

**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

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**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:
  - making rules that establish statewide standards for county recorders; and
  - hearing and deciding appeals from decisions of county recorders;
- ▶ requires county recorders to comply with the board's rules;
- ▶ 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 rules**  
39 **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) shall comply with rules made by the County Recorder Standards Board under

43 Section **63C-29-202**, including rules that govern:

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;

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

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

52 and

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

56 ~~[(2) shall establish policies and procedures that the recorder considers necessary to~~

57 ~~protect recorded documents and records in the recorder's custody, including determining the~~  
58 ~~appropriate method for the public to obtain copies of the public record under Section 17-21-19~~  
59 ~~and supervision of those who search and make copies of the public record;]~~

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

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

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

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

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

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

71 **17-21-18.5. Fees of county recorder -- Electronic recording of instruments --**  
72 **Remittance of fees.**

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

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

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

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

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

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

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

- 88 (3) The county recorder shall receive the following fees:
- 89 (a) for copies of any record or document, a reasonable fee as determined by the county
- 90 legislative body;
- 91 (b) for each certificate under seal, \$5;
- 92 (c) for recording any plat, \$50 for each sheet and \$2 for each lot or unit designation;
- 93 (d) for taking and certifying acknowledgments, including seal, \$5 for one name and \$2
- 94 for each additional name;
- 95 (e) for recording any license issued by the Division of Professional Licensing, \$40; and
- 96 (f) for recording a federal tax lien, \$40, and for the discharge of the lien, \$40.
- 97 (4) A county recorder may not charge more than one recording fee for each instrument,
- 98 regardless of whether the instrument bears multiple descriptive titles or includes one or more
- 99 attachments as part of the instrument.

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

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

- 103 (i) provide for the electronic recording of a plat; and
- 104 (ii) accept an electronic document for the recording of a plat.

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

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

109 (8) In accordance with rules made by the County Recorder Standards Board under  
 110 Subsection 63C-29-202(4), a county recorder is subject to any applicable requirement to remit  
 111 to the County Recorder Standards Board a portion of the fees collected under this section.

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

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

114 **Part 1. General Provisions**

115 **63C-29-101. Definitions.**

116 As used in this chapter:

117 (1) "Board" means the County Recorder Standards Board created in Section  
 118 63C-29-201.



150 staggered so that approximately half of the board members are appointed every two years.

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

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

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

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

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

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

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

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

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

163 **63C-29-202. Duties of the board -- Fee remittance -- Reporting.**

164 (1) The board shall:

165 (a) subject to Subsection (2), make rules that establish statewide standards for county  
166 recorders as the board deems necessary to reduce or eliminate inconsistencies, including rules  
167 for:

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

171 (ii) the electronic submission of plats, records, and other documents to a county  
172 recorder's office;

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

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

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

179 (c) subject to Subsection (3), hear and decide appeals from the decisions of a county  
180 recorder regarding access to public records, consistent with standards and procedures

181 established by the board.

182 (2) The rules under Subsection (1)(a) shall:

183 (a) be made in accordance with Title 63G, Chapter 3, Administrative Rulemaking Act;

184 and

185 (b) be consistent with applicable state law, including:

186 (i) Title 17, Chapter 21, Recorder;

187 (ii) Title 17, Chapter 21a, Uniform Real Property Electronic Recording Act;

188 (iii) Title 46, Chapter 4, Uniform Electronic Transactions Act; and

189 (iv) Title 57, Real Estate.

190 (3) (a) All appeals taken by the board under this section shall be taken by filing a notice  
191 of appeal with the board and the county recorder from which the appeal is taken.

192 (b) An individual may not request an appeal under this Subsection (3) until that  
193 individual has exhausted all administrative remedies with the county recorder from which the  
194 appeal is taken.

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

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

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

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

203 (g) This Subsection (3):

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

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

207 (4) (a) Subject to rules made by the board under Title 63G, Chapter 3, Utah  
208 Administrative Rulemaking Act, the expenses for administration of this section shall be paid  
209 from the remittance of a portion of the fees collected by county recorders under Section  
210 [17-21-18.5](#).

211 (b) In establishing a requirement for county recorders to remit fees under this

212 Subsection (4), the board may limit the requirement to remit fees to county recorders who  
213 maintain surplus revenue from the collection fees under Section [17-21-18.5](#).

214 (c) Fees remitted by a county recorder to the board under this Subsection (4) shall be  
215 deposited with the state treasurer as a dedicated credit, to be used for the administration of this  
216 section.

217 (5) On or before October 1 of each year, the board shall submit a written report to the  
218 Political Subdivisions Interim Committee and the Business and Labor Interim Committee that  
219 includes:

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

221 (b) a description of any requirement established by the board for county recorders to  
222 remit fees under Subsection (4); and

223 (c) any recommendations for legislation related to the services provided by county  
224 recorders, including recommendations for modification of the fees established in Section  
225 [17-21-18.5](#).