

COUNTY RECORDER MODIFICATIONS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jordan D. Teuscher

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions related to county recorders.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ establishes the County Recorder Oversight Board (board) for the purpose of:
 - establishing statewide standards for county recorders in relation to the protection and submission of documents; and
 - hearing and deciding appeals from decisions of county recorders regarding access to public records;
- ▶ describes the membership and appointment of board members;
- ▶ requires the Department of Commerce to provide staff support to the board;
- ▶ requires a county recorder to comply with the policies and procedures established by the board; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:



28 AMENDS:

29 **17-21-1**, as last amended by Laws of Utah 2014, Chapter 89

30 ENACTS:

31 **63C-29-101**, Utah Code Annotated 1953

32 **63C-29-201**, Utah Code Annotated 1953

33 **63C-29-202**, Utah Code Annotated 1953



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

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

37 **17-21-1. Recorder -- Document custody responsibility -- Compliance with County**
38 **Recorder Oversight Board -- Adoption of policies and procedures.**

39 The county recorder:

40 (1) is custodian of all recorded documents and records required by law to be recorded;

41 and

42 (2) shall comply with the policies and procedures established by the County Recorder

43 Oversight Board under Section **63C-29-202**, including policies and procedures governing:

44 (a) the protection of recorded documents and records in the county recorder's custody;

45 (b) the electronic submission of plats, records, and other documents to the county
46 recorder's office;

47 (c) the protection of privacy interests in the case of documents and records in the
48 county recorder's custody; and

49 (d) appeals from decisions of the county recorder regarding access to public records.

50 (3) The county recorder may adopt policies and procedures governing the activities of

51 the county recorder that do not conflict with this chapter or the policies and procedures

52 established by the County Recorder Oversight Board under Section **63C-29-202**.

53 ~~[(2) shall establish policies and procedures that the recorder considers necessary to~~
54 ~~protect recorded documents and records in the recorder's custody, including determining the~~
55 ~~appropriate method for the public to obtain copies of the public record under Section **17-21-19**~~
56 ~~and supervision of those who search and make copies of the public record;]~~

57 ~~[(3) may establish procedures and guidelines to govern the electronic submission of~~
58 ~~plats, records, and other documents to the county recorder's office consistent with Title 46;~~

59 Chapter 4, Uniform Electronic Transactions Act, and Chapter 21a, Uniform Real Property
60 Electronic Recording Act; and]

61 [~~(4) shall establish procedures to govern the electronic submission of plats, records,
62 and other documents to the county recorder's office consistent with standards established under
63 Chapter 21a, Uniform Real Property Electronic Recording Act, by:]~~

64 [~~(a) if in a county of the first or second class, July 1, 2016;]~~

65 [~~(b) if in a county of the third or fourth class, July 1, 2017; or]~~

66 [~~(c) if in a county of the fifth or sixth class, July 1, 2018.]~~

67 Section 2. Section **63C-29-101** is enacted to read:

68 **CHAPTER 29. COUNTY RECORDER OVERSIGHT BOARD**

69 **Part 1. General Provisions**

70 **63C-29-101. Definitions.**

71 As used in this chapter:

72 (1) "Board" means the County Recorder Oversight Board created in Section

73 [63C-29-201.](#)

74 (2) "Department" means the Department of Commerce created in Section [13-1-2.](#)

75 Section 3. Section **63C-29-201** is enacted to read:

76 **Part 2. County Recorder Oversight Board**

77 **63C-29-201. County Recorder Oversight Board created.**

78 (1) There is created the County Recorder Oversight Board.

79 (2) The board shall be composed of seven members as follows:

80 (a) the lead attorney in the Office of the Property Rights Ombudsman or the lead
81 attorney's designee;

82 (b) one representative of the Utah Land and Title Association, appointed by the Utah
83 Land and Title Association;

84 (c) one representative of the Utah Association of County Recorders, appointed by the
85 Utah Association of County Recorders;

86 (d) one representative of the Utah Council of Land Surveyors, appointed by the Utah
87 Council of Land Surveyors;

88 (e) one representative of the Utah Property Rights Coalition, appointed by the Utah
89 Property Rights Coalition;

90 (f) one attorney who is a member of the Utah State Bar, appointed by the Utah Land
91 and Title Association; and

92 (g) one attorney who is a member of the Utah State Bar, appointed by the Utah
93 Association of County Recorders.

94 (3) (a) If a vacancy occurs in the membership of the board appointed under Subsections
95 (2)(b) through (g), the member shall be replaced in the same manner in which the original
96 appointment was made.

97 (b) A member appointed under Subsections (2)(b) through (g) shall serve a term of four
98 years and until the member's successor is appointed and qualified.

99 (c) Notwithstanding Subsection (3)(b), for members appointed under Subsections
100 (2)(b) through (g), the department shall, at the time of appointment or reappointment, adjust the
101 length of terms to ensure that the terms of board members are staggered so that approximately
102 half of the board members appointed under Subsections (2)(b) through (g) are appointed every
103 two years.

104 (d) An individual may be appointed to more than one term.

105 (4) The board shall annually select a chair from among the board's members.

106 (5) (a) Four board members constitutes a quorum.

107 (b) The action of a majority of a quorum constitutes an action of the board.

108 (6) A board member may not receive compensation or benefits for the member's
109 service on the board, but may receive per diem and reimbursement for travel expenses incurred
110 as a board member at the rates established by the Division of Finance under:

111 (a) Sections [63A-3-106](#) and [63A-3-107](#); and

112 (b) rules made by the Division of Finance pursuant to Sections [63A-3-106](#) and
113 [63A-3-107](#).

114 (7) The department shall provide staff support to the board.

115 Section 4. Section **63C-29-202** is enacted to read:

116 **63C-29-202. Duties of the board.**

117 (1) The board shall:

118 (a) establish policies and procedures that the board considers necessary to protect
119 recorded documents and records in a county recorder's custody, including determining the
120 appropriate method for the public to obtain copies of the public record under Section [17-21-19](#)

121 and supervision of those who search and make copies of the public record;

122 (b) establish policies and procedures to govern the electronic submission of plats,
123 records, and other documents to a county recorder's office consistent with Title 17, Chapter
124 21a, Uniform Real Property Electronic Recording Act, and Title 46, Chapter 4, Uniform
125 Electronic Transactions Act;

126 (c) establish policies and procedures that the board considers necessary to protect
127 privacy interests in the case of documents and records in a county recorder's custody; and

128 (d) subject to Subsection (2), hear and decide appeals from the decisions of a county
129 recorder regarding access to public records, consistent with policies and procedures established
130 by the board.

131 (2) (a) All appeals taken by the board under this section shall be taken by filing with
132 the county recorder from which the appeal is taken and with the board, a notice of appeal.

133 (b) The county recorder from which the appeal is taken shall transmit to the board all
134 documentation constituting the record upon which the action appealed from was taken.

135 (c) The board shall give public notice and due notice to the parties in interest and
136 decide the appeal within a reasonable time.

137 (d) The board may affirm or reverse the decision of the county recorder from which the
138 appeal is taken.

139 (e) A board member may not participate in any appeal in which the member is an
140 interested party.