

HB0351S03 compared with HB0351

~~{deleted text}~~ shows text that was in HB0351 but was deleted in HB0351S03.

inserted text shows text that was not in HB0351 but was inserted into HB0351S03.

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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}~~ Standards Board (board) for the purpose of:
 - ~~{establishing}~~ making rules that establish 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}~~;
- ▶ requires county recorders to comply with the board's rules;

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- ▶ describes the membership and appointment of board members;
- ▶ requires the Department of Commerce to provide staff support to the board;
- ▶ ~~{requires a}~~ provides for board's administrative expenses to be paid from the remittance of a portion of fees collected by county ~~{recorder to comply with the policies and procedures established by}~~ recorders;
- ▶ requires the board to report annually to the Legislature; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

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

ENACTS:

63C-29-101, Utah Code Annotated 1953

63C-29-201, Utah Code Annotated 1953

63C-29-202, Utah Code Annotated 1953

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

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

17-21-1. Recorder -- Document custody responsibility -- Compliance with rules established by the County Recorder ~~{Oversight}~~ Standards Board ~~{-- Adoption of policies and procedures}~~.

The county recorder:

- (1) is custodian of all recorded documents and records required by law to be recorded; ~~{and}~~
- (2) shall comply with ~~{the policies and procedures established}~~ rules made by the County Recorder ~~{Oversight}~~ Standards Board under Section 63C-29-202, including ~~{policies and procedures governing}~~ rules that govern.

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

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

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

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

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

(3) {The county recorder } may adopt policies and procedures governing the activities of the county recorder that do not conflict with this chapter or {the policies and procedures established}; rules made by the County Recorder {Oversight}; Standards Board under Section 63C-29-202.

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

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

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

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

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

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

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

17-21-18.5. Fees of county recorder {--} Electronic recording of instruments --

Remittance of fees.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section ~~{2}~~3. Section 63C-29-101 is enacted to read:

CHAPTER 29. COUNTY RECORDER ~~{OVERSIGHT}~~STANDARDS BOARD

Part 1. General Provisions

63C-29-101. Definitions.

As used in this chapter:

(1) "Board" means the County Recorder ~~{Oversight}~~Standards Board created in Section 63C-29-201.

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

Section ~~{3}~~4. Section 63C-29-201 is enacted to read:

Part 2. County Recorder ~~{Oversight}~~Standards Board

63C-29-201. County Recorder ~~{Oversight}~~Standards Board created.

(1) There is created the County Recorder ~~{Oversight}~~Standards Board.

(2) The board shall be composed of ~~{seven}~~nine members as follows:

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

~~— (b) } one representative of the Utah ~~{Land and Title Association}~~Property Rights Coalition, appointed by the Utah ~~{Land and Title Association}~~Property Rights Coalition;~~

~~{c} b) one representative of the Utah Association of ~~{County Recorders}~~Counties, appointed by the Utah Association of ~~{County Recorders}~~Counties;~~

~~{d} c) one representative of the Utah Council of Land Surveyors, appointed by the Utah Council of Land Surveyors;~~

~~{e} d) one representative of the Utah ~~{Property Rights Coalition}~~Land Title Association, appointed by the Utah ~~{Property Rights Coalition}~~;~~

~~— (f) Land Title Association;~~

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

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

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

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

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

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

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

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

(d) ~~An individual~~ A board member may be appointed to more than one term.

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

(5) (a) ~~Four~~ Five board members constitutes a quorum.

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

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

(a) Sections 63A-3-106 and 63A-3-107; and

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

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

Section ~~{4}~~5. Section **63C-29-202** is enacted to read:

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

(1) The board shall:

(a) ~~{establish policies and procedures that the board considers necessary to protect}~~subject to Subsection (2), make rules that establish statewide standards for county recorders as the board deems necessary to reduce or eliminate inconsistencies, including rules for:

(i) the protection of recorded documents and records in a county recorder's custody, including ~~{determining the }~~appropriate ~~{method}~~methods for~~{ the public to obtain}~~ obtaining copies of ~~{the}~~a public record under Section 17-21-19, and the supervision of ~~{those}~~individuals who search and make copies of the public record;

~~{b}~~ii ~~{ establish policies and procedures to govern}~~ the electronic submission of plats, records, and other documents to a county recorder's office~~{ consistent with Title 17, Chapter 21a, Uniform Real Property Electronic Recording Act, and Title 46, Chapter 4, Uniform Electronic Transactions Act;~~

~~{c} establish policies and procedures that the board considers necessary to protect};~~

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

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

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

~~{d}~~c subject to Subsection ~~{2}~~3, hear and decide appeals from the decisions of a county recorder regarding access to public records, consistent with ~~{policies}~~standards and procedures established by the board.

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

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

and

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

(i) Title 17, Chapter 21, Recorder;

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

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

(iv) Title 57, Real Estate.

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

(b) An individual may not request an appeal under this Subsection (3) until that individual has exhausted all administrative remedies with the county recorder from which the appeal is taken ~~and with the board, a notice of appeal~~.

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

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

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

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

(g) This Subsection (3):

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

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

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

(b) In establishing a requirement for county recorders to remit fees under this Subsection (4), the board may limit the requirement to remit fees to county recorders who maintain surplus revenue from the collection fees under Section 17-21-18.5.

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

(5) On or before October 1 of each year, the board shall submit a written report to the

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Political Subdivisions Interim Committee and the Business and Labor Interim Committee that includes:

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

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

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