

**Senator J. Stuart Adams** proposes the following substitute bill:

**COUNTY RECORDER AMENDMENTS**

2011 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: R. Curt Webb**

Senate Sponsor: J. Stuart Adams

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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:

- ▶ 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, assignment, renewal, or extension 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;
- ▶ modifies provisions related to notarization of a judgment, abstract of judgment, or information statement; and



26           ▶ makes technical corrections.

27 **Money Appropriated in this Bill:**

28           None

29 **Other Special Clauses:**

30           None

31 **Utah Code Sections Affected:**

32 AMENDS:

33           **17-21-6**, as last amended by Laws of Utah 2010, Chapter 381

34           **17-21-10**, as last amended by Laws of Utah 1999, Chapter 85

35           **17-21-20**, as last amended by Laws of Utah 2010, Chapter 381

36           **38-5-1**, as last amended by Laws of Utah 2001, Chapter 370

37           **57-1-5**, as last amended by Laws of Utah 2010, Chapter 381

38           **57-1-13**, as last amended by Laws of Utah 2000, Chapter 75

39           **57-1-45**, as enacted by Laws of Utah 2001, Chapter 241

40           **57-3-105**, as last amended by Laws of Utah 2008, Chapter 97

41           **57-3-106**, as last amended by Laws of Utah 2010, Chapter 381

42           **78B-5-201**, as renumbered and amended by Laws of Utah 2008, Chapter 3

43           **78B-5-202**, as renumbered and amended by Laws of Utah 2008, Chapter 3

44           **78B-5-408**, as renumbered and amended by Laws of Utah 2008, Chapter 3



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

47           Section 1. Section **17-21-6** is amended to read:

48           **17-21-6. General duties of recorder -- Records and indexes.**

49           (1) Each recorder shall:

50           (a) keep an entry record, in which the recorder shall, upon acceptance and recording of  
51 any instrument, enter the instrument in the order of its recording, the names of the parties to the  
52 instrument, its date, the hour, the day of the month and the year of recording, and a brief  
53 description, and endorse upon each instrument a number corresponding with the number of the  
54 entry;

55           (b) keep a grantors' index, in which the recorder shall index deeds and final judgments  
56 or decrees partitioning or affecting the title to or possession of real property, which shall show

57 the entry number of the instrument, the name of each grantor in alphabetical order, the name of  
58 the grantee, the date of the instrument, the time of recording, the kind of instrument, the book  
59 and page, and a brief description;

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

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

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

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

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

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

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

87 (j) keep an index of judgments showing the judgment debtors, the judgment creditors,

88 the amount of judgment, the date and time of recording, the satisfaction, and the book, the  
89 page, and the entry number; and

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

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

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

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

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

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

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

106 (i) use a tax parcel number;

107 (ii) use a site address;

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

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

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

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

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

117 (g) A document that is indexed in all or part of the indexes required by this section  
118 shall give constructive notice.

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

121 Section 2. Section **17-21-10** is amended to read:

122 **17-21-10. Judgments affecting real estate.**

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

125 (a) a judgment affecting the real [estate] property:

126 (b) a release, assignment, renewal, or extension of a judgment lien affecting the real  
127 property; or

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

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

133 Section 3. Section **17-21-20** is amended to read:

134 **17-21-20. Recording required -- Recorder may impose requirements on**  
135 **documents to be recorded -- Prerequisites -- Additional fee for noncomplying documents**  
136 **-- Recorder may require tax serial number -- Exceptions -- Requirements for recording**  
137 **final local entity plat.**

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

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

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

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

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

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

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

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

154 (g) have original signatures.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

192 (a) a map;

193 (b) a certificate or affidavit of death;

194 (c) a military discharge;

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

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

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

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

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

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

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

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

207 (ii) the person also submits for recording:

208 (A) the original notice of an impending boundary action, as defined in Section  
209 67-1a-6.5, for the boundary action for which the plat is submitted for recording; ~~and~~

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

212 submitted for recording; and

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

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

218 Section 4. Section 38-5-1 is amended to read:

219 **38-5-1. Filing with clerk of district court -- Recording with county recorder --**  
220 **Effect.**

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

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

227 (2) Except as provided in Subsection (3), if a person records a judgment or an abstract  
228 of judgment or decree under Subsection (1) ~~[is recorded]~~ in the office of the county recorder,  
229 that judgment or decree becomes a lien ~~[on the real property of the judgment debtor in that~~  
230 ~~county owned or acquired during the time the judgment is effective]~~ in accordance with Section  
231 78B-5-202.

