| 1      | FRAUDULENT DEED AMENDMENTS   |
|--------|--|
| 2      | 2024 GENERAL SESSION   |
| 3      | STATE OF UTAH  |
| 4      | Chief Sponsor: Curtis S. Bramble   |
| 5      | House Sponsor: R. Neil Walter  |
| 6<br>7 | LONG TITLE   |
| 8      | General Description:   |
| 9      | This bill modifies provisions related to real property.  |
| 10     | Highlighted Provisions:  |
| 11     | This bill:   |
| 12     | <ul> <li>creates civil liability for an individual who records a fraudulent deed;</li> </ul>           |
| 13     | <ul> <li>establishes a process by which an individual may nullify a fraudulent deed;</li> </ul>        |
| 14     | <ul> <li>directs how a court should treat a petition to nullify a fraudulent deed;</li> </ul>          |
| 15     | ► limits a court's review of a fraudulent deed to determining whether the deed is a                    |
| 16     | fraudulent deed;   |
| 17     | <ul> <li>mandates court-ordered consequences for recording a fraudulent deed;</li> </ul>               |
| 18     | <ul> <li>prohibits a court from expediting any proceeding related to damages resulting from</li> </ul> |
| 19     | a fraudulent deed; and   |
| 20     | ► defines terms.   |
| 21     | Money Appropriated in this Bill:   |
| 22     | None   |
| 23     | Other Special Clauses:   |
| 24     | None   |
| 25     | <b>Utah Code Sections Affected:</b>  |



| ENAC          | CTS:   |
|---------------|--|
|               | <b>57-31-101</b> , Utah Code Annotated 1953  |
|               | <b>57-31-201</b> , Utah Code Annotated 1953  |
|               | <b>57-31-202</b> , Utah Code Annotated 1953  |
| Be it e       | nacted by the Legislature of the state of Utah:  |
|               | Section 1. Section <b>57-31-101</b> is enacted to read:  |
|               | CHAPTER 31. FRAUDULENT DEEDS ACT   |
|               | Part 1. Definitions  |
|               | <u>57-31-101.</u> Definitions.   |
|               | As used in this chapter:   |
|               | (1) "Deed" means an instrument in writing, including any conveyance that affects,              |
| purpor        | ts to affect, describes, or otherwise concerns any right, title, or interest in real property. |
|               | (2) "Fraudulent deed" means a deed that is not executed or authorized to be executed           |
| by the        | record interest holder.  |
|               | (3) "Interest holder" means a person who holds or possesses a present, lawful property         |
| interes       | st in real property.   |
|               | (4) "Purported grantee" means a person who is identified as the grantee on a fraudulent        |
| deed.         |  |
|               | (5) "Purported grantor" means a person who executes or causes to be executed a                 |
| <u>fraudu</u> | <u>lent deed.</u>  |
|               | (6) "Record interest holder" means a person:   |
|               | (a) who holds or possesses a present, lawful property interest in real property; and           |
|               | (b) whose name and interest in the real property appears in the county recorder's              |
| record        | s for the county in which the property is located.   |
|               | Section 2. Section <b>57-31-201</b> is enacted to read:  |
|               | Part 2. Remedies   |
|               | 57-31-201. Civil liability for recording a fraudulent deed Damages.                            |
|               | (1) A purported grantor who records a fraudulent deed or causes a fraudulent deed to           |
| be reco       | orded in the office of a county recorder is liable to a record interest holder as described in |
| Subsec        | etion (2).   |

| 57 | (2) If a court determines that a deed is a fraudulent deed under Section 57-31-202, the           |
|----|---|
| 58 | purported grantor is liable to the record interest holder for:                                    |
| 59 | (a) the greater of:   |
| 60 | (i) \$10,000; or  |
| 61 | (ii) treble actual damages; and   |
| 62 | (b) reasonable attorney fees and costs.   |
| 63 | Section 3. Section 57-31-202 is enacted to read:  |
| 64 | 57-31-202. Petition to nullify fraudulent deed Notice to purported grantor and                    |
| 65 | purported grantee Summary relief.   |
| 66 | (1) A record interest holder may petition a court to nullify a fraudulent deed and record         |
| 67 | a lis pendens on a property affected by the fraudulent deed.                                      |
| 68 | (2) A petition described in Subsection (1) shall:   |
| 69 | (a) state with specificity that the deed is a fraudulent deed; and                                |
| 70 | (b) be supported by a sworn affidavit of the record interest holder.                              |
| 71 | (3) (a) A court considering a petition described in Subsection (1) may dismiss the                |
| 72 | petition without a hearing, if the court finds the petition insufficient.                         |
| 73 | (b) If the court dismisses a petition as described in Subsection (3)(a), the court shall          |
| 74 | include the reason for dismissing the petition in the order of dismissal.                         |
| 75 | (c) If the court finds the petition sufficient, the court shall schedule a hearing within 10      |
| 76 | days after the day on which the petition is filed for the purpose of determining whether the deed |
| 77 | is a fraudulent deed.   |
| 78 | (d) The record interest holder shall serve a copy of the petition and a copy of the notice        |
| 79 | of the hearing on the purported grantee and, if known to the record interest holder, the          |
| 80 | purported grantor.  |
| 81 | (e) The purported grantor and purported grantee may attend the hearing described in               |
| 82 | Subsection (3)(c) to contest the petition.  |
| 83 | (4) A proceeding under this section:  |
| 84 | (a) may only determine whether a document is a fraudulent deed; and                               |
| 85 | (b) may not determine any other property or legal rights of the parties or restrict other         |
| 86 | legal remedies of any party.  |
| 87 | (5) (a) If, after the hearing described in Subsection (3), a court determines that a deed is      |

| 88  | <u>a fraudulent deed:</u>  |
|-----|--|
| 89  | (i) the court shall:   |
| 90  | (A) issue an order declaring the fraudulent deed void ab initio and the fraudulent deed    |
| 91  | provides no conveyance of any interest in real property;                                   |
| 92  | (B) in the order described in Subsection (5)(a)(i)(A), include a legal description of the  |
| 93  | property and a reference to the recording of the fraudulent deed; and                      |
| 94  | (C) award costs and reasonable attorney fees to the petitioner; and                        |
| 95  | (ii) the record interest holder shall submit a certified copy of the order, containing a   |
| 96  | legal description of the real property, to the county recorder for recording.              |
| 97  | (b) If, after the hearing described in Subsection (3), a court determines that the deed is |
| 98  | not a fraudulent deed:   |
| 99  | (i) the court:   |
| 100 | (A) shall dismiss the petition;  |
| 101 | (B) may award costs and reasonable attorney fees to the purported grantor and              |
| 102 | purported grantee; and   |
| 103 | (C) shall include in the dismissal order a legal description of the property; and          |
| 104 | (ii) the purported grantor or purported grantee shall record a certified copy of the       |
| 105 | dismissal order.   |
| 106 | (6) If a petition under this section contains a claim for damages, a court may not         |
| 107 | expedite the proceedings related to the claim for damages.                                 |
| 108 | Section 4. Effective date.   |
| 109 | This bill takes effect on May 1, 2024.   |