the sale, and the filing number of the documents.~~ The indexes provided for in Subdivisions (8) to (11) shall be alphabetically arranged, and in each case].

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

(3) The tract index required by Subsection (1)(f) shall be kept so that it shows a true chain of title to each tract or parcel, together with their encumbrances, according to the records of the office.

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

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

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

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

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

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

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

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

**17-21-11. Notice given by recording.**

~~[Every such]~~ (1) Each certified copy from the time of ~~[filing the same with the recorder for~~

record imparts] recording gives notice to all persons of the contents [thereof, and subsequent] of the recorded document.

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

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

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

When any instrument[~~, paper or notice~~] authorized by law to be [filed or] recorded is [deposited in] accepted by the recorder's office for [record] recording, the recorder [must] shall:

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

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

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

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

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

(b) If the entry number is endorsed on each page of the instrument, the recorder may omit the book and page reference.

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

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

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

[The] (1) Upon presentation, the county recorder [upon presentation shall record in a book

kept for that purpose,] shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**17-21-20. Recording required.**

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

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

**17-21-21. Ownership plats -- Use of geographic information systems or computer systems.**

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

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

(a) trace any title back of apparent ownership as of February 6, 1899, at 12 o'clock noon~~[- The county recorder may not be required to];~~

(b) show ownership of ~~[condominium units;]~~ timeshare units~~[-]~~ or timeshare estates on ownership plats; or

(c) show lot or unit ownership on subdivisions or condominium plats or other ownership plats if that information is available through computer systems or other indexes.

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

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

**17-21-22. Annual revision -- Reporting changes in ownership to county assessors -- Use of geographic information systems or computer systems -- Return of plat books.**



(1) The county recorder shall~~;~~:

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

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

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

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

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

(f) where only a part of the grantor's property is ~~[currently]~~ conveyed ~~[the recorder shall]~~, transmit an additional form showing a full legal description of the portion retained. ~~[The cost of making copies of maps and plats and descriptions for use of the assessor as provided in this section shall be paid one-half by the state and one-half by the county; but in any county having a taxable value for the current tax year of less than \$50,000,000, plats for the year may not exceed 1% of the state, state school, and state high school taxes levied in the county for the year; and in any county having a taxable value of \$50,000,000 or more for the current tax year the state's portion of the cost of making and revising maps and plats may not exceed 1/2 of 1% of the total state, state school, and state high school taxes levied in the county for the year.]~~

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

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

year.

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

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

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

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

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

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

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

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

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

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

(2) Within 30 days after the end of the annual period specified in 30 U.S.C. Sec. 28 the owner of an unpatented lode or placer mining claim, or a mill or tunnel site claim or someone on his behalf, shall [~~file~~] record an affidavit in the office of the county recorder of the county in which the claim is located setting forth:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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