

COUNTY RECORDER AMENDMENTS

2010 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: R. Curt Webb

Senate Sponsor: J. Stuart Adams

LONG TITLE

General Description:

This bill modifies provisions relating to county recorders.

Highlighted Provisions:

This bill:

▶ for cities, counties, and towns:

- clarifies plat recordation requirements;
- amends the requirements to submit a subdivision plat for recording;
- permits a recorder to record a document absent a certificate or written approval;
- amends provisions governing the conveyance of a common or community area

parcel;

- amends provisions governing the recording of an amended plat; and
- amends recording requirements for a public street, right-of-way, or easement

vacated by a legislative body;

▶ creates certain exceptions for abstracting an instrument in a tract index;

▶ prohibits a person from bringing an action against a recorder as a result of

information contained in a recorded instrument;

▶ states that the recordation of an instrument does not cure a failure to give public notice caused by an error, omission, or defect in the instrument;

▶ amends joint tenancy provisions;

▶ amends provisions relating to the rescinding or cancelling of a trustee's deed;

▶ for purposes of an assessment, states an effective date for a boundary change of a

taxing entity; and

30 ▶ makes technical corrections.

31 **Monies Appropriated in this Bill:**

32 None

33 **Other Special Clauses:**

34 None

35 **Utah Code Sections Affected:**

36 **AMENDS:**

37 **10-9a-603**, as last amended by Laws of Utah 2008, Chapter 326

38 **10-9a-604**, as last amended by Laws of Utah 2009, Chapter 338

39 **10-9a-605**, as last amended by Laws of Utah 2006, Chapter 240

40 **10-9a-606**, as last amended by Laws of Utah 2009, Chapter 338

41 **10-9a-607**, as renumbered and amended by Laws of Utah 2005, Chapter 254

42 **10-9a-608**, as last amended by Laws of Utah 2009, Chapters 67 and 338

43 **10-9a-609**, as last amended by Laws of Utah 2009, Chapter 338

44 **10-9a-609.5**, as last amended by Laws of Utah 2009, Chapter 338

45 **17-17-1**, as last amended by Laws of Utah 1999, Chapter 207

46 **17-21-6**, as last amended by Laws of Utah 2001, Chapter 241

47 **17-21-20**, as last amended by Laws of Utah 2009, Chapter 350

48 **17-27a-603**, as last amended by Laws of Utah 2008, Chapters 250 and 326

49 **17-27a-604**, as last amended by Laws of Utah 2009, Chapter 338

50 **17-27a-605**, as last amended by Laws of Utah 2009, First Special Session, Chapter 1

51 **17-27a-606**, as last amended by Laws of Utah 2009, Chapter 338

52 **17-27a-607**, as renumbered and amended by Laws of Utah 2005, Chapter 254

53 **17-27a-608**, as last amended by Laws of Utah 2009, Chapters 67 and 338

54 **17-27a-609**, as last amended by Laws of Utah 2009, Chapter 338

55 **17-27a-609.5**, as last amended by Laws of Utah 2009, Chapter 338

56 **38-9-1**, as last amended by Laws of Utah 2009, Chapter 69

57 **38-9-3**, as repealed and reenacted by Laws of Utah 1997, Chapter 125

- 58 **38-9-4**, as last amended by Laws of Utah 2008, Chapter 223
- 59 **57-1-5**, as last amended by Laws of Utah 2008, Chapters 97 and 250
- 60 **57-1-5.1**, as last amended by Laws of Utah 2008, Chapter 97
- 61 **57-1-28**, as last amended by Laws of Utah 2002, Chapter 209
- 62 **57-3-106**, as last amended by Laws of Utah 2008, Chapters 3 and 97
- 63 **59-2-1304**, as repealed and reenacted by Laws of Utah 1988, Chapter 3
- 64 **59-2-1325**, as repealed and reenacted by Laws of Utah 1988, Chapter 3
- 65 **72-3-107**, as renumbered and amended by Laws of Utah 1998, Chapter 270



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

68 Section 1. Section **10-9a-603** is amended to read:

69 **10-9a-603. Plat required when land is subdivided -- Approval of plat -- Owner**
70 **acknowledgment, surveyor certification, and underground utility facilities owner**
71 **approval of plat -- Recording plat.**

72 (1) Unless exempt under Section 10-9a-605 or excluded from the definition of
73 subdivision under Subsection 10-9a-103(50), whenever any land is laid out and platted, the
74 owner of the land shall provide an accurate plat that describes or specifies:

75 (a) a subdivision name [~~or designation of the subdivision~~] that is distinct from any
76 subdivision name on a plat [~~already~~] recorded in the county recorder's office;

77 (b) the boundaries, course, and dimensions of all of the parcels of ground divided, by
78 their boundaries, course, and extent, whether the owner proposes that any parcel of ground is
79 intended to be used as a street or for any other public use, and whether any such area is
80 reserved or proposed for dedication for a public purpose;

81 (c) the lot or unit reference, block or building reference, street or site address, street
82 name or coordinate address, acreage or square footage for all parcels, units, or lots, and length
83 and width of the blocks and lots intended for sale; and

84 (d) every existing right-of-way and easement grant of record for underground
85 facilities, as defined in Section 54-8a-2, and for other utility facilities.

86 (2) (a) Subject to Subsections (3), (4), and (5), if the plat conforms to the
87 municipality's ordinances and this part and has been approved by the culinary water authority
88 and the sanitary sewer authority, the municipality shall approve the plat.

89 (b) Municipalities are encouraged to receive a recommendation from the fire authority
90 before approving a plat.

91 (3) The municipality may withhold an otherwise valid plat approval until the owner of
92 the land provides the legislative body with a tax clearance indicating that all taxes, interest,
93 and penalties owing on the land have been paid.

94 ~~[(4) (a) The owner of the land shall acknowledge the plat before an officer authorized
95 by law to take the acknowledgment of conveyances of real estate and shall obtain the signature
96 of each individual designated by the municipality.]~~

97 (4) (a) A plat may not be submitted to a county recorder for recording unless:

98 (i) prior to recordation, each owner of record of land described on the plat has signed
99 the owner's dedication as shown on the plat; and

100 (ii) the signature of each owner described in Subsection (4)(a)(i) is acknowledged as
101 provided by law.

102 (b) The surveyor making the plat shall certify that the surveyor:

103 (i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and
104 Professional Land Surveyors Licensing Act;

105 (ii) has completed a survey of the property described on the plat in accordance with
106 Section 17-23-17 and has verified all measurements; and

107 (iii) has placed monuments as represented on the plat.

108 (c) (i) As applicable, the owner or operator of the underground and utility facilities
109 shall approve the:

110 (A) boundary, course, dimensions, and intended use of the right-of-way and easement
111 grants of record;

112 (B) location of existing underground and utility facilities; and

113 (C) conditions or restrictions governing the location of the facilities within the

- 114 right-of-way, and easement grants of records, and utility facilities within the subdivision.
- 115 (ii) The approval of an owner or operator under Subsection (4)(c)(i):
- 116 (A) indicates only that the plat approximates the location of the existing underground
- 117 and utility facilities but does not warrant or verify their precise location; and
- 118 (B) does not affect a right that the owner or operator has under:
- 119 (I) Title 54, Chapter 8a, Damage to Underground Utility Facilities;
- 120 (II) a recorded easement or right-of-way;
- 121 (III) the law applicable to prescriptive rights; or
- 122 (IV) any other provision of law.
- 123 (5) (a) After the plat has been acknowledged, certified, and approved, the owner of the
- 124 land shall, within the time period designated by ordinance, record the plat in the county
- 125 recorder's office in the county in which the lands platted and laid out are situated.
- 126 (b) An owner's failure to record a plat within the time period designated by ordinance
- 127 renders the plat voidable.
- 128 Section 2. Section **10-9a-604** is amended to read:
- 129 **10-9a-604. Subdivision plat approval procedure -- Effect of not complying.**
- 130 (1) A person may not submit a subdivision plat to the county recorder's office for
- 131 recording unless:
- 132 (a) the person has complied with the requirements of Subsection 10-9a-603(4)(a);
- 133 [~~(a)~~] (b) the plat has been approved by:
- 134 (i) the land use authority of the municipality in which the land described in the plat is
- 135 located; and
- 136 (ii) other officers that the municipality designates in its ordinance; and
- 137 [~~(b)~~] (c) all approvals described in Subsection (1)(b) are entered in writing on the plat
- 138 by the designated officers.
- 139 (2) A subdivision plat recorded without the signatures required under this section is
- 140 void.
- 141 (3) A transfer of land pursuant to a void plat is voidable.

