

Representative Jordan D. Teuscher proposes the following substitute bill:

COUNTY RECORDER MODIFICATIONS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jordan D. Teuscher

Senate Sponsor: Lincoln Fillmore

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 and requirements for county recorders; and
 - hearing and deciding appeals from decisions of county recorders;
- ▶ requires a county recorder to comply with the standards and requirements established by the board;
- ▶ describes the membership and appointment of board members;
- ▶ requires the Department of Commerce to provide staff support to the board;
- ▶ allows the board to require certain county recorders to remit a portion of collected fees to offset the board's administrative expenses;
- ▶ requires the board to report annually to the Legislature; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None



26 **Other Special Clauses:**

27 None

28 **Utah Code Sections Affected:**

29 AMENDS:

30 **17-21-1**, as last amended by Laws of Utah 2014, Chapter 89

31 **17-21-18.5**, as last amended by Laws of Utah 2022, Chapters 415, 450

32 ENACTS:

33 **63C-29-101**, Utah Code Annotated 1953

34 **63C-29-201**, Utah Code Annotated 1953

35 **63C-29-202**, Utah Code Annotated 1953



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

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

39 **17-21-1. Recorder -- Document custody responsibility -- Compliance with County**
40 **Recorder Oversight Board -- Adoption of policies and procedures.**

41 The county recorder:

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

43 (2) shall comply with the standards and requirements established by the County

44 Recorder Oversight Board in accordance with Section **63C-29-202**, including standards and
45 requirements for:

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

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

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

51 (d) the formatting, recording, and redaction of documents and records in the county
52 recorder's custody; and

53 (e) appeals from decisions of the county recorder regarding access to public records;
54 and

55 (3) may adopt policies and procedures governing the activities of the county recorder
56 that do not conflict with this chapter or the standards and requirements established by the

57 County Recorder Oversight Board under Section 63C-29-202.

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

62 ~~[(3) may establish procedures and guidelines to govern the electronic submission of~~
63 ~~plats, records, and other documents to the county recorder's office consistent with Title 46,~~
64 ~~Chapter 4, Uniform Electronic Transactions Act, and Chapter 21a, Uniform Real Property~~
65 ~~Electronic Recording Act; and]~~

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

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

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

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

72 Section 2. Section 17-21-18.5 is amended to read:

73 **17-21-18.5. Fees of county recorder -- Electronic recording of instruments --**
74 **Remittance of fees to County Recorder Oversight Board.**

75 (1) The county recorder shall receive the following fees:

76 (a) for recording any instrument, not otherwise provided for, other than bonds of public
77 officers, \$40;

78 (b) for recording any instrument, including those provided for under Title 70A,
79 Uniform Commercial Code, other than bonds of public officers, and not otherwise provided
80 for, \$40, and if an instrument contains more than 10 descriptions, \$2 for each additional
81 description;

82 (c) for recording mining location notices and affidavits of labor affecting mining
83 claims, \$40; and

84 (d) for an affidavit or proof of labor which contains more than 10 mining claims, \$2 for
85 each additional mining claim.

86 (2) (a) Each county recorder shall record the mining rules of the several mining
87 districts in each county without fee.

88 (b) Certified copies of these records shall be received in all tribunals and before all
89 officers of this state as prima facie evidence of the rules.

90 (3) The county recorder shall receive the following fees:

91 (a) for copies of any record or document, a reasonable fee as determined by the county
92 legislative body;

93 (b) for each certificate under seal, \$5;

94 (c) for recording any plat, \$50 for each sheet and \$2 for each lot or unit designation;

95 (d) for taking and certifying acknowledgments, including seal, \$5 for one name and \$2
96 for each additional name;

97 (e) for recording any license issued by the Division of Professional Licensing, \$40; and

98 (f) for recording a federal tax lien, \$40, and for the discharge of the lien, \$40.

99 (4) A county recorder may not charge more than one recording fee for each instrument,
100 regardless of whether the instrument bears multiple descriptive titles or includes one or more
101 attachments as part of the instrument.

102 (5) (a) Beginning on or before January 1, 2022, each county shall accept and provide
103 for the electronic recording of instruments.

104 (b) Beginning on or before January 1, 2023, each county shall:

105 (i) provide for the electronic recording of a plat; and

106 (ii) accept an electronic document for the recording of a plat.

107 (6) The county may determine and collect a fee for all services not enumerated in this
108 section.

109 (7) A county recorder may not be required to collect a fee for services that are
110 unrelated to the county recorder's office.

111 (8) Subject to Subsection 63C-29-202(3), a county recorder may be required to remit to
112 the County Recorder Oversight Board created in Section 63C-29-201 a portion of the fees
113 collected under this section.

114 Section 3. Section **63C-29-101** is enacted to read:

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

116 **Part 1. General Provisions**

117 **63C-29-101. Definitions.**

118 As used in this chapter:

119 (1) "Board" means the County Recorder Oversight Board created in Section
120 63C-29-201.

