

**Representative R. Curt Webb** proposes the following substitute bill:

**COUNTY RECORDER AMENDMENTS**

2011 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: R. Curt Webb**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill modifies provisions related to the duties of a county recorder and recording requirements.

**Highlighted Provisions:**

This bill:

- ▶ authorizes a county recorder to require that an owner of land modify a subdivision name;
- ▶ modifies provisions related to records and indexes;
- ▶ modifies provisions related to judgments affecting real estate;
- ▶ modifies provisions related to legal description and notarization requirements for a recorded document;
- ▶ modifies provisions related to the recording of a release or assignment of a judgment lien;
- ▶ modifies provisions related to the creation of a joint tenancy;
- ▶ modifies provisions related to a boundary line agreement operating as a quitclaim deed;
- ▶ modifies provisions related to information included in a document conveying title to real property;



- 26           ▶ modifies provisions related to notarization of a judgment, abstract of judgment, or
- 27 information statement; and
- 28           ▶ makes technical corrections.

29 **Money Appropriated in this Bill:**

30           None

31 **Other Special Clauses:**

32           None

33 **Utah Code Sections Affected:**

34 AMENDS:

- 35           **10-9a-603**, as last amended by Laws of Utah 2010, Chapters 269 and 381
- 36           **17-21-6**, as last amended by Laws of Utah 2010, Chapter 381
- 37           **17-21-10**, as last amended by Laws of Utah 1999, Chapter 85
- 38           **17-21-20**, as last amended by Laws of Utah 2010, Chapter 381
- 39           **17-27a-603**, as last amended by Laws of Utah 2010, Chapters 269 and 381
- 40           **38-5-1**, as last amended by Laws of Utah 2001, Chapter 370
- 41           **57-1-5**, as last amended by Laws of Utah 2010, Chapter 381
- 42           **57-1-13**, as last amended by Laws of Utah 2000, Chapter 75
- 43           **57-1-45**, as enacted by Laws of Utah 2001, Chapter 241
- 44           **57-3-105**, as last amended by Laws of Utah 2008, Chapter 97
- 45           **57-3-106**, as last amended by Laws of Utah 2010, Chapter 381
- 46           **78B-5-201**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 47           **78B-5-202**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 48           **78B-5-408**, as renumbered and amended by Laws of Utah 2008, Chapter 3



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

51           Section 1. Section **10-9a-603** is amended to read:

52           **10-9a-603. Plat required when land is subdivided -- Approval of plat -- Owner**  
53 **acknowledgment, surveyor certification, and underground utility facilities owner**  
54 **approval of plat -- Recording plat.**

55           (1) (a) Unless exempt under Section 10-9a-605 or excluded from the definition of  
56 subdivision under Section 10-9a-103, whenever any land is laid out and platted, the owner of

57 the land shall provide an accurate plat that describes or specifies:

58 ~~[(a)]~~ (i) subject to Subsection (1)(b), a subdivision name that is distinct from any  
59 subdivision name on a plat recorded in the county recorder's office;

60 ~~[(b)]~~ (ii) the boundaries, course, and dimensions of all of the parcels of ground divided,  
61 by their boundaries, course, and extent, whether the owner proposes that any parcel of ground  
62 is intended to be used as a street or for any other public use, and whether any such area is  
63 reserved or proposed for dedication for a public purpose;

64 ~~[(c)]~~ (iii) the lot or unit reference, block or building reference, street or site address,  
65 street name or coordinate address, acreage or square footage for all parcels, units, or lots, and  
66 length and width of the blocks and lots intended for sale; and

67 ~~[(d)]~~ (iv) every existing right-of-way and easement grant of record for underground  
68 facilities, as defined in Section 54-8a-2, and for other utility facilities.

69 (b) A county recorder may require that the owner of land modify the subdivision name  
70 to comply with Subsection (1)(a)(i).

71 (2) (a) Subject to Subsections (3), (4), and (5), if the plat conforms to the municipality's  
72 ordinances and this part and has been approved by the culinary water authority and the sanitary  
73 sewer authority, the municipality shall approve the plat.

74 (b) Municipalities are encouraged to receive a recommendation from the fire authority  
75 before approving a plat.

76 (3) The municipality may withhold an otherwise valid plat approval until the owner of  
77 the land provides the legislative body with a tax clearance indicating that all taxes, interest, and  
78 penalties owing on the land have been paid.

79 (4) (a) A plat may not be submitted to a county recorder for recording unless:

80 (i) prior to recordation, each owner of record of land described on the plat has signed  
81 the owner's dedication as shown on the plat; and

82 (ii) the signature of each owner described in Subsection (4)(a)(i) is acknowledged as  
83 provided by law.

84 (b) The surveyor making the plat shall certify that the surveyor:

85 (i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and  
86 Professional Land Surveyors Licensing Act;

87 (ii) has completed a survey of the property described on the plat in accordance with

88 Section 17-23-17 and has verified all measurements; and

89 (iii) has placed monuments as represented on the plat.

90 (c) (i) As applicable, the owner or operator of the underground and utility facilities  
91 shall approve the:

92 (A) boundary, course, dimensions, and intended use of the right-of-way and easement  
93 grants of record;

94 (B) location of existing underground and utility facilities; and

95 (C) conditions or restrictions governing the location of the facilities within the  
96 right-of-way, and easement grants of records, and utility facilities within the subdivision.

