

REAL ESTATE RECORDING LAW AMENDMENTS

2000 GENERAL SESSION

STATE OF UTAH

Sponsor: Ron Allen

AN ACT RELATING TO REAL ESTATE; REQUIRING AN AFFIDAVIT TO BE RECORDED WHEN TERMINATING CERTAIN INTERESTS IN REAL ESTATE; PERMITTING THE USE OF A MANAGEMENT COMMITTEE ADDRESS FOR TIMESHARE INTERESTS; REQUIRING CERTAIN INFORMATION WHEN RECORDING A TRUST; AND MAKING TECHNICAL CHANGES.

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

AMENDS:

57-3-105, as renumbered and amended by Chapter 61, Laws of Utah 1998

57-3-106, as renumbered and amended by Chapter 61 and last amended by Chapter 85, Laws of Utah 1998

57-9-5, as enacted by Chapter 109, Laws of Utah 1963

75-7-409, as enacted by Chapter 14, Laws of Utah 1985

ENACTS:

57-1-5.1, Utah Code Annotated 1953

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

Section 1. Section **57-1-5.1** is enacted to read:

57-1-5.1. Termination of an interest in real estate -- Affidavit.

(1) A document evidencing the termination of joint tenancy, tenancy by the entirety, life estate, or determinable or conditional interest in real estate may not be recorded unless it is an affidavit that meets the requirements of Subsection (2).

(2) The affidavit required by Subsection (1) shall:

(a) cite the interest which is being terminated;

(b) contain a legal description of the real property that is affected;

(c) reference the entry number and the book and page of the instrument creating the interest to be terminated; and

(d) if the termination is the result of a death, have attached as an exhibit, a copy of the death certificate or other document witnessing the death.

Section 2. Section **57-3-105** is amended to read:

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

(1) A document executed after July 1, 1983, is entitled to be recorded in the office of any county recorder only if the document contains a legal description of the real property affected.

(2) (a) A document affecting title to real property presented for recording after July 1, 1981, is entitled to be recorded in the office of any county recorder only if the document contains the names and mailing addresses of the grantees in addition to the legal description required under Subsection (1).

(b) The address of the management committee may be used as the mailing address of a grantee as required in Subsection(2)(a) if the interest conveyed is a timeshare interest as defined by Section 57-19-2.

(3) Each county recorder shall refuse to accept a document for recording if it does not conform to the requirements under this section.

(4) Notwithstanding Subsections (1), (2), and (3), a master form, as defined in Section 57-3-201, that does not meet the requirements of Subsections (1) and (2) is entitled to be recorded in the office of any county recorder if it complies with Part 2, Master Mortgage and Trust Deeds.

Section 3. Section **57-3-106** is amended to read:

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

(1) (a) Unless otherwise provided, documents presented for recording in the office of the county recorder shall:

(i) be originals; and

(ii) contain a brief caption stating the nature of the document.

(b) If a document is a master form, as defined in Section 57-3-201, the caption required by Subsection (1)(a)(ii) shall state that the document is a master form.

(2) Documents presented for recording shall also be sufficiently legible for the recorder to

make certified copies.

(3) (a) A document which 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. Unless exempt by statute, original documents which are reexecuted must also 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. Documents submitted for rerecording shall contain a brief statement explaining the reason for rerecording.

(b) A county recorder may refuse to accept a document for rerecording if that document does not conform to the requirements of this section.

(c) Subsection (3) of this section applies only to documents executed after July 1, 1998.

(4) ~~Documents of record in the office of a county recorder, containing minor~~ Minor typographical or clerical errors~~;~~ in a document of record may be ~~augmented, amended, or~~ corrected by the recording of an ~~affidavit or other~~ appropriate instrument.

Section 4. Section **57-9-5** is amended to read:

57-9-5. Notice of claim of interest -- Contents -- Filing for record.

~~[To]~~ In order to be effective and to be ~~[entitled to record]~~ recorded, the notice ~~[referred to above]~~ required by Section 57-9-4 shall contain ~~[an accurate and full]~~ a legal description of all land affected by ~~[such]~~ the notice ~~[which description shall be set forth in particular terms and not by general inclusions, but if].~~ If the claim is founded upon a recorded instrument, then the description in the notice may be the same as that contained in the recorded instrument. The notice shall be ~~[filed for record in the registry of deeds of]~~ recorded in the county or counties where the land described ~~[therein]~~ is situated. ~~[The recorder of each county shall accept all such notices presented to him which describe land located in the county in which he serves and shall enter and record full copies thereof in the same way that deeds and other instruments are recorded and each recorder shall be entitled to charge the same fees for the recording thereof as are charged for recording deeds. In indexing the notices in his office each recorder shall enter the notices under the grantee indexes of~~

~~deeds under the names of the claimants appearing in the notices. Such notices shall also be indexed under the description of the real estate involved in a book set apart for that purpose to be known as the "Notice Index."]~~

Section 5. Section **75-7-409** is amended to read:

75-7-409. Recitals when title to real property is in trust -- Failure.

(1) When title to real property is granted to a person as trustee, the terms of the trust may be given either:

(a) in the deed of transfer; or

(b) in an instrument signed by the grantor and recorded in the same office as the grant to the trustee.

(2) If the terms of the trust are not made public as required in Subsection (1), a conveyance from the trustee is absolute in favor of purchasers for value who take the property without notice of the terms of the trust.

(3) The terms of the trust recited in the deed of transfer or the instrument recorded under Subsection (1)(b) shall include:

(a) the name of the trustee;

(b) the address of the trustee; and

(c) the name and date of the trust.