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FRAUDULENT DEED AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

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

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

29

CHAPTER 31. FRAUDULENT DEEDS ACT

30

Part 1. Definitions

31 **57-31-101 . Definitions.**

32 As used in this chapter:

33 (1) "Deed" means an instrument in writing, including any conveyance that affects, purports
 34 to affect, describes, or otherwise concerns any right, title, or interest in real property.

35 (2) "Fraudulent deed" means a deed that is not executed or authorized to be executed by the
 36 record interest holder.

37 (3) "Interest holder" means a person who holds or possesses a present, lawful property
 38 interest in real property.

39 (4) "Purported grantee" means a person who is identified as the grantee on a fraudulent
 40 deed.

41 (5) "Purported grantor" means a person who executes or causes to be executed a fraudulent
 42 deed.

43 (6) "Record interest holder" means a person:

44 (a) who holds or possesses a present, lawful property interest in real property; and

45 (b) whose name and interest in the real property appears in the county recorder's records
 46 for the county in which the property is located.

47 Section 2. Section **57-31-201** is enacted to read:

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Part 2. Remedies

49 **57-31-201 . Civil liability for recording a fraudulent deed -- Damages.**

50 (1) A purported grantor who records a fraudulent deed or causes a fraudulent deed to be
 51 recorded in the office of a county recorder is liable to a record interest holder as
 52 described in Subsection (2).

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

55 (a) the greater of:

56 (i) \$10,000; or

57 (ii) treble actual damages; and

58 (b) reasonable attorney fees and costs.

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

60 **57-31-202 . Petition to nullify fraudulent deed -- Notice to purported grantor and**
61 **purported grantee -- Summary relief.**

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

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

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

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

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

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

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

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

77 (e) The purported grantor and purported grantee may attend the hearing described in
78 Subsection (3)(c) to contest the petition.

79 (4) A proceeding under this section:

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

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

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

85 (i) the court shall:

86 (A) issue an order declaring the fraudulent deed void ab initio and the fraudulent
87 deed provides no conveyance of any interest in real property;

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

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

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

93 (b) If, after the hearing described in Subsection (3), a court determines that the deed is

94 not a fraudulent deed:

95 (i) the court:

96 (A) shall dismiss the petition;

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

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

100 (ii) the purported grantor or purported grantee shall record a certified copy of the
101 dismissal order.

102 (6) If a petition under this section contains a claim for damages, a court may not expedite
103 the proceedings related to the claim for damages.

104 **Section 4. Effective date.**

105 This bill takes effect on May 1, 2024.