142 Section 3. Section **10-9a-605** is amended to read:

143 **10-9a-605. Exemptions from plat requirement.**

144 (1) Notwithstanding Sections 10-9a-603 and 10-9a-604, the land use authority may
145 approve a subdivision of 10 lots or less without a plat, by certifying in writing that:

146 (a) the municipality has provided notice as required by ordinance; and

147 (b) the proposed subdivision:

148 (i) is not traversed by the mapped lines of a proposed street as shown in the general
149 plan and does not require the dedication of any land for street or other public purposes;

150 (ii) has been approved by the culinary water authority and the sanitary sewer authority;

151 (iii) is located in a zoned area; and

152 (iv) conforms to all applicable land use ordinances or has properly received a variance
153 from the requirements of an otherwise conflicting and applicable land use ordinance.

154 (2) (a) Subject to Subsection (1), a lot or parcel resulting from a division of
155 agricultural land is exempt from the plat requirements of Section 10-9a-603 if the lot or parcel:

156 (i) qualifies as land in agricultural use under Section 59-2-502;

157 (ii) meets the minimum size requirement of applicable land use ordinances; and

158 (iii) is not used and will not be used for any nonagricultural purpose.

159 (b) The boundaries of each lot or parcel exempted under Subsection [~~(1)~~] (2)(a) shall
160 be graphically illustrated on a record of survey map that, after receiving the same approvals as
161 are required for a plat under Section 10-9a-604, shall be recorded with the county recorder.

162 (c) If a lot or parcel exempted under Subsection (2)(a) is used for a nonagricultural
163 purpose, the municipality may require the lot or parcel to comply with the requirements of
164 Section 10-9a-603.

165 (3) (a) Documents recorded in the county recorder's office that divide property by a
166 metes and bounds description do not create an approved subdivision allowed by this part
167 unless the land use authority's certificate of written approval required by Subsection (1) is
168 attached to the document.

169 (b) The absence of the certificate or written approval required by Subsection (1) does

170 not;

171 (i) prohibit the county recorder from recording a document; or

172 (ii) affect the validity of a recorded document.

173 (c) A document which does not meet the requirements of Subsection (1) may be
174 corrected by the recording of an affidavit to which the required certificate or written approval
175 is attached in accordance with Section 57-3-106.

176 Section 4. Section **10-9a-606** is amended to read:

177 **10-9a-606. Common or community area parcels on a plat -- No separate**
178 **ownership -- Ownership interest equally divided among other parcels on plat and**
179 **included in description of other parcels.**

180 (1) (a) A parcel designated as a common or community area on a plat recorded in
181 compliance with this part may not be separately owned or conveyed independent of the other
182 lots, units, or parcels created by the plat unless:

183 ~~[(a)]~~ (i) the parcel is being acquired by ~~[the]~~ a municipality for a governmental
184 purpose; ~~[or]~~ and

185 ~~[(b)]~~ (ii) the ~~[separate ownership or]~~ conveyance is approved by the owners of at least
186 75% of the lots, units, or parcels on the plat, after the municipality gives its approval.

187 (b) A notice of the owner approval described in Subsection (1)(a)(ii) shall be:

188 (i) attached as an exhibit to the document of conveyance; or

189 (ii) recorded concurrently with the conveyance as a separate document.

190 (2) The ownership interest in a parcel described in Subsection (1) shall:

191 (a) for purposes of assessment, be divided equally among all parcels created by the
192 plat, unless a different division of interest for assessment purposes is indicated on the plat or
193 an accompanying recorded document; and

194 (b) be considered to be included in the description of each instrument describing a
195 parcel on the plat by its identifying plat number, even if the common or community area
196 interest is not explicitly stated in the instrument.

197 Section 5. Section **10-9a-607** is amended to read:

198 **10-9a-607. Dedication of streets and other public places.**

199 (1) [~~Plats, when made, acknowledged, and recorded~~] A plat that is signed, dedicated,
200 and acknowledged by each owner of record, and approved according to the procedures
201 specified in this part, [~~operate~~] operates, when recorded, as a dedication of all streets and other
202 public places, and [~~vest~~] vests the fee of those parcels of land in the municipality for the public
203 for the uses named or intended in [~~those plats~~] the plat.

204 (2) The dedication established by this section does not impose liability upon the
205 municipality for streets and other public places that are dedicated in this manner but are
206 unimproved.

207 Section 6. Section **10-9a-608** is amended to read:

208 **10-9a-608. Vacating or amending a subdivision plat.**

209 (1) (a) A fee owner of land, as shown on the last county assessment roll, in a
210 subdivision that has been laid out and platted as provided in this part may file a written
211 petition with the land use authority to have some or all of the plat vacated[~~, altered,~~] or
212 amended.

213 (b) If a petition is filed under Subsection (1)(a), the land use authority shall hold a
214 public hearing within 45 days after the day on which the petition is filed if:

215 (i) any owner within the plat notifies the municipality of the owner's objection in
216 writing within 10 days of mailed notification; or

217 (ii) a public hearing is required because all of the owners in the subdivision have not
218 signed the revised plat.

219 (2) The public hearing requirement of Subsection (1)(b) does not apply and a land use
220 authority may consider at a public meeting an owner's petition to [~~alter~~] vacate or amend a
221 subdivision plat if:

222 (a) the petition seeks to join two or more of the owner's contiguous, residential lots;

223 and

224 (b) notice has been given to adjacent property owners and pursuant to local ordinance.

225 (3) Each request to vacate or [~~alter~~] amend a plat that contains a request to vacate or

226 [~~alter~~] amend a public street, right-of-way, or easement is also subject to Section 10-9a-609.5.

227 (4) Each petition to vacate[~~, alter,~~] or amend an entire plat or a portion of a plat shall
228 include:

229 (a) the name and address of each owner of record of the land contained in the entire
230 plat or on that portion of the plat described in the petition; and

231 (b) the signature of each [~~of these owners~~] owner described in Subsection (4)(a) who
232 consents to the petition.

233 (5) (a) The owners of record of adjacent parcels that are described by either a metes
234 and bounds description or by a recorded plat may exchange title to portions of those parcels if
235 the exchange of title is approved by the land use authority in accordance with Subsection
236 (5)(b).

237 (b) The land use authority shall approve an exchange of title under Subsection (5)(a) if
238 the exchange of title will not result in a violation of any land use ordinance.

239 (c) If an exchange of title is approved under Subsection (5)(b):

240 (i) a notice of approval shall be recorded in the office of the county recorder which:

241 (A) is executed by each owner included in the exchange and by the land use authority;

242 (B) contains an acknowledgment for each party executing the notice in accordance
243 with the provisions of Title 57, Chapter 2a, Recognition of Acknowledgments Act; and

244 (C) recites the descriptions of both the original parcels and the parcels created by the
245 exchange of title; and

246 (ii) a document of conveyance [~~of title reflecting the approved change~~] shall be
247 recorded in the office of the county recorder.

248 (d) A notice of approval recorded under this Subsection (5) does not act as a
249 conveyance of title to real property and is not required [~~for the recording of~~] in order to record
250 a document [~~purporting to convey~~] conveying title to real property.

251 (6) (a) The name of a recorded subdivision may be changed by recording an amended
252 plat making that change, as provided in this section and subject to Subsection (6)(c).

