

COUNTY RECORDER AMENDMENTS

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: R. Curt Webb

Senate Sponsor: _____

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;
- ▶ modifies provisions related to notarization of a judgment, abstract of judgment, or 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 lien 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 recorded judgment lien, a person shall record the release
355 or assignment in the county recorder's office of each county in which the judgment lien is
356 recorded.

357 (b) The release or assignment described in Subsection (4)(a) shall contain:

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

359 (ii) the date of recording; and

360 (iii) the entry number, book, and page of the instrument creating the judgment lien in
361 accordance with Section 57-3-106.

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

363 **57-1-5. Creation of joint tenancy presumed -- Tenancy in common -- Severance of**
364 **joint tenancy -- Tenants by the entirety -- Tenants holding as community property.**

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

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

371 (iii) Joint tenancy may not be established between a person and:

372 (A) a corporation;

373 (B) a trustee of a trust; or

374 (C) a partnership.

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

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

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

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

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

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

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

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

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

397 (6) The amendments to this section in Laws of Utah 1997, Chapter 124, have no
398 retrospective operation and shall govern instruments executed and recorded on or after May 5,
399 1997.

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

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

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

403 **57-1-13. Form of quitclaim deed -- Effect.**

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

406 "QUITCLAIM DEED

407 ____ (here insert name), grantor, of ____ (insert place of residence), hereby quitclaims
408 to ____ (insert name), grantee, of ____ (here insert place of residence), for the sum of ____
409 dollars, the following described tract ____ of land in ____ County, Utah, to wit: (here describe
410 the premises).

411 Witness the hand of said grantor this _____(month\day\year).

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

416 (2) For a boundary line agreement operating as a quitclaim deed as described in
417 Section 57-1-45, the boundary line agreement shall include, in addition to a description of the
418 land conveyed:

- 419 (a) the signature of each grantor;
- 420 (b) a sufficient acknowledgment for each grantor's signature; and
- 421 (c) the address of each grantee for assessment purposes.

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

423 **57-1-45. Boundary line agreements.**

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

430 (2) [~~Each~~] A boundary line agreement [~~under~~] described in Subsection (1) shall

431 contain:

432 (a) a description of the land conveyed;

433 (b) the signature of each grantor;

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

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

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

437 **57-3-105. Legal description of real property and names and addresses required in**
438 **documents.**

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

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

444 (3) (a) A document conveying title to real property presented for recording after July 1,
445 1981, is entitled to be recorded in the office of the recorder of the county in which the property
446 described in the document is located only if the document [~~contains the names and mailing~~
447 ~~addresses of the~~] names the grantees and recites a mailing address to be used for assessment
448 and taxation in addition to the legal description required under Subsection (2).

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

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

454 (5) Notwithstanding Subsections (2), (3), and (4), a master form, as defined in Section
455 57-3-201, that does not meet the requirements of Subsections (2) and (3) is entitled to be
456 recorded in the office of the recorder of the county in which the property described in the
457 master form is located if it complies with Part 2, Master Mortgage and Trust Deeds.

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

459 **57-3-106. Original documents required -- Captions -- Legibility.**

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

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

464 (i) be an original;

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

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

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

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

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

473 (b) include the information identifying the judgment debtor as referred to in Subsection
474 78B-5-201(4) either:

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

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

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

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

483 (6) Any document recorded in the office of the county recorder to release or assign a
484 judgment lien shall include:

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

486 (b) the date of recording; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

516 **78B-5-201. Definitions -- Judgment recorded in Registry of Judgments.**

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

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

523 (3) (a) On or after July 1, 2002, except as provided in Subsection (3)(b), a judgment

524 entered in a district court does not create a lien upon or affect the title to real property unless
525 the judgment or an abstract of judgment is recorded in the office of the county recorder in
526 which the real property of the judgment debtor is located.

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

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

531 (a) the information identifying the judgment debtor on the judgment or abstract of
532 judgment; or

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

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

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

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

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

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

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

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

546 (b) state on the separate information statement that the information is unknown or
547 unavailable.

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

554 (b) The separate information statement of the judgment creditor referred to in

555 Subsection (6)(a) shall include:

- 556 (i) the name of any judgment creditor, debtor, assignor, or assignee;
557 (ii) the date of recording; and
558 (iii) the entry number, book, and page of the original judgment or abstract of judgment.

559 (7) A judgment that requires payment of money recorded on or after September 1,
560 1998, but prior to July 1, 2002, has as its priority the date of entry, except as to parties with
561 actual or constructive knowledge of the judgment.

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

564 (9) (a) To release or assign a recorded judgment lien, a person shall record the release
565 or assignment in the county recorder's office of each county in which the judgment lien is
566 recorded.

567 (b) The release or assignment described in Subsection (9)(a) shall contain:

- 568 (i) the name of any judgment creditor, debtor, assignor, or assignee;
569 (ii) the date of recording; and
570 (iii) the entry number, book, and page of the instrument creating the judgment lien in
571 accordance with Section 57-3-106.

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

573 **78B-5-202. Duration of judgment -- Judgment as a lien upon real property --**
574 **Abstract of judgment -- Small claims judgment not a lien -- Appeal of judgment -- Child**
575 **support orders.**

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

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

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

585 (4) Prior to July 1, 1997, and after May 15, 1998, a judgment entered in the small

586 claims division of any court may not qualify as a lien upon real property unless abstracted to
587 the civil division of the district court and recorded in accordance with Subsection (3).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

622 (9) (a) To release or assign a recorded judgment lien, a person shall record the release
623 or assignment in the county recorder's office of each county in which the judgment lien is
624 recorded.

625 (b) The release or assignment described in Subsection (9)(a) shall contain:

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

627 (ii) the date of recording; and

628 (iii) the entry number, book, and page of the instrument creating the judgment lien in
629 accordance with Section 57-3-106.

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

631 **78B-5-408. Judgments and awards on foreign-money claims -- Time of money**
632 **conversion -- Form of judgment.**

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

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

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

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

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

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

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

648 (6) A judgment substantially in the following form complies with Subsection (1):
649 IT IS ADJUDGED AND ORDERED that Defendant (insert name) pay to Plaintiff
650 (insert name) the sum of (insert amount in the foreign money) plus interest on that sum at the
651 rate of (insert rate - see Section 78B-5-410) percent a year or, at the option of the judgment
652 debtor, the number of United States dollars as will purchase the (insert name of foreign money)
653 with interest due, at a bank-offered spot rate at or near the close of business on the banking day
654 next before the day of payment, together with assessed costs of (insert amount) United States
655 dollars.

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

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

664 (9) A person shall record a judgment lien or assignment or release of a judgment lien in
665 the county recorder's office in accordance with Sections 17-21-10, 38-9-1, 75B-5-201, and
666 75B-5-202.

Legislative Review Note
as of 12-15-10 11:56 AM

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FISCAL NOTE

H.B. 46, 2011 General Session

SHORT TITLE: **County Recorder Amendments**

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

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.