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

234 (4) (a) To release, assign, renew, or extend a lien created by a judgment recorded in the  
235 office of a county recorder, a person shall, in the office of the county recorder of each county in  
236 which an instrument creating the lien is recorded, record a document releasing, assigning,  
237 renewing, or extending the lien.

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

239 (i) the date of the release, assignment, renewal, or extension;

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

241 (iii) for the county in which the document is recorded in accordance with Subsection

242 (4)(a):



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

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

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

248 **57-1-5. Creation of joint tenancy presumed -- Tenancy in common -- Severance of**  
249 **joint tenancy -- Tenants by the entirety -- Tenants holding as community property.**

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

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

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

258 (A) a corporation;

259 (B) a trustee of a trust; or

260 (C) a partnership.

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

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

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

268 (b) (i) Use of words "tenancy in common" or "with no rights of survivorship" or  
269 "undivided interest" or words of similar import declare a tenancy in common.

270 (ii) Use of words "and/or" in the context of an ownership interest declare a tenancy in  
271 common unless accompanied by joint tenancy language described in Subsection (2)(a), which  
272 creates a joint tenancy.

273 (3) A ~~[sole owner of]~~ person who owns real property creates a joint tenancy in himself

274 or herself and another or others:

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

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

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

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

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

287 (6) The amendments to this section in Laws of Utah 1997, Chapter 124, have no  
288 retrospective operation and shall govern instruments executed and recorded on or after May 5,  
289 1997.

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

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

292 Section 6. Section **57-1-13** is amended to read:

293 **57-1-13. Form of quitclaim deed -- Effect.**

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

296 "QUITCLAIM DEED

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

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

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

305 conveyance."

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

309 (a) the signature of each grantor;

310 (b) a sufficient acknowledgment for each grantor's signature; and

311 (c) the address of each grantee for assessment purposes.

312 Section 7. Section **57-1-45** is amended to read:

313 **57-1-45. Boundary line agreements.**

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

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

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

323 (b) the signature of each grantor;

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

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

326 Section 8. Section **57-3-105** is amended to read:

327 **57-3-105. Legal description of real property and names and addresses required in**  
328 **documents.**

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

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

334 (3) (a) A document conveying title to real property presented for recording after July 1,  
335 1981, is entitled to be recorded in the office of the recorder of the county in which the property

336 described in the document is located only if the document [~~contains the names and mailing~~  
337 ~~addresses of the~~] names the grantees and recites a mailing address to be used for assessment  
338 and taxation in addition to the legal description required under Subsection (2).

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

342 (4) A person may not present and a county recorder may refuse to accept a document  
343 for recording if the document does not conform to this section.

344 (5) Notwithstanding Subsections (2), (3), and (4), a master form, as defined in Section  
345 57-3-201, that does not meet the requirements of Subsections (2) and (3) is entitled to be  
346 recorded in the office of the recorder of the county in which the property described in the  
347 master form is located if it complies with Part 2, Master Mortgage and Trust Deeds.

348 Section 9. Section **57-3-106** is amended to read:

349 **57-3-106. Original documents required -- Captions -- Legibility.**

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

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

354 (i) be an original;

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

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

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

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

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

363 (b) include the information identifying the judgment debtor as referred to in Subsection  
364 78B-5-201(4) either:

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

366 (ii) as a separate information statement of the judgment creditor as referred to in

367 Subsection 78B-5-201(5).

368 (4) A judgment, abstract of judgment, [~~and~~] or separate information statement of the  
369 judgment creditor does not require an acknowledgment [~~or~~], a legal description, or notarization  
370 to be recorded.

