

SB0080S01 compared with SB0080

~~deleted text~~ shows text that was in SB0080 but was deleted in SB0080S01.

inserted text shows text that was not in SB0080 but was inserted into SB0080S01.

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Senator Ronald M. Winterton proposes the following substitute bill:

REAL PROPERTY RECORDING AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ronald M. Winterton

House Sponsor: _____

LONG TITLE

General Description:

This bill addresses the recording of documents concerning real property.

Highlighted Provisions:

This bill:

- ▶ provides the requirements for a legal description of real property in a document to be recorded with a county recorder; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

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AMENDS:

17-21-20, as last amended by Laws of Utah 2019, Chapter 302

57-3-105, as last amended by Laws of Utah 2011, Chapter 88

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

Section 1. Section **17-21-20** is amended to read:

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

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

(2) Subject to Chapter 21a, Uniform Real Property Electronic Recording Act, each document that is submitted for recording to a county recorder's office shall:

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

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

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

(d) except as otherwise provided by statute, contain the legal description of the property that is the subject of the document in accordance with Subsection 57-3-105(4);

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

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

(g) have original signatures.

(3) (a) Subject to Chapter 21a, Uniform Real Property Electronic Recording Act, a county recorder may require that each paper, notice, and instrument submitted for recording in the county recorder's office:

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

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

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

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

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

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

(vii) be sufficiently legible to make certified copies.

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

(i) provide formal notice of the requirements; and

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

(4) (a) To facilitate the abstracting of an instrument ~~{ utilizing the surface estate legal description }~~, a county recorder may require that the applicable tax identification number of each parcel described in the instrument be noted on the instrument before the county recorder ~~[may accept]~~ accepts the instrument for recording ~~{,}~~ , if the instrument affects:

(i) the surface estate; or

(ii) concurrently owned surface and mineral estates.

(b) If a county recorder requires the applicable tax identification number to be on an instrument before ~~[it]~~ the instrument may be recorded:

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

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

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

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

(a) a map or plat;

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- (b) a certificate or affidavit of death that a government agency issues;
 - (c) a military discharge or other record that a branch of the United States military service issues;
 - (d) a document regarding taxes that is issued by the Internal Revenue Service of the United States Department of the Treasury;
 - (e) a document submitted for recording that has been filed with a court and conforms to the formatting requirements established by the court; or
 - (f) a document submitted for recording that is in a form required by law.
- (6) (a) As used in this Subsection (6):
- (i) "Boundary action" has the same meaning as defined in Section 17-23-20.
 - (ii) "Local entity" has the same meaning as defined in Section 67-1a-6.5.
- (b) A person may not submit to a county recorder for recording a plat depicting the boundary of a local entity as the boundary exists as a result of a boundary action, unless:
- (i) the plat has been approved under Section 17-23-20 by the county surveyor as a final local entity plat, as defined in Section 17-23-20; and
 - (ii) the person also submits for recording:
 - (A) the original notice of an impending boundary action, as defined in Section 67-1a-6.5, for the boundary action for which the plat is submitted for recording;
 - (B) the original applicable certificate, as defined in Section 67-1a-6.5, issued by the lieutenant governor under Section 67-1a-6.5 for the boundary action for which the plat is submitted for recording; and
 - (C) each other document required by statute to be submitted for recording with the notice of an impending boundary action and applicable certificate.
- (c) Promptly after recording the documents described in Subsection (6)(b) relating to a boundary action, but no later than 10 days after recording, the county recorder shall send a copy of all those documents to the State Tax Commission.

Section 2. Section **57-3-105** is amended to read:

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

(1) Except as otherwise provided by statute, if a document for recording does not conform to this section:

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(a) a person may not present [a] the document to the office of the recorder of the county for recording [unless the document complies with this section.]; and

(b) the office of the recorder of the county may refuse to accept the document for recording.

(2) A document executed after July 1, [~~1983~~] 2022, is entitled to be recorded in the office of the recorder of the county in which the property described in the document is located only if the document contains a legal description of the real property in accordance with Subsection (4).

(3) (a) A document conveying title to real property presented for recording after July 1, [~~1981~~] 2022, is entitled to be recorded in the office of the recorder of the county in which the property described in the document is located only if the document:

(i) names the grantees and recites a mailing address to be used for assessment and taxation [in addition to the legal description required under Subsection (2)].; and

(ii) includes a legal description of the real property in accordance with Subsection (4).

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

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

(4) A legal description required under this section and Subsection 17-21-20(2)(d) shall include a description of the location and boundaries of the real property the document intends to affect by:

(a) metes and bounds;

(b) a government survey that specifies:

(i) the township, range, base and meridian, and section of the real property;

(ii) if a claim of interest does not include the entire section, each quarter section aliquot part of the section in which a party to the document in good faith claims an interest;

(iii) if the real property consists of a patented mining claim, the claim name and mineral survey number; and

(iv) if the real property consists of an unpatented mining claim, the claim name and the associated unpatented mining claim number the Bureau of Land Management assigns to the

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claim; ~~for~~

(c) a lot, block, ~~for~~ tract number, or unit within a previously recorded plat or map ~~for~~;

or

(d) (i) station and offset;

(ii) centerline;

(iii) point; or

(iv) a type of legal description not described in Subsections (4)(d)(i) through (iii) that meets the requirements described in Section 57-10-4 for a legal and satisfactory description of a land boundary.

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

Section 3. **Effective date.**

This bill takes effect on July 1, 2022.