

COUNTY RECORDER FEES AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Logan Wilde

Senate Sponsor: Ralph Okerlund

LONG TITLE

General Description:

This bill amends provisions related to statutorily defined fees that a county recorder charges.

Highlighted Provisions:

This bill:

- ▶ increases certain statutorily defined fees that a county recorder charges;
 - ▶ modifies the recording fee structure to a per-recording rather than a per-page fee;
 - ▶ removes certain distinctions between certain types of documents for purposes of determining fees;
 - ▶ repeals authority for a county recorder to charge an additional fee for a document that fails to meet requirements the recorder imposes in addition to the statutory requirements;
 - ▶ modifies the list of documents that are exempt from certain recording requirements;
- and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17-21-18.5, as last amended by Laws of Utah 2014, Chapter 89

30 **17-21-20**, as last amended by Laws of Utah 2014, Chapter 89

31

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

33 Section 1. Section **17-21-18.5** is amended to read:

34 **17-21-18.5. Fees of county recorder.**

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

36 (a) for recording any instrument, not otherwise provided for, other than bonds of public
37 officers, [~~\$10~~] \$40;

38 (b) for recording any instrument, including those provided for under Title 70A,
39 Uniform Commercial Code, other than bonds of public officers, and not otherwise provided
40 for, [~~\$10 for the first page and \$2 for each additional page~~] \$40, and if an instrument contains
41 more than [~~one description, \$1~~] 10 descriptions, \$2 for each additional description;

42 [~~(c) for recording a right-of-way connected with or appurtenant to any tract of land
43 described in the instrument, \$1, but if the instrument contains a description of more than one
44 right-of-way, \$1 for each additional right-of-way, and if an instrument contains more than two
45 names for either the first or second party, or the plaintiffs or defendants, \$1 for each additional
46 name;~~]

47 [~~(d)~~] (c) for recording mining location notices and affidavits of labor affecting mining
48 claims, [~~\$10 for the first page and \$2 for each additional page~~] \$40; and

49 [~~(e)~~] (d) [~~for a location notice, affidavit, or proof of labor which contains names of
50 more than two signers, \$1 for each additional name, and~~] for an affidavit or proof of labor
51 which contains more than [~~one~~] 10 mining [~~claim, \$1~~] claims, \$2 for each additional mining
52 claim.

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

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

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

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

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

61 (c) for recording any plat, [~~\$30~~] \$50 for each sheet and [~~\$1~~] \$2 for each lot or unit
62 designation;

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

65 (e) for recording any license issued by the Division of Occupational and Professional
66 Licensing, [~~\$10~~] \$40; and

67 (f) for recording a federal tax lien, [~~\$10~~] \$40, and for the discharge of the lien, [~~\$10~~]
68 \$40.

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

72 (5) By January 1, 2022, each county shall accept and provide for electronic recording
73 of instruments.

74 [~~(4)(a) For recording a document that is subject to and complies with the Real Estate~~
75 ~~Settlement and Procedure Act, 12 U.S.C. Sec. 2601 et seq. for a residential property~~
76 ~~constructed for at least one family but no more than four families, the county recorder shall~~
77 ~~receive:]~~

78 [~~(i) \$14 for each deed of conveyance;]~~

79 [~~(ii) \$40 for each deed of trust, and]~~

80 [~~(iii) \$14 for each assignment of a deed of trust when recorded concurrently with the~~
81 ~~assigned deed of trust.]~~

82 [~~(b) If a person submits for recording a document described in Subsection (4)(a), the~~
83 ~~person shall notify the county recorder by including the word "RESPA" in at least 16 point font~~
84 ~~on the front page of each document.]~~

85 [~~(c) A county recorder is not required to:]~~

86 ~~[(i) refund a fee described in Subsection (4)(a); or]~~

87 ~~[(ii) change a fee amount shown on a recorded document if the fee described in~~
 88 ~~Subsection (4)(a) is not collected at the time of recording.]~~

89 ~~[(d) A county recorder may examine a document recorded under this Subsection (4) for~~
 90 ~~compliance with the Real Estate Settlement and Procedure Act, 12 U.S.C. Sec. 2601 et seq.]~~

91 ~~[(5) In addition to any other fee that the county recorder is authorized to charge and~~
 92 ~~collect, if a county recorder is required to comply with the standards established under Chapter~~
 93 ~~21a, Uniform Real Property Electronic Recording Act, the county recorder may charge and~~
 94 ~~collect from a person who submits an electronic document, as defined in Section ~~17-21a-102~~,~~
 95 ~~for recording, a surcharge that:]~~

96 ~~[(a) is calculated to recover the additional costs of complying with Chapter 21a,~~
 97 ~~Uniform Real Property Electronic Recording Act; and]~~

98 ~~[(b) may not exceed 10% of the cost before the surcharge.]~~

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

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

103 Section 2. Section **17-21-20** is amended to read:

104 **17-21-20. Recording required -- Recorder may impose requirements on**
 105 **documents to be recorded -- Prerequisites -- Additional fee for noncomplying documents**
 106 **-- Recorder may require tax serial number -- Exceptions -- Requirements for recording**
 107 **final local entity plat.**

108 (1) Subject to Subsections (2), (3), and (4), a county recorder shall record each paper,
 109 notice, and instrument required by law to be recorded in the office of the county recorder [~~shall~~
 110 ~~be recorded~~] unless otherwise provided.

