

**RECORDING OF TRANSACTIONS AFFECTING REAL
PROPERTY BY COUNTY RECORDER**

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Susan Duckworth

Senate Sponsor: _____

LONG TITLE

General Description:

This bill requires that a person record a document, instrument, or transaction with the county recorder.

Highlighted Provisions:

This bill:

- ▶ requires that a person record a document, instrument, or transaction with the county recorder;
- ▶ requires that a person record certain information with a document, instrument, or transaction; and
- ▶ makes technical corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

57-3-103, as renumbered and amended by Laws of Utah 1998, Chapter 61



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

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

30 **17-21-6. General duties of recorder -- Records and indexes.**

31 (1) Each recorder shall:

32 (a) keep an entry record, in which the recorder shall, upon acceptance and recording of
33 any instrument, enter the instrument in the order of its recording, the names of the parties to the
34 instrument, its date, the hour, the day of the month and the year of recording, and a brief
35 description, and endorse upon each instrument a number corresponding with the number of the
36 entry;

37 (b) keep a grantors' index, in which the recorder shall index deeds and final judgments
38 or decrees partitioning or affecting the title to or possession of real property, which shall show
39 the entry number of the instrument, the name of each grantor in alphabetical order, the name of
40 the grantee, the date of the instrument, the time of recording, the kind of instrument, the book
41 and page, and a brief description;

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

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

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

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

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

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

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

69 (j) keep an index of judgments showing the judgment debtors, the judgment creditors,
70 the amount of judgment, the date and time of recording, the satisfaction, and the book, the
71 page, and the entry number; [~~and~~]

72 (k) keep a general recording index in which the recorder shall index all executions and
73 writs of attachment, and any other instruments not required by law to be spread upon the
74 records, and in separate columns the recorder shall enter the names of the plaintiffs in the
75 execution and the names of the defendants in the execution[~~;~~]; and

76 (l) record a document, instrument, or transaction in accordance with Section 57-3-103.

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

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

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

83 (i) the instrument is required to contain a legal description under Section 17-21-20 and
84 does not contain that legal description; or

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

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

89 (i) use a tax parcel number;

- 90 (ii) use a site address;
- 91 (iii) reference to other instruments of record recited on the instrument; or
- 92 (iv) reference another instrument that is recorded concurrently with the instrument.

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

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

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

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

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

104 Section 2. Section **57-3-103** is amended to read:

105 **57-3-103. Recording required -- Effect of failure to record.**

106 (1) (a) No later than 10 days after securing an interest or completing a transaction, a
 107 person shall record in the office of the county recorder of the county in which real property is
 108 located:

- 109 (i) each mortgage on the real property or assignment of the mortgage;
- 110 (ii) each deed of trust secured by real property or assignment of the deed of trust;
- 111 (iii) each lien on the real property or assignment of the lien;
- 112 (iv) each conveyance of an interest in the real property or assignment of the interest;
- 113 (v) any other instrument, including an assignment, in the nature of an encumbrance on
 114 the real property; and
- 115 (vi) any other transaction affecting an interest in real property.

116 (b) An assignment described in Subsections (1)(a)(i) through (v) shall include an
 117 assignment of a partial beneficial interest.

118 (c) (i) A document, instrument, or transaction described in Subsection (1)(a) shall
 119 include:

120 (A) the name of each mortgagee, deed holder, lien holder, creditor, claimant, beneficial

121 interest holder, partial beneficial interest holder, or party to a transaction, respectively;
122 (B) an address, a telephone number, and an email address of a person described in
123 Subsection (1)(c)(i)(A); and
124 (C) any other information required by law.
125 (ii) If a person's information that is described in Subsection (1)(c)(i)(A) or (B) changes,
126 the person shall no later than 10 days after the change file a notice with the updated
127 information with the county recorder.
128 (2) An instrument or document prepared by a land surveyor, as defined in Section
129 17-23-17, in the land surveyor's official capacity is not subject to Subsection (1) or (2).
130 (3) Each document not recorded as provided in this title is void as against any
131 subsequent purchaser of the same real property, or any portion of it, if:
132 [(+)] (a) the subsequent purchaser purchased the property in good faith and for a
133 valuable consideration; and
134 [(-)] (b) the subsequent purchaser's document is first duly recorded.

Legislative Review Note
as of 2-16-11 3:52 PM

Office of Legislative Research and General Counsel

FISCAL NOTE

H.B. 457

SHORT TITLE: Recording of Transactions Affecting Real Property by County Recorder

SPONSOR: Duckworth, S.

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, 11:48 AM, Lead Analyst: Wilko, A./Attorney: VA

Office of the Legislative Fiscal Analyst