97 (ii) The approval of an owner or operator under Subsection (4)(c)(i):

98 (A) indicates only that the plat approximates the location of the existing underground  
99 and utility facilities but does not warrant or verify their precise location; and

100 (B) does not affect a right that the owner or operator has under:

101 (I) Title 54, Chapter 8a, Damage to Underground Utility Facilities;

102 (II) a recorded easement or right-of-way;

103 (III) the law applicable to prescriptive rights; or

104 (IV) any other provision of law.

105 (5) (a) After the plat has been acknowledged, certified, and approved, the owner of the  
106 land shall, within the time period designated by ordinance, record the plat in the county  
107 recorder's office in the county in which the lands platted and laid out are situated.

108 (b) An owner's failure to record a plat within the time period designated by ordinance  
109 renders the plat voidable.

110 Section 2. Section **17-21-6** is amended to read:

111 **17-21-6. General duties of recorder -- Records and indexes.**

112 (1) Each recorder shall:

113 (a) keep an entry record, in which the recorder shall, upon acceptance and recording of  
114 any instrument, enter the instrument in the order of its recording, the names of the parties to the  
115 instrument, its date, the hour, the day of the month and the year of recording, and a brief  
116 description, and endorse upon each instrument a number corresponding with the number of the  
117 entry;

118 (b) keep a grantors' index, in which the recorder shall index deeds and final judgments

119 or decrees partitioning or affecting the title to or possession of real property, which shall show  
120 the entry number of the instrument, the name of each grantor in alphabetical order, the name of  
121 the grantee, the date of the instrument, the time of recording, the kind of instrument, the book  
122 and page, and a brief description;

123 (c) keep a grantees' index, in which the recorder shall index deeds and final judgments  
124 or decrees partitioning or affecting the title to or possession of real property, which shall show  
125 the entry number of the instrument, the name of each grantee in alphabetical order, the name of  
126 the grantor, the date of the instrument, the time of recording, the kind of instrument, the book  
127 and page, and a brief description;

128 (d) keep a mortgagors' index, in which the recorder shall enter all mortgages, deeds of  
129 trust, liens, and other instruments in the nature of an encumbrance upon real estate, which shall  
130 show the entry number of the instrument, the name of each mortgagor, debtor, or person  
131 charged with the encumbrance in alphabetical order, the name of the mortgagee, lien holder,  
132 creditor, or claimant, the date of the instrument, the time of recording, the instrument,  
133 consideration, the book and page, and a brief description;

134 (e) keep a mortgagees' index, in which the recorder shall enter all mortgages, deeds of  
135 trust, liens, and other instruments in the nature of an encumbrance upon real estate, which shall  
136 show the entry number of the instrument, the name of each mortgagee, lien holder, creditor, or  
137 claimant, in alphabetical order, the name of the mortgagor or person charged with the  
138 encumbrance, the date of the instrument, the time of recording, the kind of instrument, the  
139 consideration, the book and page, and a brief description;

140 (f) subject to Subsection (3), keep a tract index, which shall show by description every  
141 instrument recorded, the date and the kind of instrument, the time of recording, and the book  
142 and page and entry number;

143 (g) keep an index of recorded maps, plats, and subdivisions;

144 (h) keep an index of powers of attorney showing the date and time of recording, the  
145 book, the page, and the entry number;

146 (i) keep a miscellaneous index, in which the recorder shall enter all instruments of a  
147 miscellaneous character not otherwise provided for in this section, showing the date of  
148 recording, the book, the page, the entry number, the kind of instrument, from, to, and the  
149 parties;

150 (j) keep an index of judgments showing the judgment debtors, the judgment creditors,  
151 the amount of judgment, the date and time of recording, the satisfaction, and the book, the  
152 page, and the entry number; and

153 (k) keep a general recording index in which the recorder shall index all executions and  
154 writs of attachment, and any other instruments not required by law to be spread upon the  
155 records, and in separate columns the recorder shall enter the names of the plaintiffs in the  
156 execution and the names of the defendants in the execution.

157 (2) The recorder shall alphabetically arrange the indexes required by this section and  
158 keep a reverse index.

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

162 (b) A recorder shall abstract an instrument in the tract index unless:

163 (i) the instrument is required to contain a legal description under Section 17-21-20 or  
164 Section 57-3-105 and does not contain that legal description; or

165 (ii) the instrument contains errors, omissions, or defects to the extent that the tract or  
166 parcel to which the instrument relates cannot be determined.

167 (c) If a recorder abstracts an instrument in the tract index or another index required by  
168 this section, the recorder may:

169 (i) use a tax parcel number;

170 (ii) use a site address;

171 (iii) reference to other instruments of record recited on the instrument; or

172 (iv) reference another instrument that is recorded concurrently with the instrument.

173 (d) A recorder is not required to go beyond the face of an instrument to determine the  
174 tract or parcel to which an instrument may relate.

175 (e) A person may not bring an action against a recorder for injuries or damages  
176 suffered as a result of information contained in an instrument recorded in a tract index or other  
177 index that is required by this section despite errors, omissions, or defects in the instrument.

178 (f) The fact that a recorded instrument described in Subsection (3)(e) is included in the  
179 tract index does not cure a failure to give public notice caused by an error, omission, or defect.

180 (g) A document that is indexed in all or part of the indexes required by this section

181 shall give constructive notice.

182 (4) Nothing in this section prevents the recorder from using a single name index if that  
183 index includes all of the indexes required by this section.