111 (2) Subject to Chapter 21a, Uniform Real Property Electronic Recording Act, each
 112 document that is submitted for recording to a county recorder's office shall:

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

- 114 (b) be in English or be accompanied by an accurate English translation of the
- 115 document;
- 116 (c) contain a brief title, heading, or caption on the first page stating the nature of the
- 117 document;
- 118 (d) except as otherwise provided by statute, contain the legal description of the
- 119 property that is the subject of the document;
- 120 (e) comply with the requirements of Section 17-21-25 and Subsections 57-3-105(1)
- 121 and (2);
- 122 (f) except as otherwise provided by statute, be notarized with the notary stamp with the
- 123 seal legible; and
- 124 (g) have original signatures.
- 125 (3) (a) Subject to Chapter 21a, Uniform Real Property Electronic Recording Act, a
- 126 county recorder may require that each paper, notice, and instrument submitted for recording in
- 127 the county recorder's office:
- 128 (i) be on white paper that is 8-1/2 inches by 11 inches in size;
- 129 (ii) have a margin of one inch on the left and right sides and at the bottom of each
- 130 page;
- 131 (iii) have a space of 2-1/2 inches down and 4-1/2 inches across the upper right corner
- 132 of the first page and a margin of one inch at the top of each succeeding page;
- 133 (iv) not be on sheets of paper that are continuously bound together at the side, top, or
- 134 bottom;
- 135 (v) not contain printed material on more than one side of each page;
- 136 (vi) be printed in black ink and not have text smaller than seven lines of text per
- 137 vertical inch; and
- 138 (vii) be sufficiently legible to make certified copies.
- 139 (b) A county recorder who intends to establish requirements under Subsection (3)(a)
- 140 shall first:
- 141 (i) provide formal notice of the requirements; and

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

144 ~~[(c) If a county recorder establishes requirements under this Subsection (3), the county~~
145 ~~recorder may charge and collect from persons who submit a document for recording that does~~
146 ~~not comply with the requirements, in addition to any other fee that the county recorder is~~
147 ~~authorized to charge and collect, a fee that:]~~

148 ~~[(i) is calculated to recover the additional cost of handling and recording noncomplying~~
149 ~~documents; and]~~

150 ~~[(ii) may not exceed \$2 per page.]~~

151 (4) (a) To facilitate the abstracting of an instrument, a county recorder may require that
152 the applicable tax ~~[serial]~~ identification number of each parcel described in the instrument be
153 noted on the instrument before ~~[it]~~ the county recorder may ~~[be accepted]~~ accept the instrument
154 for recording.

155 (b) If a county recorder requires the applicable tax ~~[serial]~~ identification number to be
156 on an instrument before it may be recorded:

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

159 (ii) the tax ~~[serial]~~ identification number may not be considered to be part of the legal
160 description and may be indicated on the margin of the instrument; and

161 (iii) an error in the tax ~~[serial]~~ identification number does not affect the validity of the
162 instrument or effectiveness of the recording.

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

164 (a) a map or plat;

165 (b) a certificate or affidavit of death that a government agency issues;

166 (c) a military discharge or other record that a branch of the United States military
167 service issues;

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

170 (e) a document submitted for recording that has been filed with a court and conforms to
171 the formatting requirements established by the court; or
172 (f) a document submitted for recording that is in a form required by law.
173 (6) (a) As used in this Subsection (6):
174 (i) "Boundary action" has the same meaning as defined in Section 17-23-20.
175 (ii) "Local entity" has the same meaning as defined in Section 67-1a-6.5.
176 (b) A person may not submit to a county recorder for recording a plat depicting the
177 boundary of a local entity as the boundary exists as a result of a boundary action, unless:
178 (i) the plat has been approved under Section 17-23-20 by the county surveyor as a final
179 local entity plat, as defined in Section 17-23-20; and
180 (ii) the person also submits for recording:
181 (A) the original notice of an impending boundary action, as defined in Section
182 67-1a-6.5, for the boundary action for which the plat is submitted for recording;
183 (B) the original applicable certificate, as defined in Section 67-1a-6.5, issued by the
184 lieutenant governor under Section 67-1a-6.5 for the boundary action for which the plat is
185 submitted for recording; and
186 (C) each other document required by statute to be submitted for recording with the
187 notice of an impending boundary action and applicable certificate.
188 (c) Promptly after recording the documents described in Subsection (6)(b) relating to a
189 boundary action, but no later than 10 days after recording, the county recorder shall send a copy
190 of all those documents to the State Tax Commission.