121 (2) "Department" means the Department of Commerce created in Section 13-1-2.
122 Section 4. Section **63C-29-201** is enacted to read:

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

124 **63C-29-201. County Recorder Oversight Board created.**

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

126 (2) The board shall be composed of nine members as follows:

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

129 (b) one representative of the Utah Association of County Recorders, appointed by the
130 Utah Association of County Recorders;

131 (c) one representative of the Utah Council of Land Surveyors, appointed by the Utah
132 Council of Land Surveyors;

133 (d) one representative from the oil, gas, or mining industry, appointed jointly by the
134 Utah Petroleum Association, the Utah Mining Association, and the Utah Association of
135 Professional Landmen;

136 (e) one county recorder from a county of the first or second class, appointed by the
137 Utah Association of County Recorders;

138 (f) one county recorder from a county of the third, fourth, fifth, or sixth class,
139 appointed by the Utah Association of County Recorders;

140 (g) one attorney who is a member of the Utah State Bar, appointed by the Utah Land
141 and Title Association;

142 (h) one attorney who is a member of the Utah State Bar, appointed by the Utah
143 Association of County Recorders; and

144 (i) one attorney who is a member of the Utah State Bar, appointed by the Utah
145 Association of Realtors.

146 (3) (a) If a vacancy occurs in the membership of the board appointed under Subsections
147 (2)(b) through (i), the member shall be replaced in the same manner in which the original
148 appointment was made.

149 (b) A member appointed under Subsections (2)(b) through (i) shall serve a term of four

150 years and until the member's successor is appointed and qualified.

151 (c) Notwithstanding Subsection (3)(b), for members appointed under Subsections
152 (2)(b) through (i), the department shall, at the time of appointment or reappointment, adjust the
153 length of terms to ensure that the terms of board members are staggered so that approximately
154 half of the board members appointed under Subsections (2)(b) through (i) are appointed every
155 two years.

156 (d) A board member may be appointed to more than one term.

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

158 (5) (a) Five board members constitutes a quorum.

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

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

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

164 (b) rules made by the Division of Finance pursuant to Sections [63A-3-106](#) and
165 [63A-3-107](#).

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

167 Section 5. Section **63C-29-202** is enacted to read:

168 **63C-29-202. Duties of the board -- Fee remittance -- Reporting.**

169 (1) The board shall:

170 (a) consistent with the provisions of Title 17, Chapter 21, Recorder, establish standards
171 and requirements governing the services provided by county recorders as the board deems
172 necessary, including standards and requirements for:

173 (i) the protection of recorded documents and records in a county recorder's custody,
174 including appropriate methods for obtaining copies of a public record under Section [17-21-19](#),
175 and the supervision of individuals who search and make copies of the public record;

176 (ii) the electronic submission of plats, records, and other documents to a county
177 recorder's office consistent with Title 17, Chapter 21a, Uniform Real Property Electronic
178 Recording Act, and Title 46, Chapter 4, Uniform Electronic Transactions Act;

179 (iii) the protection of privacy interests in the case of documents and records in a county
180 recorder's custody; and

181 (iv) the formatting, recording, and redaction of documents and records in a county
182 recorder's custody;

183 (b) promote uniformity throughout the state with respect to the services provided by a
184 county recorder; and

185 (c) subject to Subsection (2), hear and decide appeals from the decisions of a county
186 recorder regarding access to public records, consistent with standards and procedures
187 established by the board.

188 (2) (a) (i) Subject to Subsection (2)(a)(ii), all appeals taken by the board under this
189 section shall be taken by filing a notice of appeal with the board and the county recorder from
190 which the appeal is taken.

191 (ii) An individual may not request an appeal under this Subsection (2) until that
192 individual has exhausted all administrative remedies with the county recorder from which the
193 appeal is taken.

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

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

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

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

202 (f) This Subsection (2):

203 (i) does not preclude an individual from pursuing any other available remedy; and

204 (ii) may not be construed as requiring an individual to exhaust administrative remedies
205 with the board before seeking any other available remedy.

206 (3) (a) Subject to rules made by the board under Title 63G, Chapter 3, Utah
207 Administrative Rulemaking Act, the board may require a county recorder that maintains a
208 surplus in revenues from the collection of fees under Section [17-21-18.5](#) to remit to the board a
209 portion of the fees collected by the county recorder to offset the board's costs of administering
210 this section.

211 (b) Fees remitted to the board under this Subsection (3) shall be deposited with the

212 state treasurer as a dedicated credit, to be used for the administration of this section.

213 (4) On or before October 1 of each year, the board shall submit a written report to the
214 Political Subdivisions Interim Committee and the Business and Labor Interim Committee that
215 includes:

216 (a) information regarding the operations and activities of the board;

217 (b) a description of any requirements established by the board for the remittance of
218 county recorder fees under Subsection (3); and

219 (c) any recommendations for legislation related to the services provided by county
220 recorders, including modification of the fees established in Section 17-21-18.5.