184 Section 3. Section **17-21-10** is amended to read:

185 **17-21-10. Judgments affecting real estate.**

186 [~~The recorder~~] (1) A county recorder shall record for real property, any part of which is  
187 located in the county:

188 (a) a judgment affecting the real [estate] property;

189 (b) a release or assignment of a judgment lien affecting the real property; or

190 (c) a certified [copies of final judgments or decrees] copy of a final judgment or decree  
191 partitioning or affecting the title or possession of the real property [any part of which is located  
192 in the county].

193 (2) A document recorded in accordance with this section is subject to the requirements  
194 of Section 57-3-106.

195 Section 4. Section **17-21-20** is amended to read:

196 **17-21-20. Recording required -- Recorder may impose requirements on**  
197 **documents to be recorded -- Prerequisites -- Additional fee for noncomplying documents**  
198 **-- Recorder may require tax serial number -- Exceptions -- Requirements for recording**  
199 **final local entity plat.**

200 (1) Subject to Subsections (2), (3), and (4), each paper, notice, and instrument required  
201 by law to be recorded in the office of the county recorder shall be recorded unless otherwise  
202 provided.

203 (2) Each document executed on or after July 1, 2007, that is submitted for recording to  
204 a county recorder's office shall:

205 (a) unless otherwise provided by law, be an original or certified copy of the document;

206 (b) be in English or be accompanied by an accurate English translation of the  
207 document;

208 (c) contain a brief title, heading, or caption on the first page stating the nature of the  
209 document;

210 (d) except as otherwise provided by statute, contain the legal description of the  
211 property that is the subject of the document;

212 (e) comply with the requirements of Section 17-21-25 and Subsections 57-3-105(1)  
213 and (2);

214 (f) except as otherwise provided by statute, be notarized with the notary stamp with the  
215 seal legible; and

216 (g) have original signatures.

217 (3) (a) Beginning September 1, 2007, a county recorder may require that each paper,  
218 notice, and instrument submitted for recording in the county recorder's office:

219 (i) be on white paper that is 8-1/2 inches by 11 inches in size;

220 (ii) have a margin of one inch on the left and right sides and at the bottom of each  
221 page;

222 (iii) have a space of 2-1/2 inches down and 4-1/2 inches across the upper right corner  
223 of the first page and a margin of one inch at the top of each succeeding page;

224 (iv) not be on sheets of paper that are continuously bound together at the side, top, or  
225 bottom;

226 (v) not contain printed material on more than one side of each page;

227 (vi) be printed in black ink and not have text smaller than seven lines of text per  
228 vertical inch; and

229 (vii) be sufficiently legible to make certified copies.

230 (b) A county recorder who intends to establish requirements under Subsection (3)(a)  
231 shall first:

232 (i) provide formal notice of the requirements; and

233 (ii) establish and publish an effective date for the requirements that is at least three  
234 months after the formal notice under Subsection (3)(b)(i).

235 (c) If a county recorder establishes requirements under this Subsection (3), the county  
236 recorder may charge and collect from persons who submit a document for recording that does  
237 not comply with the requirements, in addition to any other fee that the county recorder is  
238 authorized to charge and collect, a fee that:

239 (i) is calculated to recover the additional cost of handling and recording noncomplying  
240 documents; and

241 (ii) may not exceed \$2 per page.

242 (4) (a) To facilitate the abstracting of an instrument, a county recorder may require that



243 the applicable tax serial number of each parcel described in the instrument be noted on the  
244 instrument before it may be accepted for recording.

245 (b) If a county recorder requires the applicable tax serial number to be on an instrument  
246 before it may be recorded:

247 (i) the county recorder shall post a notice of that requirement in a conspicuous place at  
248 the recorder's office;

249 (ii) the tax serial number may not be considered to be part of the legal description and  
250 may be indicated on the margin of the instrument; and

251 (iii) an error in the tax serial number does not affect the validity of the instrument or  
252 effectiveness of the recording.

253 (5) Subsections (2), (3), and (4) do not apply to:

254 (a) a map;

255 (b) a certificate or affidavit of death;

256 (c) a military discharge;

257 (d) a document regarding taxes that is issued by the Internal Revenue Service of the  
258 United States Department of the Treasury;

259 (e) a document submitted for recording that has been filed with a court and conforms to  
260 the formatting requirements established by the court; or

261 (f) a document submitted for recording that is in a form required by law.

262 (6) (a) As used in this Subsection (6):

263 (i) "Boundary action" has the same meaning as defined in Section 17-23-20.

264 (ii) "Local entity" has the same meaning as defined in Section 67-1a-6.5.

265 (b) A person may not submit to a county recorder for recording a plat depicting the  
266 boundary of a local entity as the boundary exists as a result of a boundary action, unless:

267 (i) the plat has been approved under Section 17-23-20 by the county surveyor as a final  
268 local entity plat, as defined in Section 17-23-20; and

269 (ii) the person also submits for recording:

270 (A) the original notice of an impending boundary action, as defined in Section  
271 67-1a-6.5, for the boundary action for which the plat is submitted for recording; ~~and~~

272 (B) the original applicable certificate, as defined in Section 67-1a-6.5, issued by the  
273 lieutenant governor under Section 67-1a-6.5 for the boundary action for which the plat is

274 submitted for recording; and

275 (C) each other document required by statute to be submitted for recording with the  
276 notice of an impending boundary action and applicable certificate.

