

REAL ESTATE MODIFICATIONS

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Dennis E. Stowell

House Sponsor: Stephen H. Urquhart

LONG TITLE

General Description:

This bill addresses the conveyance of real property and the effect of certain changes to recorded documents.

Highlighted Provisions:

This bill:

- ▶ eliminates language identifying specific types of deeds by which an after-acquired interest in real property may pass;
- ▶ addresses the effect of recording an affidavit of correction of a recorded document;
- ▶ addresses the effect of reexecuting and rerecording a recorded document; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

57-1-10, as last amended by Chapter 213, Laws of Utah 2005

57-3-106, as last amended by Chapters 241 and 370, Laws of Utah 2001

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

Section 1. Section **57-1-10** is amended to read:

57-1-10. After-acquired title passes.

30 (1) If any person conveys any real estate by conveyance purporting to convey the
31 [~~same~~] real estate in fee simple absolute, and at the time of the conveyance the person does not
32 have the legal estate in the real estate, but afterwards acquires the [~~same~~] legal estate:

33 (a) the legal estate subsequently acquired [~~shall~~] immediately [~~pass~~] passes to the
34 grantee, the grantee's heirs, successors, or assigns; and

35 (b) the conveyance [~~shall be~~] is as valid as if the legal estate had been in the grantor at
36 the time of the conveyance.

37 [~~(2) (a) Subsection (1) applies to a conveyance by:~~]

38 [~~(i) warranty deed;~~]

39 [~~(ii) special warranty deed; or~~]

40 [~~(iii) trust deed.~~]

41 [~~(b)~~] (2) Subsection (1) does not apply to a conveyance by quitclaim deed.

42 Section 2. Section **57-3-106** is amended to read:

43 **57-3-106. Original documents required -- Captions -- Legibility.**

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

46 (i) be originals; and

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

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

50 (2) A court judgment or an abstract of a court judgment presented for recording in the
51 office of the county recorder in compliance with Section 78-22-1 shall:

52 (a) be an original or certified copy; and

53 (b) include the information identifying the judgment debtor as referred to in Subsection
54 78-22-1.5(4) either:

55 (i) in the judgment or abstract of judgment; or

56 (ii) as a separate information statement of the judgment creditor as referred to in
57 Subsection 78-22-1.5(5).

58 (3) Judgments, abstracts of judgments, and separate information statements of the
59 judgment creditor do not require an acknowledgment or a legal description to be recorded.

60 (4) A foreign judgment or an abstract of a foreign judgment recorded in the office of a
61 county recorder shall include the affidavit as required in Section 78-22a-3.

62 (5) Any document recorded in the office of the county recorder to release or assign a
63 judgment lien shall include:

64 (a) the name of any judgment creditor, debtor, assignor, or assignee;

65 (b) the date of recording; and

66 (c) the entry number of the instrument creating the judgment lien.

67 (6) Documents presented for recording shall also be sufficiently legible for the recorder
68 to make certified copies.

69 (7) (a) (i) A document [~~which~~] that is of record in the office of the appropriate county
70 recorder in compliance with this chapter may not be recorded again in that same county
71 recorder's office unless the original document has been reexecuted by all parties who executed
72 the document.

73 (ii) Unless exempt by statute, original documents [~~which~~] that are reexecuted must also
74 contain the appropriate acknowledgment, proof of execution, jurat, or other notarial
75 certification for all parties who are reexecuting the document as required by Title 46, Chapter
76 1, Notaries Public Reform Act, and Title 57, Chapter 2, Acknowledgments.

77 (iii) Documents submitted for rerecording shall contain a brief statement explaining the
78 reason for rerecording.

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

81 (c) Subsection (7) applies only to documents executed after July 1, 1998.

82 (8) Minor typographical or clerical errors in a document of record may be corrected by
83 the recording of an affidavit or other appropriate instrument.

84 (9) Subject to federal bankruptcy law, neither the recordation of an affidavit under
85 Subsection (8) nor the reexecution and rerecording of a document under Subsection (7) shall:

86 (a) divest a grantee of any real property interest; or

87 (b) alter an interest in real property or return to the grantor an interest in real property

88 conveyed by statute.