253 (b) The surveyor preparing the amended plat shall certify that the surveyor:

254 (i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and
255 Professional Land Surveyors Licensing Act;

256 (ii) has completed a survey of the property described on the plat in accordance with
257 Section 17-23-17 and has verified all measurements; and

258 (iii) has placed monuments as represented on the plat.

259 (c) An owner of land may not submit for recording an amended plat that gives the
260 subdivision described in the amended plat the same name as a subdivision in a plat already
261 recorded in the county recorder's office.

262 (d) Except as provided in Subsection (6)(a), the recording of a declaration or other
263 document that purports to change the name of a recorded plat is ~~[voidable]~~ void.

264 Section 7. Section ~~10-9a-609~~ is amended to read:

265 **10-9a-609. Land use authority approval of vacation, alteration, or amendment of**
266 **plat -- Recording the amended plat.**

267 (1) The land use authority may approve the vacation~~[-alteration;]~~ or amendment of a
268 plat by signing an amended plat showing the vacation~~[-alteration;]~~ or amendment if the land
269 use authority finds that:

270 (a) there is good cause for the vacation~~[-alteration;]~~ or amendment; and

271 (b) no public street, right-of-way, or easement has been vacated or ~~[altered]~~ amended.

272 (2) The land use authority shall ensure that the amended plat showing the vacation~~[-~~
273 ~~alteration;]~~ or amendment is recorded in the office of the county recorder in which the land is
274 located.

275 ~~[(3) If an entire subdivision is vacated, the legislative body shall ensure that a~~
276 ~~legislative body resolution containing a legal description of the entire vacated subdivision is~~
277 ~~recorded in the county recorder's office.]~~

278 (3) A legislative body may vacate a subdivision or a portion of a subdivision by
279 recording in the county recorder's office an ordinance describing the subdivision or the portion
280 being vacated.

281 (4) An amended plat may not be submitted to the county recorder for recording unless

282 it is signed, acknowledged, and dedicated by each owner of record of the portion of the plat
283 that is amended.

284 (5) A management committee may sign and dedicate an amended plat as provided in
285 Title 57, Chapter 8, Condominium Ownership Act.

286 (6) A plat may be corrected as provided in Section 57-3-106.

287 Section 8. Section **10-9a-609.5** is amended to read:

288 **10-9a-609.5. Vacating a street, right-of-way, or easement.**

289 (1) A petition to vacate some or all of a public street, right-of-way, or easement shall
290 include:

291 (a) the name and address of each owner of record of land that is:

292 (i) adjacent to the public street, right-of-way, or easement; or

293 (ii) accessed exclusively by or within 300 feet of the public street, right-of-way, or
294 easement; and

295 (b) the signature of each owner under Subsection (1)(a) who consents to the vacation.

296 (2) If a petition is submitted containing a request to vacate some or all of a street,
297 right-of-way, or easement, the legislative body shall hold a public hearing in accordance with
298 Section 10-9a-208 and determine whether:

299 (a) good cause exists for the vacation; and

300 (b) the public interest or any person will be materially injured by the proposed
301 vacation.

302 (3) The legislative body may adopt an ordinance granting a petition to vacate some or
303 all of a public street, right-of-way, or easement if the legislative body finds that:

304 (a) good cause exists for the vacation; and

305 (b) neither the public interest nor any person will be materially injured by the vacation.

306 (4) If the legislative body adopts an ordinance vacating some or all of a public street,
307 right-of-way, or easement, the legislative body shall ensure that [~~a plat reflecting the vacation~~]

308 one or both of the following is recorded in the office of the recorder of the county in which the
309 land is located[-];

310 (a) a plat reflecting the vacation; or

311 (b) an ordinance described in Subsection (3).

312 (5) The action of the legislative body vacating some or all of a street, right-of-way, or
313 easement that has been dedicated to public use:

314 (a) operates to the extent to which it is vacated, upon the effective date of the recorded
315 plat, as a revocation of the acceptance of and the relinquishment of the municipality's fee in
316 the vacated street, right-of-way, or easement; and

317 (b) may not be construed to impair:

318 (i) any right-of-way or easement of any lot owner; or

319 (ii) the franchise rights of any public utility.

320 Section 9. Section **17-17-1** is amended to read:

321 **17-17-1. Duties of assessor -- Effective date of boundary changes for assessment.**

322 (1) The assessor, in cooperation with the State Tax Commission, shall:

323 ~~(1)~~ (a) perform the duties required in Title 59, Chapter 2, Part 13, Collection of
324 Taxes, except those duties that have been reassigned to the treasurer in an ordinance adopted
325 under Section 17-16-5.5; and

326 ~~(2)~~ (b) perform any other duties required by law.

327 (2) An assessment shall be collected in accordance with the effective date and
328 boundary adjustment provisions in Subsection 17-2-209(4).

329 Section 10. Section **17-21-6** is amended to read:

330 **17-21-6. General duties of recorder -- Records and indexes.**

331 (1) Each recorder shall:

332 (a) keep an entry record, in which the recorder shall, upon acceptance and recording of
333 any instrument, enter the instrument in the order of its ~~[reception]~~ recording, the names of the
334 parties to the instrument, its date, the hour, the day of the month and the year of recording, and
335 a brief description, and endorse upon each instrument a number corresponding with the
336 number of the entry;

337 (b) keep a grantors' index, in which the recorder shall index deeds and final judgments

338 or decrees partitioning or affecting the title to or possession of real property, which shall show
339 the entry number of the instrument, the name of each grantor in alphabetical order, the name
340 of the grantee, the date of the instrument, the time of recording, the kind of instrument, the
341 book and page, and a brief description;

342 (c) keep a grantees' index, in which the recorder shall index deeds and final judgments
343 or decrees partitioning or affecting the title to or possession of real property, which shall show
344 the entry number of the instrument, the name of each grantee in alphabetical order, the name
345 of the grantor, the date of the instrument, the time of recording, the kind of instrument, the
346 book and page, and a brief description;

347 (d) keep a mortgagors' index, in which the recorder shall enter all mortgages, deeds of
348 trust, liens, and other instruments in the nature of an encumbrance upon real estate, which
349 shall show the entry number of the instrument, the name of each mortgagor, debtor, or person
350 charged with the encumbrance in alphabetical order, the name of the mortgagee, lien holder,
351 creditor, or claimant, the date of the instrument, the time of recording, the instrument,
352 consideration, the book and page, and a brief description;

353 (e) keep a mortgagees' index, in which the recorder shall enter all mortgages, deeds of
354 trust, liens, and other instruments in the nature of an encumbrance upon real estate, which
355 shall show the entry number of the instrument, the name of each mortgagee, lien holder,
356 creditor, or claimant, in alphabetical order, the name of the mortgagor or person charged with
357 the encumbrance, the date of the instrument, the time of recording, the kind of instrument, the
358 consideration, the book and page, and a brief description;

359 (f) subject to Subsection (3), keep a tract index, which shall show by description every
360 instrument recorded, the date and the kind of instrument, the time of recording, and the book
361 and page and entry number;

362 (g) keep an index of recorded maps, plats, and subdivisions;

363 (h) keep an index of powers of attorney showing the date and time of recording, the
364 book, the page, and the entry number;

365 (i) keep a miscellaneous index, in which the recorder shall enter all instruments of a

366 miscellaneous character not otherwise provided for in this section, showing the date of
367 recording, the book, the page, the entry number, the kind of instrument, from, to, and the
368 parties;

369 (j) keep an index of judgments showing the judgment debtors, the judgment creditors,
370 the amount of judgment, the date and time of recording, the satisfaction, and the book, the
371 page, and the entry number; and

372 (k) keep a general recording index in which the recorder shall index all executions and
373 writs of attachment, and any other instruments not required by law to be spread upon the
374 records, and in separate columns the recorder shall enter the names of the plaintiffs in the
375 execution and the names of the defendants in the execution.

376 (2) The recorder shall alphabetically arrange the indexes required by this section and
377 keep a reverse index.