277 (c) Promptly after recording the documents described in Subsection (6)(b) relating to a  
278 boundary action, but no later than 10 days after recording, the county recorder shall send a copy  
279 of all those documents to the State Tax Commission.

280 Section 5. Section 17-27a-603 is amended to read:

281 **17-27a-603. Plat required when land is subdivided -- Approval of plat --**

282 **Recording plat.**

283 (1) (a) Unless exempt under Section 17-27a-605 or excluded from the definition of  
284 subdivision under Section 17-27a-103, whenever any land is laid out and platted, the owner of  
285 the land shall provide an accurate plat that describes or specifies:

286 [~~(a)~~] (i) subject to Subsection (1)(b), a subdivision name that is distinct from any  
287 subdivision name on a plat recorded in the county recorder's office;

288 [~~(b)~~] (ii) the boundaries, course, and dimensions of all of the parcels of ground divided,  
289 by their boundaries, course, and extent, whether the owner proposes that any parcel of ground  
290 is intended to be used as a street or for any other public use, and whether any such area is  
291 reserved or proposed for dedication for a public purpose;

292 [~~(c)~~] (iii) the lot or unit reference, block or building reference, street or site address,  
293 street name or coordinate address, acreage or square footage for all parcels, units, or lots, and  
294 length and width of the blocks and lots intended for sale; and

295 [~~(d)~~] (iv) every existing right-of-way and easement grant of record for underground  
296 facilities, as defined in Section 54-8a-2, and for other utility facilities.

297 (b) A county recorder may require that the owner of land modify the subdivision name  
298 to comply with Subsection (1)(a)(i).

299 (2) (a) Subject to Subsections (3), (4), and (5), if the plat conforms to the county's  
300 ordinances and this part and has been approved by the culinary water authority and the sanitary  
301 sewer authority, the county shall approve the plat.

302 (b) Counties are encouraged to receive a recommendation from the fire authority before  
303 approving a plat.

304 (3) The county may withhold an otherwise valid plat approval until the owner of the

305 land provides the legislative body with a tax clearance indicating that all taxes, interest, and  
306 penalties owing on the land have been paid.

307 (4) (a) A plat may not be submitted to a county recorder for recording unless:

308 (i) prior to recordation, each owner of record of land described on the plat has signed  
309 the owner's dedication as shown on the plat; and

310 (ii) the signature of each owner described in Subsection (4)(a)(i) is acknowledged as  
311 provided by law.

312 (b) The surveyor making the plat shall certify that the surveyor:

313 (i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and  
314 Professional Land Surveyors Licensing Act;

315 (ii) has completed a survey of the property described on the plat in accordance with  
316 Section 17-23-17 and has verified all measurements; and

317 (iii) has placed monuments as represented on the plat.

318 (c) (i) As applicable, the owner or operator of the underground and utility facilities  
319 shall approve the:

320 (A) boundary, course, dimensions, and intended use of the right-of-way and easement  
321 grants of record;

322 (B) location of existing underground and utility facilities; and

323 (C) conditions or restrictions governing the location of the facilities within the  
324 right-of-way, and easement grants of records, and utility facilities within the subdivision.

325 (ii) The approval of an owner or operator under Subsection (4)(c)(i):

326 (A) indicates only that the plat approximates the location of the existing underground  
327 and utility facilities but does not warrant or verify their precise location; and

328 (B) does not affect a right that the owner or operator has under:

329 (I) Title 54, Chapter 8a, Damage to Underground Utility Facilities;

330 (II) a recorded easement or right-of-way;

331 (III) the law applicable to prescriptive rights; or

332 (IV) any other provision of law.

333 (5) (a) After the plat has been acknowledged, certified, and approved, the owner of the  
334 land shall, within the time period designated by ordinance, record the plat in the county  
335 recorder's office in the county in which the lands platted and laid out are situated.

336 (b) An owner's failure to record a plat within the time period designated by ordinance  
337 renders the plat voidable.

338 Section 6. Section **38-5-1** is amended to read:

339 **38-5-1. Filing with clerk of district court -- Recording with county recorder --**  
340 **Effect.**

341 (1) [~~Transcripts of judgments or decrees~~] (a) A person may file in the office of the  
342 clerk of a state district court a transcript of a judgment or decree rendered in the district court  
343 of the United States within the state [~~may be filed in the office of the clerk of the state district~~  
344 ~~court of any county in this state, and when so filed, such judgments or decrees shall have~~].

345 (b) A decree or judgment filed in accordance with Subsection (1)(a) has the same force  
346 and effect as a judgment rendered in a state district court [~~of this state in and for such county~~].

347 (2) Except as provided in Subsection (3), if a person records a judgment or an abstract  
348 of judgment or decree under Subsection (1) [~~is recorded~~] in the office of the county recorder,  
349 that judgment or decree becomes a lien [~~on the real property of the judgment debtor in that~~  
350 ~~county owned or acquired during the time the judgment is effective~~] in accordance with Section  
351 78B-5-202.

352 (3) [~~State agencies are~~] A state agency is exempt from the recording requirement of  
353 Subsection (2).

354 (4) (a) To release or assign a lien created by a judgment recorded in the office of a  
355 county recorder, a person shall, in the office of the county recorder of each county in which an  
356 instrument creating the lien is recorded, record a document releasing or assigning the lien.

