{deleted text} shows text that was in SB0151S01 but was deleted in SB0151S03. inserted text shows text that was not in SB0151S01 but was inserted into SB0151S03.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

<u>{Senator Curtis S} Representative R</u>. <u>{Bramble} Neil Walter</u> proposes the following substitute bill:

## FRAUDULENT DEED AMENDMENTS

2024 GENERAL SESSION

#### STATE OF UTAH

## **Chief Sponsor: Curtis S. Bramble**

House Sponsor: {Kera Birkeland}R. Neil Walter

### LONG TITLE

#### **General Description:**

This bill modifies provisions related to real property.

### **Highlighted Provisions:**

This bill:

- creates civil liability for an individual who records a fraudulent deed;
- establishes a process by which an individual may nullify a fraudulent deed;
- directs how a court should treat a petition to nullify a fraudulent deed;
- limits a court's review of a fraudulent deed to determining whether the deed is a fraudulent deed;
- mandates court-ordered consequences for recording a fraudulent deed;
- prohibits a court from expediting any proceeding related to damages resulting from

a fraudulent deed; and

defines terms.

### Money Appropriated in this Bill:

None

**Other Special Clauses:** 

None

**Utah Code Sections Affected:** 

ENACTS:

57-31-101, Utah Code Annotated 1953

57-31-201, Utah Code Annotated 1953

57-31-202, Utah Code Annotated 1953

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

Section 1. Section 57-31-101 is enacted to read:

## **CHAPTER 31. FRAUDULENT DEEDS ACT**

#### Part 1. Definitions

## 57-31-101. Definitions.

As used in this chapter:

(1) "Deed" means an instrument in writing, including any conveyance that affects,

purports 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 interest 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 fraudulent deed.

(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

records for the county in which the property is located.

Section 2. Section **57-31-201** 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 recorded in the office of a county recorder is liable to a record interest holder as described in Subsection (2).

(2) If a court determines that a deed is a fraudulent deed under Section 57-31-202, the purported grantor is liable to the record interest holder for:

(a) the greater of:

(i) \$10,000; or

(ii) treble actual damages; and

(b) reasonable attorney fees and costs.

Section 3. Section 57-31-202 is enacted to read:

<u>57-31-202.</u> Petition to nullify fraudulent deed -- Notice to purported grantor and purported grantee -- Summary relief.

(1) A record interest holder may petition a court to nullify a fraudulent deed and record a lis pendens on a property affected by the fraudulent deed.

(2) A petition described in Subsection (1) shall:

(a) state with specificity that the deed is a fraudulent deed; and

(b) be supported by a sworn affidavit of the record interest holder.

(3) (a) A court considering a petition described in Subsection (1) may dismiss the petition without a hearing, if the court finds the petition insufficient.

(b) If the court dismisses a petition as described in Subsection (3)(a), the court shall include the reason for dismissing the petition in the order of dismissal.

({b}c) If the court finds the petition sufficient, the court shall schedule a hearing within 10 days after the day on which the petition is filed for the purpose of determining whether the deed is a fraudulent deed.

({c}d) The record interest holder shall serve a copy of the petition and a copy of the notice of the hearing on the purported {grantor}grantee and, if known to the record interest holder, the purported {grantee}grantor.

 $(\frac{d}{e})$  The purported grantor and purported grantee may attend the hearing described in Subsection (3)( $\frac{b}{c}$ ) to contest the petition.

(4) A proceeding under this section:

(a) may only determine whether a document is a fraudulent deed; and

(b) may not determine any other property or legal rights of the parties or restrict other legal remedies of any party.

(5) (a) If, after the hearing described in Subsection (3), a court determines that a deed is a fraudulent deed:

(i) the court shall:

(A) issue an order declaring{ the fraudulent deed void ab initio;

(B) direct the county recorder to remove the deed from county records; and

(C) award costs and reasonable attorney fees to the petitioner;

(ii) the record interest holder may submit a certified copy of the order, containing a legal description of the real property, to the county recorder for recording; and

(iii) } the fraudulent deed { is } void ab initio and the fraudulent deed provides no conveyance of any interest in real property { . . . ;

(B) in the order described in Subsection (5)(a)(i)(A), include a legal description of the property and a reference to the recording of the fraudulent deed; and

(C) award costs and reasonable attorney fees to the petitioner; and

(ii) the record interest holder shall submit a certified copy of the order, containing a legal description of the real property, to the county recorder for recording.

(b) If, after the hearing described in Subsection (3), a court determines that the deed is not a fraudulent deed:

(i) the court:

(A) shall dismiss the petition;

(B) may award costs and reasonable attorney fees to the purported grantor and purported grantee; and

(C) shall include in the dismissal order a legal description of the property; and

(ii) the purported grantor or purported grantee {may}shall record a certified copy of the dismissal order.

(6) If a petition under this section contains a claim for damages, a court may not

expedite the proceedings related to the claim for damages.

Section 4. Effective date.

This bill takes effect on May 1, 2024.