378 (3) (a) The tract index required by Subsection (1)(f) shall be kept so that it shows a
379 true chain of title to each tract or parcel, together with [~~their encumbrances~~] each
380 encumbrance on the tract or parcel, according to the records of the office.

381 (b) A recorder shall abstract an instrument in the tract index unless:

382 (i) the instrument is required to contain a legal description under Section 17-21-20 and
383 does not contain that legal description; or

384 (ii) the instrument contains errors, omissions, or defects to the extent that the tract or
385 parcel to which the instrument relates cannot be determined.

386 (c) If a recorder abstracts an instrument in the tract index or another index required by
387 this section, the recorder may:

388 (i) use a tax parcel number;

389 (ii) use a site address;

390 (iii) reference to other instruments of record recited on the instrument; or

391 (iv) reference another instrument that is recorded concurrently with the instrument.

392 (d) A recorder is not required to go beyond the face of an instrument to determine the
393 tract or parcel to which an instrument may relate.

394 (e) A person may not bring an action against a recorder for injuries or damages
395 suffered as a result of information contained in an instrument recorded in a tract index or other
396 index that is required by this section despite errors, omissions, or defects in the instrument.

397 (f) The fact that a recorded instrument described in Subsection (3)(e) is included in the
398 tract index does not cure a failure to give public notice caused by an error, omission, or defect.

399 (g) A document that is indexed in all or part of the indexes required by this section
400 shall give constructive notice.

401 (4) Nothing in this section prevents the recorder from using a single name index if that
402 index includes all of the indexes required by this section.

403 Section 11. Section **17-21-20** is amended to read:

404 **17-21-20. Recording required -- Recorder may impose requirements on**
405 **documents to be recorded -- Prerequisites -- Additional fee for noncomplying documents**
406 **-- Recorder may require tax serial number -- Exceptions -- Requirements for recording**
407 **final local entity plat.**

408 (1) Subject to Subsections (2), (3), and (4), each paper, notice, and instrument
409 required by law to be ~~filed~~ recorded in the office of the county recorder shall be recorded
410 unless otherwise provided.

411 (2) Each document executed on or after July 1, 2007 that is submitted for recording to
412 a county recorder's office shall:

413 (a) unless otherwise provided by law, be an original or certified copy of the document;

414 (b) be in English or be accompanied by an accurate English translation of the
415 document;

416 (c) contain a brief title, heading, or caption on the first page stating the nature of the
417 document;

418 (d) contain the legal description of the property that is the subject of the document;

419 (e) comply with the requirements of Section 17-21-25 and Subsections 57-3-105(1)
420 and (2);

421 (f) be notarized with the notary stamp with the seal legible; and

422 (g) have original signatures.

423 (3) (a) Beginning September 1, 2007, a county recorder may require that each paper,
424 notice, and instrument submitted for recording in the county recorder's office:

425 (i) be on white paper that is 8-1/2 inches by 11 inches in size;

426 (ii) have a margin of one inch on the left and right sides and at the bottom of each
427 page;

428 (iii) have a space of 2-1/2 inches down and 4-1/2 inches across the upper right corner
429 of the first page and a margin of one inch at the top of each succeeding page;

430 (iv) not be on sheets of paper that are continuously bound together at the side, top, or
431 bottom;

432 (v) not contain printed material on more than one side of each page;

433 (vi) be printed in black ink and not have text smaller than seven lines of text per
434 vertical inch; and

435 (vii) be sufficiently legible to make certified copies.

436 (b) A county recorder who intends to establish requirements under Subsection (3)(a)
437 shall first:

438 (i) provide formal notice of the requirements; and

439 (ii) establish and publish an effective date for the requirements that is at least three
440 months after the formal notice under Subsection (3)(b)(i).

441 (c) If a county recorder establishes requirements under this Subsection (3), the county
442 recorder may charge and collect from persons who submit a document for recording that does
443 not comply with the requirements, in addition to any other fee that the county recorder is
444 authorized to charge and collect, a fee that:

445 (i) is calculated to recover the additional cost of handling and recording noncomplying
446 documents; and

447 (ii) may not exceed \$2 per page.

448 (4) (a) To facilitate the abstracting of an instrument, a county recorder may require
449 that the applicable tax serial number of each parcel ~~[affected by]~~ described in the instrument

450 ~~[appear on each]~~ be noted on the instrument before it may be accepted for recording.

451 (b) If a county recorder requires the applicable tax serial number to be on an
452 instrument before it may be recorded:

453 (i) the county recorder shall post a notice of that requirement in a conspicuous place at
454 the recorder's office;

455 (ii) the tax serial number may not be considered to be part of the legal description and
456 may be indicated on the margin of the instrument; and

457 (iii) an error in the tax serial number does not affect the validity of the instrument or
458 effectiveness of the recording.

459 (5) Subsections (2), (3), and (4) do not apply to:

460 (a) a map;

461 (b) a certificate or affidavit of death;

462 (c) a military discharge;

463 (d) a document regarding taxes that is issued by the Internal Revenue Service of the
464 United States Department of the Treasury;

465 (e) a document submitted for recording that has been filed with a court and conforms
466 to the formatting requirements established by the court; or

467 (f) a document submitted for recording that is in a form required by law.

468 (6) (a) As used in this Subsection (6):

469 (i) "Boundary action" has the same meaning as defined in Section 17-23-20.

470 (ii) "Local entity" has the same meaning as defined in Section 67-1a-6.5.

471 (b) A person may not submit to a county recorder for recording a plat depicting the
472 boundary of a local entity as the boundary exists as a result of a boundary action, unless:

473 (i) the plat has been approved under Section 17-23-20 by the county surveyor as a
474 final local entity plat, as defined in Section 17-23-20; and

475 (ii) the person also submits for recording:

476 (A) the original notice of an impending boundary action, as defined in Section
477 67-1a-6.5, for the boundary action for which the plat is submitted for recording; and

478 (B) the original applicable certificate, as defined in Section 67-1a-6.5, issued by the
479 lieutenant governor under Section 67-1a-6.5 for the boundary action for which the plat is
480 submitted for recording; and

481 (C) each other document required by statute to be submitted for recording with the
482 notice of an impending boundary action and applicable certificate.

483 (c) Promptly after recording the documents described in Subsection (6)(b) relating to a
484 boundary action, but no later than 10 days after recording, the county recorder shall send a
485 copy of all those documents to the State Tax Commission.

486 Section 12. Section **17-27a-603** is amended to read:

487 **17-27a-603. Plat required when land is subdivided -- Approval of plat --**
488 **Recording plat.**

489 (1) Unless exempt under Section 17-27a-605 or excluded from the definition of
490 subdivision under Subsection 17-27a-103(48), whenever any land is laid out and platted, the
491 owner of the land shall provide an accurate plat that describes or specifies:

492 (a) a subdivision name [~~or designation of the subdivision~~] that is distinct from any
493 subdivision name on a plat [~~already~~] recorded in the county recorder's office;

494 (b) the boundaries, course, and dimensions of all of the parcels of ground divided, by
495 their boundaries, course, and extent, whether the owner proposes that any parcel of ground is
496 intended to be used as a street or for any other public use, and whether any such area is
497 reserved or proposed for dedication for a public purpose;

498 (c) the lot or unit reference, block or building reference, street or site address, street
499 name or coordinate address, acreage or square footage for all parcels, units, or lots, and length
500 and width of the blocks and lots intended for sale; and

501 (d) every existing right-of-way and easement grant of record for underground
502 facilities, as defined in Section 54-8a-2, and for other utility facilities.

503 (2) (a) Subject to Subsections (3), (4), and (5), if the plat conforms to the county's
504 ordinances and this part and has been approved by the culinary water authority and the
505 sanitary sewer authority, the county shall approve the plat.

506 (b) Counties are encouraged to receive a recommendation from the fire authority
507 before approving a plat.

508 (3) The county may withhold an otherwise valid plat approval until the owner of the
509 land provides the legislative body with a tax clearance indicating that all taxes, interest, and
510 penalties owing on the land have been paid.