357 (b) The document described in Subsection (4)(a) shall include:

358 (i) the date of the release or assignment;

359 (ii) the name of any judgment creditor, debtor, assignor, or assignee; and

360 (iii) for the county in which the document is recorded in accordance with Subsection  
361 (4)(a):

362 (A) the date on which the instrument creating the lien was recorded in that county's  
363 office of the county recorder; and

364 (B) in accordance with Section 57-3-106, that county recorder's entry number and book  
365 and page of the recorded instrument creating the judgment lien.

366 Section 7. Section **57-1-5** is amended to read:

367           **57-1-5. Creation of joint tenancy presumed -- Tenancy in common -- Severance of**  
368 **joint tenancy -- Tenants by the entirety -- Tenants holding as community property.**

369           (1) (a) (i) Beginning on May 5, 1997, every ownership interest in real estate granted to  
370 two persons in their own right who are designated as husband and wife in the granting  
371 documents is presumed to be a joint tenancy interest with rights of survivorship, unless  
372 severed, converted, or expressly declared in the grant to be otherwise.

373           (ii) Except as provided in Subsection (1)(a)(iii), joint tenancy may be established  
374 between two or more people.

375           (iii) Joint tenancy may not be established between a person and an entity or  
376 organization, including:

377           (A) a corporation;

378           (B) a trustee of a trust; or

379           (C) a partnership.

380           (iv) Joint tenancy may not be established between an entity or organization and another  
381 entity or organization.

382           (b) Every ownership interest in real estate that does not qualify for the joint tenancy  
383 presumption as provided in Subsection (1)(a) is presumed to be a tenancy in common interest  
384 unless expressly declared in the grant to be otherwise.

385           (2) (a) Use of words "joint tenancy" or "with rights of survivorship" or "and to the  
386 survivor of them" or words of similar import means a joint tenancy.

387           (b) Use of words "tenancy in common" or "with no rights of survivorship" or  
388 "undivided interest" or "and/or" in the context of an ownership interest or words of similar  
389 import declare a tenancy in common.

390           (3) A [~~sole owner of~~] person who owns real property creates a joint tenancy in himself  
391 or herself and another or others:

392           (a) by making a transfer to himself or herself and another or others as joint tenants by  
393 use of the words as provided in Subsection (2)(a); or

394           (b) by conveying to another person or persons an interest in land in which an interest is  
395 retained by the grantor and by declaring the creation of a joint tenancy by use of the words as  
396 provided in Subsection (2)(a).

397           (4) In all cases, the interest of joint tenants shall be equal and undivided.

398 (5) (a) Except as provided in Subsection (5)(b), if a joint tenant makes a bona fide  
399 conveyance of the joint tenant's interest in property held in joint tenancy to himself or herself or  
400 another, the joint tenancy is severed and converted into a tenancy in common.

401 (b) If there is more than one joint tenant remaining after a joint tenant severs a joint  
402 tenancy under Subsection (5)(a), the remaining joint tenants continue to hold their interest in  
403 joint tenancy.

404 (6) The amendments to this section in Laws of Utah 1997, Chapter 124, have no  
405 retrospective operation and shall govern instruments executed and recorded on or after May 5,  
406 1997.

407 (7) Tenants by the entirety are considered to be joint tenants.

408 (8) Tenants holding title as community property are considered to be joint tenants.

409 Section 8. Section **57-1-13** is amended to read:

410 **57-1-13. Form of quitclaim deed -- Effect.**

411 [~~Conveyances~~] (1) A conveyance of land may also be substantially in the following  
412 form:

413 "QUITCLAIM DEED

414 \_\_\_\_\_ (here insert name), grantor, of \_\_\_\_\_ (insert place of residence), hereby quitclaims  
415 to \_\_\_\_\_ (insert name), grantee, of \_\_\_\_\_ (here insert place of residence), for the sum of \_\_\_\_\_  
416 dollars, the following described tract \_\_\_\_\_ of land in \_\_\_\_\_ County, Utah, to wit: (here describe  
417 the premises).

418 Witness the hand of said grantor this \_\_\_\_\_(month\day\year).

419 A quitclaim deed when executed as required by law shall have the effect of a  
420 conveyance of all right, title, interest, and estate of the grantor in and to the premises therein  
421 described and all rights, privileges, and appurtenances thereunto belonging, at the date of the  
422 conveyance."

423 (2) For a boundary line agreement operating as a quitclaim deed as described in  
424 Section 57-1-45, the boundary line agreement shall include, in addition to a legal description of  
425 the agreed upon boundary line:

- 426 (a) the signature of each grantor;
- 427 (b) a sufficient acknowledgment for each grantor's signature; and
- 428 (c) the address of each grantee for assessment purposes.

429 Section 9. Section **57-1-45** is amended to read:

430 **57-1-45. Boundary line agreements.**

431 (1) If properly executed and acknowledged as required under this chapter, an  
432 agreement between property owners designating the boundary line between their properties,  
433 when recorded in the office of the recorder of the county in which the property is located, shall  
434 act as a quitclaim deed and convey all of each party's right, title, interest, and estate in property  
435 outside the agreed boundary line that had been the subject of the boundary dispute that led to  
436 the boundary line agreement.

437 (2) ~~[Each]~~ A boundary line agreement ~~[under]~~ described in Subsection (1) shall  
438 ~~[contain]~~ include:

439 (a) a legal description of the ~~[land conveyed]~~ agreed upon boundary line;

440 (b) the signature of each grantor;

441 (c) a sufficient acknowledgment for each grantor's signature; and

442 (d) the address of each grantee for assessment purposes.

