

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:
 - 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;
- ▶ allows the board to require a county recorder to remit a portion of the county recorder's collected fees;
- ▶ 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 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 rules**
38 **established by the County Recorder Standards Board.**

39 The county recorder:

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

41 (2) shall comply with rules made by the County Recorder Standards Board under

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

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

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

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

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

50 (e) appeals from decisions of the county recorder; and

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

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

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

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

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

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

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

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

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

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

70 **Part 1. General Provisions**

71 **63C-29-101. Definitions.**

72 As used in this chapter:

73 (1) "Board" means the County Recorder Standards Board created in Section
74 63C-29-201.

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

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

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

78 **63C-29-201. County Recorder Standards Board created.**

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

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

81 (a) one representative of the Utah Property Rights Coalition, appointed by the Utah
82 Property Rights Coalition;

83 (b) one representative of the Utah Association of Counties, appointed by the Utah
84 Association of Counties;

85 (c) one representative of the Utah Council of Land Surveyors, appointed by the Utah
86 Council of Land Surveyors;

87 (d) one representative of the Utah Land Title Association, appointed by the Utah Land

88 Title Association;

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

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

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

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

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

100 (3) (a) If a vacancy occurs in the membership of the board, the member shall be
101 replaced in the same manner in which the original appointment was made.

102 (b) A member shall serve a term of four years and until the member's successor is
103 appointed and qualified.

104 (c) Notwithstanding Subsection (3)(b), at the time of appointment or reappointment,
105 the department shall adjust the length of terms to ensure that the terms of board members are
106 staggered so that approximately half of the board members are appointed every two years.

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

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

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

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

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

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

115 (b) rules made by the Division of Finance pursuant to Sections [63A-3-106](#) and
116 [63A-3-107](#).

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

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

119 63C-29-202. Duties of the board -- Fee remittance -- Reporting.

120 (1) The board shall:

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

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

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

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

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

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

135 (c) subject to Subsection (3), hear and decide appeals from the decisions of a county
136 recorder, consistent with standards and procedures established by the board.

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

138 (i) be made in accordance with Title 63G, Chapter 3, Administrative Rulemaking Act;
139 and

140 (ii) be consistent with applicable state law, including:

141 (A) Title 17, Chapter 21, Recorder;

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

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

144 (D) Title 57, Real Estate.

145 (b) The rules under Subsection (1)(a) may not require a county recorder to expend any
146 additional funds.

147 (3) (a) The board may not hear appeals under this section that are otherwise subject to
148 the appeal process in Title 63G, Chapter 2, Government Records Access and Management Act.

149 (b) All appeals taken by the board under this section shall be taken by filing a notice of

150 appeal with the board and the county recorder from which the appeal is taken.

151 (c) An individual may not request an appeal under this Subsection (3) until that
152 individual has exhausted all administrative remedies with the county recorder from which the
153 appeal is taken.

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

156 (e) The board shall give public notice and due notice to the parties in interest and
157 decide the appeal within a reasonable time.

158 (f) The board may affirm or reverse the decision of the county recorder from which the
159 appeal is taken.

160 (g) A board member may not participate in any appeal in which the member is an
161 interested party.

162 (h) This Subsection (3):

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

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

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

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

170 (b) any recommendations for legislation related to the services provided by county
171 recorders, including recommendations for modification of the fees established in Section
172 [17-21-18.5](#).