511 ~~[(4) (a) The owner of the land shall acknowledge the plat before an officer authorized~~
512 ~~by law to take the acknowledgment of conveyances of real estate and shall obtain the signature~~
513 ~~of each individual designated by the county.]~~

514 (4) (a) A plat may not be submitted to a county recorder for recording unless:

515 (i) prior to recordation, each owner of record of land described on the plat has signed
516 the owner's dedication as shown on the plat; and

517 (ii) the signature of each owner described in Subsection (4)(a)(i) is acknowledged as
518 provided by law.

519 (b) The surveyor making the plat shall certify that the surveyor:

520 (i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and
521 Professional Land Surveyors Licensing Act;

522 (ii) has completed a survey of the property described on the plat in accordance with
523 Section 17-23-17 and has verified all measurements; and

524 (iii) has placed monuments as represented on the plat.

525 (c) (i) As applicable, the owner or operator of the underground and utility facilities
526 shall approve the:

527 (A) boundary, course, dimensions, and intended use of the right-of-way and easement
528 grants of record;

529 (B) location of existing underground and utility facilities; and

530 (C) conditions or restrictions governing the location of the facilities within the
531 right-of-way, and easement grants of records, and utility facilities within the subdivision.

532 (ii) The approval of an owner or operator under Subsection (4)(c)(i):

533 (A) indicates only that the plat approximates the location of the existing underground

534 and utility facilities but does not warrant or verify their precise location; and

535 (B) does not affect a right that the owner or operator has under:

536 (I) Title 54, Chapter 8a, Damage to Underground Utility Facilities;

537 (II) a recorded easement or right-of-way;

538 (III) the law applicable to prescriptive rights; or

539 (IV) any other provision of law.

540 (5) (a) After the plat has been acknowledged, certified, and approved, the owner of the
541 land shall, within the time period designated by ordinance, record the plat in the county
542 recorder's office in the county in which the lands platted and laid out are situated.

543 (b) An owner's failure to record a plat within the time period designated by ordinance
544 renders the plat voidable.

545 Section 13. Section **17-27a-604** is amended to read:

546 **17-27a-604. Subdivision plat approval procedure -- Effect of not complying.**

547 (1) A person may not submit a subdivision plat to the county recorder's office for
548 recording unless:

549 (a) the person has complied with the requirements of Subsection 17-27a-603(4)(a);

550 [~~(a)~~] (b) the plat has been approved by:

551 (i) the land use authority of the county in whose unincorporated area the land
552 described in the plat is located; and

553 (ii) other officers that the county designates in its ordinance; and

554 [~~(b)~~] (c) all approvals described in Subsection (1)(b) are entered in writing on the plat
555 by designated officers.

556 (2) A plat recorded without the signatures required under this section is void.

557 (3) A transfer of land pursuant to a void plat is voidable.

558 Section 14. Section **17-27a-605** is amended to read:

559 **17-27a-605. Exemptions from plat requirement.**

560 (1) Notwithstanding Sections 17-27a-603 and 17-27a-604, the land use authority may
561 approve the subdivision of unincorporated land into 10 lots or less without a plat, by certifying

562 in writing that:

563 (a) the county has provided notice as required by ordinance; and

564 (b) the proposed subdivision:

565 (i) is not traversed by the mapped lines of a proposed street as shown in the general
566 plan and does not require the dedication of any land for street or other public purposes;

567 (ii) has been approved by the culinary water authority and the sanitary sewer authority;

568 (iii) is located in a zoned area; and

569 (iv) conforms to all applicable land use ordinances or has properly received a variance
570 from the requirements of an otherwise conflicting and applicable land use ordinance.

571 (2) (a) Subject to Subsection (1), a lot or parcel resulting from a division of
572 agricultural land is exempt from the plat requirements of Section 17-27a-603 if the lot or
573 parcel:

574 (i) qualifies as land in agricultural use under Section 59-2-502;

575 (ii) meets the minimum size requirement of applicable land use ordinances; and

576 (iii) is not used and will not be used for any nonagricultural purpose.

577 (b) The boundaries of each lot or parcel exempted under Subsection ~~[(1)]~~ (2)(a) shall
578 be graphically illustrated on a record of survey map that, after receiving the same approvals as
579 are required for a plat under Section 17-27a-604, shall be recorded with the county recorder.

580 (c) If a lot or parcel exempted under Subsection (2)(a) is used for a nonagricultural
581 purpose, the county may require the lot or parcel to comply with the requirements of Section
582 17-27a-603.

583 (3) (a) Except as provided in Subsection (4), a document recorded in the county
584 recorder's office that divides property by a metes and bounds description does not create an
585 approved subdivision allowed by this part unless the land use authority's certificate of written
586 approval required by Subsection (1) is attached to the document.

587 (b) The absence of the certificate or written approval required by Subsection (1) does
588 not;

589 (i) prohibit the county recorder from recording a document; or

590 (ii) affect the validity of a recorded document.

591 (c) A document which does not meet the requirements of Subsection (1) may be
592 corrected by the recording of an affidavit to which the required certificate or written approval
593 is attached in accordance with Section 57-3-106.

594 (4) (a) As used in this Subsection (4):

595 (i) "Divided land" means land that:

596 (A) is described as the land to be divided in a notice under Subsection (4)(b)(ii); and
597 (B) has been divided by a minor subdivision.

598 (ii) "Land to be divided" means land that is proposed to be divided by a minor
599 subdivision.

600 (iii) "Minor subdivision" means a division of at least 100 contiguous acres of
601 agricultural land in a county of the third, fourth, fifth, or sixth class to create one new lot that,
602 after the division, is separate from the remainder of the original 100 or more contiguous acres
603 of agricultural land.

604 (iv) "Minor subdivision lot" means a lot created by a minor subdivision.

605 (b) Notwithstanding Sections 17-27a-603 and 17-27a-604, an owner of at least 100
606 contiguous acres of agricultural land may make a minor subdivision by submitting for
607 recording in the office of the recorder of the county in which the land to be divided is located:

608 (i) a recordable deed containing the legal description of the minor subdivision lot; and

609 (ii) a notice:

610 (A) indicating that the owner of the land to be divided is making a minor subdivision;

611 (B) referring specifically to this section as the authority for making the minor

612 subdivision; and

613 (C) containing the legal description of:

614 (I) the land to be divided; and

615 (II) the minor subdivision lot.

616 (c) A minor subdivision lot:

617 (i) may not be less than one acre in size;

618 (ii) may not be within 1,000 feet of another minor subdivision lot; and
619 (iii) is not subject to the subdivision ordinance of the county in which the minor
620 subdivision lot is located.

621 (d) Land to be divided by a minor subdivision may not include divided land.

622 (e) A county:

623 (i) may not deny a building permit to an owner of a minor subdivision lot based on:

624 (A) the lot's status as a minor subdivision lot; or

625 (B) the absence of standards described in Subsection (4)(e)(ii); and

626 (ii) may, in connection with the issuance of a building permit, subject a minor
627 subdivision lot to reasonable health, safety, and access standards that the county has
628 established and made public.

629 Section 15. Section **17-27a-606** is amended to read:

630 **17-27a-606. Common or community area parcels on a plat -- No separate**
631 **ownership -- Ownership interest equally divided among other parcels on plat and**
632 **included in description of other parcels.**

633 (1) (a) A parcel designated as a common or community area on a plat recorded in
634 compliance with this part may not be separately owned or conveyed independent of the other
635 lots, units, or parcels created by the plat unless:

636 [~~(a)~~] (i) the parcel is being acquired by [~~the~~] a county for a governmental purpose; [~~or~~]
637 and

638 [~~(b)~~] (ii) the [~~separate ownership or~~] conveyance is approved by the owners of at least
639 75% of the lots, units, or parcels on the plat, after the county gives its approval.

640 (b) A notice of the approval required in Subsection (1)(a)(ii) shall be:

641 (i) attached as an exhibit to the document of conveyance; or

642 (ii) recorded concurrently with the conveyance as a separate document.