443 Section 10. Section **57-3-105** is amended to read:

444 **57-3-105. Legal description of real property and names and addresses required in**  
445 **documents.**

446 (1) Except as otherwise provided by statute, a person may not present a document for  
447 recording unless the document complies with this section.

448 (2) A document executed after July 1, 1983, is entitled to be recorded in the office of  
449 the recorder of the county in which the property described in the document is located only if the  
450 document contains a legal description of the real property.

451 (3) (a) A document conveying title to real property presented for recording after July 1,  
452 1981, is entitled to be recorded in the office of the recorder of the county in which the property  
453 described in the document is located only if the document ~~[contains the names and mailing~~  
454 ~~addresses of the]~~ names the grantees and recites a mailing address to be used for assessment  
455 and taxation in addition to the legal description required under Subsection (2).

456 (b) The address of the management committee may be used as the mailing address of a  
457 grantee as required in Subsection (3)(a) if the interest conveyed is a timeshare interest as  
458 defined by Section 57-19-2.

459 (4) A person may not present and a county recorder may refuse to accept a document

460 for recording if the document does not conform to this section.

461 (5) Notwithstanding Subsections (2), (3), and (4), a master form, as defined in Section  
462 57-3-201, that does not meet the requirements of Subsections (2) and (3) is entitled to be  
463 recorded in the office of the recorder of the county in which the property described in the  
464 master form is located if it complies with Part 2, Master Mortgage and Trust Deeds.

465 Section 11. Section **57-3-106** is amended to read:

466 **57-3-106. Original documents required -- Captions -- Legibility.**

467 (1) A person may not present and a county recorder may refuse to accept a document  
468 for recording if the document does not comply with this section.

469 (2) (a) Unless otherwise provided, a document presented for recording in the office of  
470 the county recorder shall:

471 (i) be an original;

472 (ii) contain a brief caption on the first page of the document stating the nature of the  
473 document; and

474 (iii) contain a legal description of the property as required under Section 57-3-105.

475 (b) If a document is a master form, as defined in Section 57-3-201, the caption required  
476 by Subsection (2)(a)(ii) shall state that the document is a master form.

477 (3) A court judgment or an abstract of a court judgment presented for recording in the  
478 office of the county recorder in compliance with Section 78B-5-202 shall:

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

480 (b) include the information identifying the judgment debtor as referred to in Subsection  
481 78B-5-201(4) either:

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

483 (ii) as a separate information statement of the judgment creditor as referred to in  
484 Subsection 78B-5-201(5).

485 (4) A judgment, abstract of judgment, ~~and~~ or separate information statement of the  
486 judgment creditor does not require an acknowledgment ~~or~~, a legal description, or notarization  
487 to be recorded.

488 (5) A foreign judgment or an abstract of a foreign judgment recorded in the office of a  
489 county recorder shall include the affidavit as required in Section 78B-5-303.

490 (6) Any document recorded in the office of the county recorder to release or assign a



491 judgment lien shall include:

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

493 [~~(b) the date of recording; and~~]

494 [~~(c) the entry number of the instrument creating the judgment lien.~~]

495 (b) the date on which the instrument creating the lien was recorded in the office of the  
496 county recorder;

497 (c) the entry number and book and page of the recorded instrument creating the  
498 judgment lien; and

499 (d) the date on which the document is recorded.

500 (7) A document presented for recording shall be sufficiently legible for the recorder to  
501 make certified copies of the document.

502 (8) (a) (i) A document that is of record in the office of the appropriate county recorder  
503 in compliance with this chapter may not be recorded again in that same county recorder's office  
504 unless the original document has been reexecuted by all parties who executed the document.

505 (ii) Unless exempt by statute, an original document that is reexecuted shall contain the  
506 appropriate acknowledgment, proof of execution, jurat, or other notarial certification for all  
507 parties who are reexecuting the document as required by Title 46, Chapter 1, Notaries Public  
508 Reform Act, and Title 57, Chapter 2, Acknowledgments.

509 (iii) A document submitted for rerecording shall contain a brief statement explaining  
510 the reason for rerecording.

511 (b) A person may not present and a county recorder may refuse to accept a document  
512 for rerecording if that document does not conform to this section.

513 (c) This Subsection (8) applies only to documents executed after July 1, 1998.

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

516 (10) (a) Except as required by federal law, or by agreement between a borrower under  
517 the trust deed and a grantee under the trustee's deed, and subject to Subsection (10)(b), neither  
518 the recordation of an affidavit under Subsection (9) nor the reexecution and rerecording of a  
519 document under Subsection (8):

520 (i) divests a grantee of any real property interest;

521 (ii) alters an interest in real property; or

522 (iii) returns to the grantor an interest in real property conveyed by statute.

523 (b) A person who reexecutes and rerecords a document under Subsection (8), or  
524 records an affidavit under Subsection (9), shall include with the document or affidavit a notice  
525 containing the name and address to which real property valuation and tax notices shall be  
526 mailed.

527 Section 12. Section **78B-5-201** is amended to read:

528 **78B-5-201. Definitions -- Judgment recorded in Registry of Judgments.**

529 (1) For purposes of this part, "Registry of Judgments" means the index where a  
530 judgment is filed and searchable by the name of the judgment debtor through electronic means  
531 or by tangible document.