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

373 (6) Any document recorded in the office of the county recorder to release [~~or~~], assign,  
374 renew, or extend a judgment lien shall include:

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

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

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

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

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

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

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

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

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

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

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

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

397 (9) Minor typographical or clerical errors in a document of record may be corrected by

398 the recording of an affidavit or other appropriate instrument.

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

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

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

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

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

410 Section 10. Section **78B-5-201** is amended to read:

411 **78B-5-201. Definitions -- Judgment recorded in Registry of Judgments.**

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

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

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

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

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

426 (a) the information identifying the judgment debtor on the judgment or abstract of  
427 judgment; or

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

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

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

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

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

435 (v) whether or not a stay of enforcement has been ordered by the court and the date the  
436 stay expires.

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

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

441 (b) state on the separate information statement that the information is unknown or  
442 unavailable.

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

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

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

452 [~~(ii) the date of recording; and~~]

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

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

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

457 (7) A judgment that requires payment of money recorded on or after September 1,  
458 1998, but prior to July 1, 2002, has as its priority the date of entry, except as to parties with  
459 actual or constructive knowledge of the judgment.

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

462 (9) (a) To release, assign, renew, or extend a lien created by a judgment recorded in the  
463 office of a county recorder, a person shall, in the office of the county recorder of each county in  
464 which an instrument creating the lien is recorded, record a document releasing, assigning,  
465 renewing, or extending the lien.

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

467 (i) the date of the release, assignment, renewal, or extension;

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

469 (iii) for the county in which the document is recorded in accordance with Subsection

470 (9)(a):

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

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

475 Section 11. Section **78B-5-202** is amended to read:

476 **78B-5-202. Duration of judgment -- Judgment as a lien upon real property --**

477 **Abstract of judgment -- Small claims judgment not a lien -- Appeal of judgment -- Child**  
478 **support orders.**

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

- 516 (i) in the county in which the recording under Subsection (7)(a)(i) or (ii) occurs; and
- 517 (ii) owned or acquired at any time by the judgment debtor during the time the judgment  
518 is effective.

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

520 (8) (a) A judgment referred to in Subsection (7) shall be entered under the name of the  
521 judgment debtor in the judgment index in the office of the county recorder as required in

522 Section 17-21-6.

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

525 (9) (a) To release, assign, renew, or extend a lien created by a judgment recorded in the  
526 office of a county recorder, a person shall, in the office of the county recorder of each county in  
527 which an instrument creating the lien is recorded, record a document releasing, assigning,  
528 renewing, or extending the lien.

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

530 (i) the date of the release, assignment, renewal, or extension;

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

532 (iii) for the county in which the document is recorded in accordance with Subsection

533 (9)(a):

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

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

538 Section 12. Section **78B-5-408** is amended to read:

539 **78B-5-408. Judgments and awards on foreign-money claims -- Time of money**  
540 **conversion -- Form of judgment.**

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

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

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

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

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

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

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

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

557 IT IS ADJUDGED AND ORDERED that Defendant (insert name) pay to Plaintiff  
558 (insert name) the sum of (insert amount in the foreign money) plus interest on that sum at the  
559 rate of (insert rate - see Section 78B-5-410) percent a year or, at the option of the judgment  
560 debtor, the number of United States dollars as will purchase the (insert name of foreign money)  
561 with interest due, at a bank-offered spot rate at or near the close of business on the banking day  
562 next before the day of payment, together with assessed costs of (insert amount) United States  
563 dollars.

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

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

572 (9) A person shall record a judgment lien, or assignment, release, renewal, or extension  
573 of a judgment lien, in the county recorder's office in accordance with Sections 17-21-10,  
574 38-9-1, 78B-5-201, and 78B-5-202.

# FISCAL NOTE

H.B. 46 3rd Sub. (Cherry)

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 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.

2/18/2011, 11:27 AM, Lead Analyst: Wilko, A./Attorney: VA

Office of the Legislative Fiscal Analyst