643 (2) The ownership interest in a parcel described in Subsection (1) shall:

644 (a) for purposes of assessment, be divided equally among all parcels created by the
645 plat, unless a different division of interest for assessment purposes is indicated on the plat or

646 an accompanying recorded document; and

647 (b) be considered to be included in the description of each instrument describing a
648 parcel on the plat by its identifying plat number, even if the common or community area
649 interest is not explicitly stated in the instrument.

650 Section 16. Section **17-27a-607** is amended to read:

651 **17-27a-607. Dedication of streets and other public places.**

652 (1) [~~Plats, when made, acknowledged, and recorded~~] A plat that is signed, dedicated,
653 and acknowledged by each owner of record, and approved according to the procedures
654 specified in this part, [~~operate~~] operates, when recorded, as a dedication of all streets and other
655 public places, and [~~vest~~] vests the fee of those parcels of land in the county for the public for
656 the uses named or intended in [~~those plats~~] the plat.

657 (2) The dedication established by this section does not impose liability upon the
658 county for streets and other public places that are dedicated in this manner but are
659 unimproved.

660 Section 17. Section **17-27a-608** is amended to read:

661 **17-27a-608. Vacating or amending a subdivision plat.**

662 (1) (a) A fee owner of land, as shown on the last county assessment roll, in a
663 subdivision that has been laid out and platted as provided in this part may file a written
664 petition with the land use authority to have some or all of the plat vacated[~~, altered;~~] or
665 amended.

666 (b) If a petition is filed under Subsection (1)(a), the land use authority shall hold a
667 public hearing within 45 days after the petition is filed if:

668 (i) any owner within the plat notifies the county of the owner's objection in writing
669 within 10 days of mailed notification; or

670 (ii) a public hearing is required because all of the owners in the subdivision have not
671 signed the revised plat.

672 (2) The public hearing requirement of Subsection (1)(b) does not apply and a land use
673 authority may consider at a public meeting an owner's petition to [~~alter~~] vacate or amend a

674 subdivision plat if:

675 (a) the petition seeks to join two or more of the owner's contiguous, residential lots;

676 and

677 (b) notice has been given to adjacent property owners and pursuant to local ordinance.

678 (3) Each request to vacate or [~~alter~~] amend a plat that contains a request to vacate or

679 [~~alter~~] amend a public street, right-of-way, or easement is also subject to Section

680 17-27a-609.5.

681 (4) Each petition to vacate[~~alter~~,] or amend an entire plat or a portion of a plat shall

682 include:

683 (a) the name and address of each owner of record of the land contained in:

684 (i) the entire plat; or

685 (ii) that portion of the plat described in the petition; and

686 (b) the signature of each of these owners who consents to the petition.

687 (5) (a) The owners of record of adjacent parcels that are described by either a metes

688 and bounds description or by a recorded plat may exchange title to portions of those parcels if

689 the exchange of title is approved by the land use authority in accordance with Subsection

690 (5)(b).

691 (b) The land use authority shall approve an exchange of title under Subsection (5)(a) if

692 the exchange of title will not result in a violation of any land use ordinance.

693 (c) If an exchange of title is approved under Subsection (5)(b):

694 (i) a notice of approval shall be recorded in the office of the county recorder which:

695 (A) is executed by each owner included in the exchange and by the land use authority;

696 (B) contains an acknowledgment for each party executing the notice in accordance

697 with the provisions of Title 57, Chapter 2a, Recognition of Acknowledgments Act; and

698 (C) recites the descriptions of both the original parcels and the parcels created by the

699 exchange of title; and

700 (ii) a document of conveyance of title reflecting the approved change shall be recorded

701 in the office of the county recorder.

702 (d) A notice of approval recorded under this Subsection (5) does not act as a
 703 conveyance of title to real property and is not required [~~for the recording of~~] to record a
 704 document [~~purporting to convey~~] conveying title to real property.

705 (6) (a) The name of a recorded subdivision may be changed by recording an amended
 706 plat making that change, as provided in this section and subject to Subsection (6)(c).

707 (b) The surveyor preparing the amended plat shall certify that the surveyor:

708 (i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and
 709 Professional Land Surveyors Licensing Act;

710 (ii) has completed a survey of the property described on the plat in accordance with
 711 Section 17-23-17 and has verified all measurements; and

712 (iii) has placed monuments as represented on the plat.

713 (c) An owner of land may not submit for recording an amended plat that gives the
 714 subdivision described in the amended plat the same name as a subdivision [~~in a plat already~~]
 715 recorded in the county recorder's office.

716 (d) Except as provided in Subsection (6)(a), the recording of a declaration or other
 717 document that purports to change the name of a recorded plat is [~~voidable~~] void.

718 Section 18. Section ~~17-27a-609~~ is amended to read:

719 **17-27a-609. Land use authority approval of vacation or amendment of plat --**
 720 **Recording the amended plat.**

721 (1) The land use authority may approve the vacation[~~;~~~~alteration;~~] or amendment of a
 722 plat by signing an amended plat showing the vacation[~~;~~~~alteration;~~] or amendment if the land
 723 use authority finds that:

724 (a) there is good cause for the vacation[~~;~~~~alteration;~~] or amendment; and

725 (b) no public street, right-of-way, or easement has been vacated or [~~altered~~] amended.

726 (2) The land use authority shall ensure that the amended plat showing the vacation[
 727 ~~alteration;~~] or amendment is recorded in the office of the county recorder in which the land is
 728 located.

729 [~~(3) If an entire subdivision is vacated, the legislative body shall ensure that a~~]

730 ~~legislative body resolution containing a legal description of the entire vacated subdivision is~~
731 ~~recorded in the county recorder's office.]~~

732 (3) A legislative body may vacate a subdivision or a portion of a subdivision by
733 recording in the county recorder's office an ordinance describing the subdivision or the portion
734 being vacated.

735 (4) An amended plat may not be submitted to the county recorder for recording unless
736 it is signed, acknowledged, and dedicated by each owner of record of the portion of the plat
737 that is amended.

738 (5) A management committee may sign and dedicate an amended plat as provided in
739 Title 57, Chapter 8, Condominium Ownership Act.

740 (6) A plat may be corrected as provided in Section 57-3-106.

741 Section 19. Section **17-27a-609.5** is amended to read:

742 **17-27a-609.5. Vacating a street, right-of-way, or easement.**

743 (1) A petition to vacate some or all of a public street, right-of-way, or easement shall
744 include:

745 (a) the name and address of each owner of record of land that is:

746 (i) adjacent to the public street, right-of-way, or easement; or

747 (ii) accessed exclusively by or within 300 feet of the public street, right-of-way, or
748 easement; and

749 (b) the signature of each owner under Subsection (1)(a) who consents to the vacation.

750 (2) If a petition is submitted containing a request to vacate some or all of a street,
751 right-of-way, or easement, the legislative body shall hold a public hearing in accordance with
752 Section 17-27a-208 and determine whether:

753 (a) good cause exists for the vacation; and

754 (b) the public interest or any person will be materially injured by the proposed
755 vacation.

756 (3) The legislative body may adopt an ordinance granting a petition to vacate some or
757 all of a public street, right-of-way, or easement if the legislative body finds that:

758 (a) good cause exists for the vacation; and
759 (b) neither the public interest nor any person will be materially injured by the vacation.
760 (4) If the legislative body adopts an ordinance vacating some or all of a public street,
761 right-of-way, or easement, the legislative body shall ensure that ~~[a plat reflecting the vacation]~~
762 one or both of the following is recorded in the office of the recorder of the county in which the
763 land is located[-]:

- 764 (a) a plat reflecting the vacation; or
765 (b) an ordinance described in Subsection (3).

766 (5) The action of the legislative body vacating some or all of a street, right-of-way, or
767 easement that has been dedicated to public use:

768 (a) operates to the extent to which it is vacated, upon the effective date of the recorded
769 plat, as a revocation of the acceptance of and the relinquishment of the county's fee in the
770 vacated street, right-of-way, or easement; and

- 771 (b) may not be construed to impair:
772 (i) any right-of-way or easement of any lot owner; or
773 (ii) the franchise rights of any public utility.