532 (2) On or after July 1, 1997, a judgment entered in a district court does not create a lien  
533 upon or affect the title to real property unless the judgment is filed in the Registry of Judgments  
534 of the office of the clerk of the district court of the county in which the property is located.

535 (3) (a) On or after July 1, 2002, except as provided in Subsection (3)(b), a judgment  
536 entered in a district court does not create a lien upon or affect the title to real property unless  
537 the judgment or an abstract of judgment is recorded in the office of the county recorder in  
538 which the real property of the judgment debtor is located.

539 (b) State agencies are exempt from the recording requirement of Subsection (3)(a).

540 (4) In addition to the requirements of Subsections (2) and (3)(a), any judgment that is  
541 filed in the Registry of Judgments on or after September 1, 1998, or any judgment or abstract  
542 of judgment that is recorded in the office of a county recorder after July 1, 2002, shall include:

543 (a) the information identifying the judgment debtor on the judgment or abstract of  
544 judgment; or

545 (b) a copy of the separate information statement of the judgment creditor that contains:

546 (i) the correct name and last-known address of each judgment debtor and the address at  
547 which each judgment debtor received service of process;

548 (ii) the name and address of the judgment creditor;

549 (iii) the amount of the judgment as filed in the Registry of Judgments;

550 (iv) if known, the judgment debtor's Social Security number, date of birth, and driver's  
551 license number if a natural person; and

552 (v) whether or not a stay of enforcement has been ordered by the court and the date the

553 stay expires.

554 (5) For the information required in Subsection (4), the judgment creditor shall:

555 (a) provide the information on the separate information statement if known or available  
556 to the judgment creditor from its records, its attorney's records, or the court records in the  
557 action in which the judgement was entered; or

558 (b) state on the separate information statement that the information is unknown or  
559 unavailable.

560 (6) (a) Any judgment that requires payment of money and is entered in a district court  
561 on or after September 1, 1998, or any judgment or abstract of judgment recorded in the office  
562 of a county recorder after July 1, 2002, that does not include the debtor identifying information  
563 as required in Subsection (4) is not a lien until a separate information statement of the  
564 judgment creditor is recorded in the office of a county recorder in compliance with Subsections  
565 (4) and (5).

566 (b) The separate information statement of the judgment creditor referred to in  
567 Subsection (6)(a) shall include:

568 (i) the name of any judgment creditor, debtor, assignor, or assignee;

569 [~~ii) the date of recording; and~~]

570 [~~iii) the entry number of the original judgment or abstract of judgment.~~]

571 (ii) the date on which the judgment was recorded in the office of the county recorder as  
572 described in Subsection (4); and

573 (iii) the county recorder's entry number and book and page of the recorded judgment.

574 (7) A judgment that requires payment of money recorded on or after September 1,  
575 1998, but prior to July 1, 2002, has as its priority the date of entry, except as to parties with  
576 actual or constructive knowledge of the judgment.

577 (8) A judgment or notice of judgment wrongfully filed against real property is subject  
578 to Title 38, Chapter 9, Wrongful Liens and Wrongful Judgment Liens.

579 (9) (a) To release or assign a lien created by a judgment recorded in the office of a  
580 county recorder, a person shall, in the office of the county recorder of each county in which an  
581 instrument creating the lien is recorded, record a document releasing or assigning the lien.

582 (b) The document described in Subsection (9)(a) shall include:

583 (i) the date of the release or assignment;

584 (ii) the name of any judgment creditor, debtor, assignor, or assignee; and  
585 (iii) for the county in which the document is recorded in accordance with Subsection

586 (9)(a):

587 (A) the date on which the instrument creating the lien was recorded in that county's  
588 office of the county recorder; and

589 (B) in accordance with Section 57-3-106, that county recorder's entry number and book  
590 and page of the recorded instrument creating the judgment lien.

591 Section 13. Section **78B-5-202** is amended to read:

592 **78B-5-202. Duration of judgment -- Judgment as a lien upon real property --**  
593 **Abstract of judgment -- Small claims judgment not a lien -- Appeal of judgment -- Child**  
594 **support orders.**

595 (1) Judgments shall continue for eight years from the date of entry in a court unless  
596 previously satisfied or unless enforcement of the judgment is stayed in accordance with law.

597 (2) Prior to July 1, 1997, except as limited by Subsections (4) and (5), the entry of  
598 judgment by a district court creates a lien upon the real property of the judgment debtor, not  
599 exempt from execution, owned or acquired during the existence of the judgment, located in the  
600 county in which the judgment is entered.

601 (3) An abstract of judgment issued by the court in which the judgment is entered may  
602 be filed in any court of this state and shall have the same force and effect as a judgment entered  
603 in that court.

604 (4) Prior to July 1, 1997, and after May 15, 1998, a judgment entered in the small  
605 claims division of any court may not qualify as a lien upon real property unless abstracted to  
606 the civil division of the district court and recorded in accordance with Subsection (3).

607 (5) (a) If any judgment is appealed, upon deposit with the court where the notice of  
608 appeal is filed of cash or other security in a form and amount considered sufficient by the court  
609 that rendered the judgment to secure the full amount of the judgment, together with ongoing  
610 interest and any other anticipated damages or costs, including attorney fees and costs on appeal,  
611 the lien created by the judgment shall be terminated as provided in Subsection (5)(b).

612 (b) Upon the deposit of sufficient security as provided in Subsection (5)(a), the court  
613 shall enter an order terminating the lien created by the judgment and granting the judgment  
614 creditor a perfected lien in the deposited security as of the date of the original judgment.

