

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 Standards Board (board) for the purpose of:
 - establishing statewide standards for county recorders; and
 - hearing and deciding appeals from decisions of county recorders;
- ▶ requires county recorders to comply with the standards established by the board;
- ▶ describes the membership and appointment of board members;
- ▶ requires the Department of Commerce to provide staff support to the board;
- ▶ provides for board's administrative expenses to be paid from the remittance of a portion of fees collected by county recorders;
- ▶ requires the board to report annually to the Legislature; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:



26 None

27 **Utah Code Sections Affected:**

28 AMENDS:

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

30 **17-21-18.5**, as last amended by Laws of Utah 2022, Chapters 415, 450

31 ENACTS:

32 **63C-29-101**, Utah Code Annotated 1953

33 **63C-29-201**, Utah Code Annotated 1953

34 **63C-29-202**, Utah Code Annotated 1953



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

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

38 **17-21-1. Recorder -- Document custody responsibility -- Compliance with**
39 **standards established by the County Recorder Standards Board.**

40 The county recorder:

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

42 (2) in accordance with Section 63C-29-202, shall comply with the standards
43 established by the County Recorder Standards Board created in Section 63C-29-201, including
44 standards that govern:

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

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

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

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

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

54 (3) may adopt policies and procedures governing the activities of the county recorder
55 that do not conflict with this chapter or the standards established by the County Recorder
56 Standards Board under Section 63C-29-202.

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

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

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

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

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

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

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

72 **17-21-18.5. Fees of county recorder -- Electronic recording of instruments --**

73 **Remittance of fees.**

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

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

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

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

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

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

87 (b) Certified copies of these records shall be received in all tribunals and before all

88 officers of this state as prima facie evidence of the rules.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

110 (8) In accordance with Subsection 63C-29-202(3), a county recorder is subject to any
111 applicable requirement to remit a portion of the fees collected by the county recorder under this
112 section to the County Recorder Standards Board created in Section 63C-29-201.

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

114 **CHAPTER 29. COUNTY RECORDER STANDARDS BOARD**

115 **Part 1. General Provisions**

116 **63C-29-101. Definitions.**

117 As used in this chapter:

118 (1) "Board" means the County Recorder Standards Board created in Section

119 [63C-29-201.](#)

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

121 Section 4. Section **63C-29-201** is enacted to read:

122 **Part 2. County Recorder Standards Board**

123 **63C-29-201. County Recorder Standards Board created.**

124 (1) There is created the County Recorder Standards Board.

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

126 (a) one representative of the Utah Property Rights Coalition, appointed by the Utah

127 Property Rights Coalition;

128 (b) one representative of the Utah Association of Counties, appointed by the Utah

129 Association of Counties;

130 (c) one representative of the Utah Council of Land Surveyors, appointed by the Utah

131 Council of Land Surveyors;

132 (d) one representative from the oil, gas, or mining industry, appointed jointly by the

133 Utah Petroleum Association, the Utah Mining Association, and the Utah Association of

134 Professional Landmen;

135 (e) one county recorder from a county of the first or second class, appointed by the

136 Utah Association of County Recorders;

137 (f) one county recorder from a county of the third, fourth, fifth, or sixth class,

138 appointed by the Utah Association of County Recorders;

139 (g) one attorney who is a member of the Utah State Bar, appointed by the Utah Land

140 and Title Association;

141 (h) one attorney who is a member of the Utah State Bar, appointed by the Utah

142 Association of County Recorders; and

143 (i) one attorney who is a member of the Utah State Bar, appointed by the Utah

144 Association of Realtors.

145 (3) (a) If a vacancy occurs in the membership of the board, the member shall be

146 replaced in the same manner in which the original appointment was made.

147 (b) A member shall serve a term of four years and until the member's successor is

148 appointed and qualified.

149 (c) Notwithstanding Subsection (3)(b), at the time of appointment or reappointment,

150 the department shall adjust the length of terms to ensure that the terms of board members are
151 staggered so that approximately half of the board members are appointed every two years.

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

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

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

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

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

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

160 (b) rules made by the Division of Finance pursuant to Sections [63A-3-106](#) and
161 [63A-3-107](#).

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

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

164 **63C-29-202. Duties of the board -- Fee remittance -- Reporting.**

165 (1) The board shall:

166 (a) consistent with the provisions of Title 17, Chapter 21, Recorder, establish standards
167 governing the services provided by county recorders as the board deems necessary, including
168 standards for:

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

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

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

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

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

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

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

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

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

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

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

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

198 (f) This Subsection (2):

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

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

202 (3) (a) Subject to rules made by the board under Title 63G, Chapter 3, Utah
203 Administrative Rulemaking Act, the expenses for administration of this section shall be paid
204 from the remittance of a portion of the fees collected by county recorders under Section
205 [17-21-18.5](#).

206 (b) In establishing a requirement for county recorders to remit fees under this
207 Subsection (3), the board may limit the requirement to remit fees to county recorders who
208 maintain surplus revenue from the collection fees under Section [17-21-18.5](#).

209 (c) Fees remitted by a county recorder to the board under this Subsection (3) shall be
210 deposited with the state treasurer as a dedicated credit, to be used for the administration of this
211 section.

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

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

216 (b) a description of any requirement established by the board for count recorders to
217 remit fees under Subsection (3); and

218 (c) any recommendations for legislation related to the services provided by county
219 recorders, including recommendations for modification of the fees established in Section

220 [17-21-18.5.](#)