774 Section 20. Section **38-9-1** is amended to read:

775 **38-9-1. Definitions.**

776 As used in this chapter:

777 (1) "Interest holder" means a person who holds or possesses a present, lawful property
778 interest in certain real property, including an owner, title holder, mortgagee, trustee, or
779 beneficial owner.

780 (2) "Lien claimant" means a person claiming an interest in real property who offers a
781 document for recording or filing with any county recorder in the state asserting a lien, or
782 notice of interest, or other claim of interest in certain real property.

783 (3) "Owner" means a person who has a vested ownership interest in certain real
784 property.

785 (4) (a) "Record interest holder" means a person who holds or possesses a present,

786 lawful property interest in certain real property, including an owner, titleholder, mortgagee,
787 trustee, or beneficial owner, and whose name and interest in that real property appears in the
788 county recorder's records for the county in which the property is located.

789 (b) "Record interest holder" includes any grantor in the chain of the title in certain real
790 property.

791 (5) "Record owner" means an owner whose name and ownership interest in certain
792 real property is recorded or filed in the county recorder's records for the county in which the
793 property is located.

794 (6) "Wrongful lien" means any document that purports to create a lien, notice of
795 interest, or encumbrance on an owner's interest in certain real property and at the time it is
796 recorded [~~or filed~~] is not:

797 (a) expressly authorized by this chapter or another state or federal statute;

798 (b) authorized by or contained in an order or judgment of a court of competent
799 jurisdiction in the state; or

800 (c) signed by or authorized pursuant to a document signed by the owner of the real
801 property.

802 Section 21. Section **38-9-3** is amended to read:

803 **38-9-3. County recorder may reject wrongful lien within scope of employment --**
804 **Good faith requirement.**

805 (1) (a) A county recorder may reject recording of a lien if the county recorder
806 determines the lien is a wrongful lien as defined in Section 38-9-1.

807 (b) If the county recorder rejects [~~the~~] a document to record a lien in accordance with
808 Subsection (1)(a), the county recorder shall immediately return the original document together
809 with a notice that the document was rejected pursuant to this section to the person attempting
810 to record [~~or file~~] the document or to the address provided on the document.

811 (2) A county recorder who, within the scope of the county recorder's employment,
812 rejects or accepts a document for recording [~~or filing~~] in good faith under this section [~~may~~] is
813 not [~~be~~] liable for damages [~~except as otherwise provided by law~~].

814 (3) If a rejected document is later found to be recordable pursuant to a court order, it
815 shall have no retroactive recording priority.

816 (4) Nothing in this chapter shall preclude any person from pursuing any remedy
817 pursuant to Utah Rules of Civil Procedure, Rule 65A, Injunctions.

818 Section 22. Section **38-9-4** is amended to read:

819 **38-9-4. Civil liability for recording wrongful lien -- Damages.**

820 (1) A lien claimant who records [~~or files~~] or causes a wrongful lien as defined in
821 Section 38-9-1 to be recorded [~~or filed~~] in the office of the county recorder against real
822 property is liable to a record interest holder for any actual damages proximately caused by the
823 wrongful lien.

824 (2) If the person in violation of Subsection (1) refuses to release or correct the
825 wrongful lien within 10 days from the date of written request from a record interest holder of
826 the real property delivered personally or mailed to the last-known address of the lien claimant,
827 the person is liable to that record interest holder for \$3,000 or for treble actual damages,
828 whichever is greater, and for reasonable attorney fees and costs.

829 (3) A person is liable to the record owner of real property for \$10,000 or for treble
830 actual damages, whichever is greater, and for reasonable attorney fees and costs, who records
831 [~~or files~~] or causes to be recorded [~~or filed~~] a wrongful lien as defined in Section 38-9-1 in the
832 office of the county recorder against the real property, knowing or having reason to know that
833 the document:

834 (a) is a wrongful lien;

835 (b) is groundless; or

836 (c) contains a material misstatement or false claim.

837 Section 23. Section **57-1-5** is amended to read:

838 **57-1-5. Creation of joint tenancy presumed -- Tenancy in common -- Severance**
839 **of joint tenancy -- Tenants by the entirety -- Tenants holding as community property.**

840 (1) (a) Beginning on May 5, 1997, every ownership interest in real estate granted to
841 two persons in their own right who are designated as husband and wife in the granting

842 documents is presumed to be a joint tenancy interest with rights of survivorship, unless
843 severed, converted, or expressly declared in the grant to be otherwise.

844 (b) Every ownership interest in real estate that does not qualify for the joint tenancy
845 presumption as provided in Subsection (1)(a) is presumed to be a tenancy in common interest
846 unless expressly declared in the grant to be otherwise.

847 (2) (a) Use of words "joint tenancy" or "with rights of survivorship" or "and to the
848 survivor of them" or words of similar import means a joint tenancy.

849 (b) Use of words "tenancy in common" or "with no rights of survivorship" or
850 "undivided interest" or words of similar import declare a tenancy in common.

851 (3) A sole owner of real property creates a joint tenancy in himself and another or
852 others:

853 (a) by making a transfer to himself and another or others as joint tenants by use of the
854 words as provided in Subsection (2)(a); or

855 (b) by conveying to another person or persons an interest in land in which an interest
856 is retained by the grantor and by declaring the creation of a joint tenancy by use of the words
857 as provided in Subsection (2)(a).

858 (4) In all cases, the interest of joint tenants shall be equal and undivided.

859 (5) (a) Except as provided in Subsection (5)(b), if a joint tenant makes a bona fide
860 conveyance of the joint tenant's interest in property held in joint tenancy to himself or another,
861 the joint tenancy is severed and converted into a tenancy in common.

862 (b) If there is more than one joint tenant remaining after a joint tenant severs a joint
863 tenancy under Subsection (5)(a), the remaining joint tenants continue to hold their interest in
864 joint tenancy.

865 (6) The amendments to this section in Laws of Utah 1997, Chapter 124, have no
866 retrospective operation and shall govern instruments executed and recorded on or after May 5,
867 1997.

868 (7) Tenants by the entirety are considered to be joint tenants.

869 (8) Tenants holding title as community property are considered to be joint tenants.

870 Section 24. Section 57-1-5.1 is amended to read:

871 **57-1-5.1. Termination of an interest in real estate -- Affidavit.**

872 (1) Joint tenancy, tenancy by the entirety, life estate, or determinable or conditional
873 interest in real estate may be terminated by an affidavit that:

874 (a) meets the requirements of Subsection (2); and

875 (b) is recorded in the office of the recorder of the county in which the affected
876 property is located.

877 (2) Each affidavit required by Subsection (1) shall:

878 (a) cite the interest that is being terminated;

879 (b) contain a legal description of the real property that is affected;

880 (c) reference the entry number and the book and page of the instrument creating the
881 interest to be terminated; and

882 (d) if the termination is the result of a death, have attached as an exhibit, a copy of the
883 death certificate or other document issued by a governmental agency as described in Section
884 75-1-107 certifying the death.

885 (3) The affidavit required by Subsection (1) may be in substantially the following
886 form:

887 "Affidavit

888 State of Utah)

889) ss

890 County of _____)

891 I, (name of affiant), being of legal age and being first duly sworn, depose and state as
892 follows:

893 (The name of the deceased person), the decedent in the attached certificate of death or
894 other document witnessing death is the same person as (the name of the deceased person)
895 named as a party in the document dated (date of document) as entry _____ in book
896 _____, page _____ in the records of the (name of county) County Recorder.

897 This affidavit is given to terminate the decedent's interest in the following described

898 property located in _____ County, State of Utah: (description of the
899 property).

900 Dated this _____ day of _____,

901 _____

902 (Signature of affiant)

903 Subscribed to and sworn before me this _____ day of _____,

904 _____

905 _____

906 Notary public"

907 Section 25. Section **57-1-28** is amended to read:

908 **57-1-28. Sale of trust property by trustee -- Payment of bid -- Trustee's deed**
909 **delivered to purchaser -- Recitals -- Effect.**

910 (1) (a) The purchaser at the sale shall pay the price bid as directed by the trustee.