615 (6) (a) A child support order or a sum certain judgment for past due support may be  
616 enforced:

- 617 (i) within four years after the date the youngest child reaches majority; or
- 618 (ii) eight years from the date of entry of the sum certain judgment entered by a tribunal.

619 (b) The longer period of duration shall apply in every order.

620 (c) A sum certain judgment may be renewed to extend the duration.

621 (7) (a) After July 1, 2002, a judgment entered by a district court or a justice court in the  
622 state becomes a lien upon real property if:

623 (i) the judgment or an abstract of the judgment containing the information identifying  
624 the judgment debtor as described in Subsection 78B-5-201(4) is recorded in the office of the  
625 county recorder; or

626 (ii) the judgment or an abstract of the judgment and a separate information statement of  
627 the judgment creditor as described in Subsection 78B-5-201(5) is recorded in the office of the  
628 county recorder.

629 (b) The judgment shall run from the date of entry by the district court or justice court.

630 (c) The real property subject to the lien includes all the real property of the judgment  
631 debtor:

632 (i) in the county in which the recording under Subsection (7)(a)(i) or (ii) occurs; and

633 (ii) owned or acquired at any time by the judgment debtor during the time the judgment  
634 is effective.

635 (d) State agencies are exempt from the recording requirement of Subsection (7)(a).

636 (8) (a) A judgment referred to in Subsection (7) shall be entered under the name of the  
637 judgment debtor in the judgment index in the office of the county recorder as required in  
638 Section 17-21-6.

639 (b) A judgment containing a legal description shall also be abstracted in the appropriate  
640 tract index in the office of the county recorder.

641 (9) (a) To release or assign a lien created by a judgment recorded in the office of a  
642 county recorder, a person shall, in the office of the county recorder of each county in which an  
643 instrument creating the lien is recorded, record a document releasing or assigning the lien.

644 (b) The document described in Subsection (9)(a) shall include:

645 (i) the date of the release or assignment;

646 (ii) the name of any judgment creditor, debtor, assignor, or assignee; and  
647 (iii) for the county in which the document is recorded in accordance with Subsection

648 (9)(a):

649 (A) the date on which the instrument creating the lien was recorded in that county's  
650 office of the county recorder; and

651 (B) in accordance with Section 57-3-106, that county recorder's entry number and book  
652 and page of the recorded instrument creating the judgment lien.

653 Section 14. Section **78B-5-408** is amended to read:

654 **78B-5-408. Judgments and awards on foreign-money claims -- Time of money**  
655 **conversion -- Form of judgment.**

656 (1) Except as provided in Subsection (3), a judgment or arbitration award on a  
657 foreign-money claim must be stated in an amount of the money of the claim.

658 (2) The judgment or award is payable in that foreign money or at the option of the  
659 debtor in the amount of United States dollars which will purchase that foreign money on the  
660 conversion date at a bank-offered spot rate.

661 (3) Assessed costs must be entered in United States dollars.

662 (4) Each payment in United States dollars must be accepted and credited on the  
663 judgment or award in the amount of the foreign money that could be purchased by the dollars at  
664 a bank-offered spot rate of exchange at or near the close of business on the conversion date for  
665 that payment.

666 (5) Judgments or awards made in an action on both:

667 (a) a defense, set-off, recoupment, or counterclaim; and

668 (b) the adverse party's claim, must be netted by converting the money of the smaller  
669 into the money of the larger, and by subtracting the smaller from the larger, and must specify  
670 the rates of exchange used.

671 (6) A judgment substantially in the following form complies with Subsection (1):

672 IT IS ADJUDGED AND ORDERED that Defendant (insert name) pay to Plaintiff  
673 (insert name) the sum of (insert amount in the foreign money) plus interest on that sum at the  
674 rate of (insert rate - see Section 78B-5-410) percent a year or, at the option of the judgment  
675 debtor, the number of United States dollars as will purchase the (insert name of foreign money)  
676 with interest due, at a bank-offered spot rate at or near the close of business on the banking day

677 next before the day of payment, together with assessed costs of (insert amount) United States  
678 dollars.

679 (7) If a contract claim is of the type covered by Subsection 78B-5-406(1) or (2), the  
680 judgment or award shall be entered for the amount of the money stated to measure the  
681 obligation to be paid in the money specified for payment or, at the option of the debtor, the  
682 number of United States dollars as will purchase the computed amount of the money of  
683 payment on the conversion date at a bank-offered spot rate.

684 (8) A judgment shall be filed in the judgment docket and indexed in foreign money in  
685 the same manner, and shall have the same effect as a lien as other judgments. It may be  
686 discharged by payment.

687 (9) A person shall record a judgment lien or assignment or release of a judgment lien in  
688 the county recorder's office in accordance with Sections 17-21-10, 38-9-1, 78B-5-201, and  
689 78B-5-202.

# FISCAL NOTE

H.B. 46 1st Sub. (Buff)

SHORT TITLE: **County Recorder Amendments**

SPONSOR: **Webb, R. C.**

2011 GENERAL SESSION, STATE OF UTAH

## STATE GOVERNMENT (UCA 36-12-13(2)(b))

Enactment of this bill likely will not materially impact the state budget.

## LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for local governments.

## DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

Enactment of this bill likely will not result in direct, measurable expenditures by Utah residents or businesses.