911 (b) The beneficiary shall receive a credit on the beneficiary's bid in an amount not to
912 exceed the amount representing:

913 (i) the unpaid principal owed;

914 (ii) accrued interest as of the date of the sale;

915 (iii) advances for the payment of:

916 (A) taxes;

917 (B) insurance; and

918 (C) maintenance and protection of the trust property;

919 (iv) the beneficiary's lien on the trust property; and

920 (v) costs of sale, including reasonable trustee's and attorney's fees.

921 (2) (a) (i) Within three business days of the day the trustee receives payment of the
922 price bid, the trustee shall make the trustee's deed available to the purchaser.

923 (ii) If the trustee does not comply with this Subsection (2)(a), the trustee is liable for
924 any loss incurred by the purchaser because of the trustee's failure to comply with this
925 Subsection (2)(a).

926 (b) The trustee's deed may contain recitals of compliance with the requirements of
927 Sections 57-1-19 through 57-1-36 relating to the exercise of the power of sale and sale of the
928 property described in the trustee's deed, including recitals concerning:

- 929 (i) any mailing, personal delivery, and publication of the notice of default;
- 930 (ii) any mailing and the publication and posting of the notice of sale; and
- 931 (iii) the conduct of sale.

932 (c) The recitals described in Subsection (2)(b):

933 (i) constitute prima facie evidence of compliance with Sections 57-1-19 through
934 57-1-36; and

935 (ii) are conclusive evidence in favor of bona fide purchasers and encumbrancers for
936 value and without notice.

937 (3) The trustee's deed shall operate to convey to the purchaser, without right of
938 redemption, the trustee's title and all right, title, interest, and claim of the trustor and the
939 trustor's successors in interest and of all persons claiming by, through, or under them, in and to
940 the property sold, including all right, title, interest, and claim in and to the property acquired
941 by the trustor or the trustor's successors in interest subsequent to the execution of the trust
942 deed, which trustee's deed shall be considered effective and relate back to the time of the sale.

943 (4) In accordance with Section 57-3-106, an interest of a purchaser in a trustee's deed
944 that is recorded with the county recorder may not be divested if a person records an affidavit
945 or other document purporting to rescind or cancel the trustee's deed.

946 Section 26. Section **57-3-106** is amended to read:

947 **57-3-106. Original documents required -- Captions -- Legibility.**

948 (1) A person may not present and a county recorder may refuse to accept a document
949 for recording if the document does not comply with this section.

950 (2) (a) Unless otherwise provided, a document presented for recording in the office of
951 the county recorder shall:

- 952 (i) be an original;
- 953 (ii) contain a brief caption on the first page of the document stating the nature of the

954 document; and

955 (iii) contain a legal description of the property as required under Section 57-3-105.

956 (b) If a document is a master form, as defined in Section 57-3-201, the caption

957 required by Subsection (2)(a)(ii) shall state that the document is a master form.

958 (3) A court judgment or an abstract of a court judgment presented for recording in the

959 office of the county recorder in compliance with Section 78B-5-202 shall:

960 (a) be an original or certified copy; and

961 (b) include the information identifying the judgment debtor as referred to in

962 Subsection 78B-5-201(4) either:

963 (i) in the judgment or abstract of judgment; or

964 (ii) as a separate information statement of the judgment creditor as referred to in

965 Subsection 78B-5-201(5).

966 (4) A judgment, abstract of judgment, and separate information statement of the

967 judgment creditor does not require an acknowledgment or a legal description to be recorded.

968 (5) A foreign judgment or an abstract of a foreign judgment recorded in the office of a

969 county recorder shall include the affidavit as required in Section 78B-5-303.

970 (6) Any document recorded in the office of the county recorder to release or assign a

971 judgment lien shall include:

972 (a) the name of any judgment creditor, debtor, assignor, or assignee;

973 (b) the date of recording; and

974 (c) the entry number of the instrument creating the judgment lien.

975 (7) A document presented for recording shall be sufficiently legible for the recorder to

976 make certified copies of the document.

977 (8) (a) (i) A document that is of record in the office of the appropriate county recorder

978 in compliance with this chapter may not be recorded again in that same county recorder's

979 office unless the original document has been reexecuted by all parties who executed the

980 document.

981 (ii) Unless exempt by statute, an original document that is reexecuted shall contain the

982 appropriate acknowledgment, proof of execution, jurat, or other notarial certification for all
983 parties who are reexecuting the document as required by Title 46, Chapter 1, Notaries Public
984 Reform Act, and Title 57, Chapter 2, Acknowledgments.

985 (iii) A document submitted for rerecording shall contain a brief statement explaining
986 the reason for rerecording.

987 (b) A person may not present and a county recorder may refuse to accept a document
988 for rerecording if that document does not conform to this section.

989 (c) This Subsection (8) applies only to documents executed after July 1, 1998.

990 (9) Minor typographical or clerical errors in a document of record may be corrected by
991 the recording of an affidavit or other appropriate instrument.

992 (10) ~~(a) [Subject to federal bankruptcy law;]~~ Except as required by federal law, or by
993 agreement between a borrower under the trust deed and a grantee under the trustee's deed, and
994 subject to Subsection (10)(b), neither the recordation of an affidavit under Subsection (9) nor
995 the reexecution and rerecording of a document under Subsection (8):

996 ~~(a)~~ (i) divests a grantee of any real property interest;

997 ~~(b)~~ (ii) alters an interest in real property; or

998 ~~(c)~~ (iii) returns to the grantor an interest in real property conveyed by statute.

999 (b) A person who reexecutes and rerecords a document under Subsection (8), or
1000 records an affidavit under Subsection (9), shall include with the document or affidavit a notice
1001 containing the name and address to which real property valuation and tax notices shall be
1002 mailed.

1003 Section 27. Section **59-2-1304** is amended to read:

1004 **59-2-1304. Rate of previous year governs -- Proration among taxing units --**
1005 **Effective date of boundary changes for assessment.**

1006 (1) (a) The amount of taxes to be collected in the current year on personal property
1007 assessed by the county assessor shall be based on the tax rates levied by all taxing entities for
1008 the previous year, and the tax so billed shall be the full tax on the property for the current year.

1009 (b) The money collected in accordance with Subsection (1)(a) shall be paid;

1010 (i) into the county treasury; and [paid]
1011 (ii) by the treasurer to the various taxing entities pro rata in accordance with the tax
1012 rates levied and approved for the current year, including new entities levying for the first time.

1013 (2) An assessment shall be collected in accordance with the effective date and
1014 boundary adjustment provisions in Subsection 17-2-209(4).

1015 Section 28. Section **59-2-1325** is amended to read:

1016 **59-2-1325. Nature and extent of lien -- Time of attachment -- Effective date of**
1017 **boundary changes for assessment.**

1018 (1) (a) A tax upon real property is a lien against the property assessed.

1019 (b) A tax due upon improvements upon real property assessed to a person other than
1020 the owner of the real property is a lien upon the property and improvements. [~~These liens~~
1021 ~~attach as of~~]

1022 (c) A lien described in Subsection (1)(a) or (b) shall attach on January 1 of each year.

1023 (2) An assessment shall be collected in accordance with the effective date and
1024 boundary adjustment provisions in Subsection 17-2-209(4).

1025 Section 29. Section **72-3-107** is amended to read:

1026 **72-3-107. County executive to keep plats of roads and highways.**

1027 (1) The county executive of each county shall determine all county roads existing in
1028 the county and prepare and keep current plats and specific descriptions of the county roads.

1029 (2) (a) The plats and specific descriptions shall be kept on file in the office of the
1030 county clerk or recorder.

1031 (b) A county clerk or recorder may not remove a platted road from the records unless
1032 the legislative body has vacated the road after a public hearing in accordance with Section
1033 72-3-108.